

**FIRST AMENDMENT TO THE DISPOSITION
AND DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT (the "Agreement") is entered into on this _____ day of _____, 2009 (the "Effective Date") by and between the **REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO**, a public body corporate and politic (the "Agency") and **CEDAR GATEWAY, L.P.**, a California limited partnership (the "Owner" or "Developer"). The Agency and Owner/Developer are collectively referred to herein as the "Parties."

RECITALS

A. Agency and Owner entered into that certain Disposition and Development Agreement dated as of May 22, 2008 ("DDA"). Any capitalized term not defined herein shall have the meaning ascribed to such term in the DDA.

B. The DDA acknowledges and provides that Owner shall develop, among other things, a 65-unit multi-family housing project on the Leasehold Parcels, which shall be operated as rental housing that is affordable to Very Low and Extremely Low Income persons (all as defined in the DDA) (the "Project").

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

D. Due to the extreme conditions of the current financial market, Developer has been unable to secure investment commitments for the tax credits reserved for the Project, therefore adjustments to the financing of the Project are necessary to reflect the loan of funds to be provided to the Developer in lieu of tax credits by the California Tax Credit Allocation Committee ("TCAC") pursuant to the Tax Credit Assistance Program ("TCAP Loan").

E. The purpose of this Agreement is to effectuate and amend the DDA by providing for (i) the loan of funds from TCAC to the Developer in lieu of tax credits, and (ii) modifications to certain other obligations of the parties, all on the terms and conditions as set forth below.

SECTION 1. AMENDMENTS TO THE DISPOSITION AND DEVELOPMENT
AGREEMENT

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

1. Assignment and Assumption Agreement. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Assignment and Assumption Agreement” shall mean an instrument in the form attached to this Agreement as Attachment No. 28.

The approved form of the Assignment and Assumption Agreement is attached hereto as *Exhibit No. 1* and incorporated herein by this reference.

2. Co-General Partner. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Co-General Partner” shall mean Cedar Squier ROEM, LLC, a California limited liability company, its successors and assigns

3. Completion. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“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 for the Project; (2) recordation of a Notice of Completion by Owner or its contractor for the Project; (3) certification by the project architect that construction of the Improvements (with the exception of minor “punchlist” items) has been completed in a good and workmanlike manner in accordance with the Agency and City approved plans and specifications; (4) payment, settlement or other extinguishment, discharge, release, waiver, bonding or insuring against of any mechanic’s liens that have been recorded or stop notices that have been delivered for the Project; and (5) issuance and recordation of a Release of Construction Covenants for the Project.

4. Investor Limited Partner Capital Contribution.

- a. The definition of “Investor Limited Partner Capital Contribution” contained in Section 102 of the DDA, entitled Definitions is hereby deleted in its entirety.
- b. Any and all references and/or provisions of the DDA, its attachments and any document executed in connection therewith as they refer and/or relate to the term “Investor Limited Partner Capital Contribution” are hereby deleted in their entirety.

5. Leased Premises. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Leased Premises” shall have the meaning described in Article 2 of the Revised Form of Ground Lease attached hereto as Attachment No. 18.

6. Leasehold Mortgage. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Leasehold Mortgage” shall mean any mortgage, deed of trust, or other established method of securing real property financing secured by the Leasehold as permitted by this DDA and the Ground Lease.

7. Leasehold Mortgagee. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Leasehold Mortgagee” shall mean any Lender of a Leasehold Mortgage.

8. Lender. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Lender” shall mean the owner and holder of any Mortgage or Leasehold Mortgage permitted by the DDA and the Ground Lease.

9. Low Income Housing Tax Credit.

- a. The definition of “Low Income Housing Tax Credit” contained in Section 102 of the DDA entitled Definition is hereby deleted in its entirety.
- b. Any and all references and/or provisions of the DDA, its attachments and any document executed in connection therewith as they refer and/or relate to the term “Low Income Housing Tax Credit” are hereby deleted in their entirety.

10. Managing General Partner. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Managing General Partner” shall mean Pacific Housing Inc., a California nonprofit public benefit corporation, its successors and assigns.

11. Monitoring Agreement. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Monitoring Agreement” shall mean that certain Monitoring Agreement conforming in form and substance to Attachment No. 32 attached hereto and incorporated herein by this reference.

12. Mortgage. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Mortgage” shall mean and include any mortgage, deed of trust, monetary lien, financing conveyance or other voluntary monetary lien of any kind

and all appropriate modes of financing real estate ownership, which encumbers the Leasehold Estate as approved by the Agency.

13. Permitted Leasehold Mortgage. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Permitted Leasehold Mortgage” shall mean a Leasehold Mortgage satisfying all of the conditions set forth in Section 8.1 of the Revised Form of Ground Lease attached hereto as Attachment No. 18 and incorporated herein by this reference. The approximate \$13,085,000 construction loan and approximate \$2,565,000 permanent loan by Citicorp USA, Inc., a Delaware corporation, the \$3,301,191 loan by HCD, the \$2,752,000 loan by CalHFA, the \$14,024,415 TCAP Loan and any award of Affordable Housing Program fund amounts granted to Owner are Permitted Leasehold Mortgages.

14. Permitted Leasehold Mortgagee. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Permitted Leasehold Mortgagee” shall mean a Leasehold Mortgagee satisfying all of the conditions set forth in Section 8.1 of the Revised Form of the Ground Lease attached hereto as Attachment No. 18 and incorporated herein by this reference. Citicorp USA, Inc., a Delaware corporation, the maker of an approximately \$13,085,000 construction loan and approximately \$2,565,000 permanent loan to Tenant; HCD, the maker of an approximately \$3,301,191 loan to Tenant pursuant to the Multifamily Housing Program; CalHFA, the maker of an approximately \$2,752,000 loan to Tenant pursuant to the Mental Housing Servicing Act; CTAC, the maker of an approximately \$14,024,415 loan to Tenant pursuant to the Tax Credit Assistance Program; and AHP, the maker of an award pursuant to the Affordable Housing program are all deemed Permitted Leasehold Mortgagees.

15. Regulatory Agreement.

- a. The definition of “Regulatory Agreement” contained in Section 102 of the DDA, entitled Definitions is hereby revised to read as follows.

“Regulatory Agreement” refers to the regulatory agreement to be recorded in connection with the receipt of the TCAP Loan.

16. Subordination with CalHFA. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Subordination Agreement with CalHFA” shall mean an instrument substantially conforming in form and substance to the Subordination

Agreement with CalHFA attached to this Agreement as Attachment No. 30 and incorporated herein by this reference, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel. Any and all substantive modifications prior to recordation shall be submitted to the Agency Board for approval.

Attachment No. 30 of the DDA, “Subordination Agreement with CalHFA” is attached hereto as *Exhibit No.14* and incorporated herein by this reference.

17. Subordination Agreement with HCD. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Subordination Agreement with HCD” shall mean an instrument substantially conforming in form and substance to the Subordination Agreement with HCD attached to this Agreement as Attachment No. 29 and incorporated herein by this reference, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel. Any and all substantive modifications prior to recordation shall be submitted to the Agency Board for approval.

Attachment No. 29 of the DDA, “Subordination Agreement with HCD” is attached hereto as *Exhibit No.13* and incorporated herein by this reference.

18. Subordination Agreement with CTCAC

“Subordination Agreement with CTCAC” shall mean an instrument substantially conforming in form and substance to the Subordination Agreement with the California Tax Credit Allocation Committee CTCAC attached to this Agreement as Attachment No. 31 and incorporated herein by this reference, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel. Any and all substantive modifications prior to recordation shall be submitted to the Agency Board for approval.

Attachment No. 31 of the DDA, “Subordination Agreement with CTCAC” is attached hereto as *Exhibit No.15* and incorporated herein by this reference.

19. Tax Credit Equity Investor.

- a. The definition of “Tax Credit Equity Investor” contained in Section 102 of the DDA, entitled Definitions is hereby deleted in its entirety.
- b. Any and all references and/or provisions of the DDA, its attachments and any document executed in connection as they refer and/or relate to the term “Tax Credit Equity Investor” are hereby deleted in their entirety.

20. TCAP Loan. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“TCAP Loan” shall mean that certain Tax Credit Assistance Program loan to Owner from the California Tax Credit Allocation Committee derived from the American Recovery and Reinvestment Act (ARRA) of 2009 Funds in such amount as set forth in the Amended Method of Financing.

21. TCAC Area Median Income. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

22.

“TCAC Area Median Income” shall mean the area median income for San Diego County determined in accordance with 26 USC 42 (g).

23. Universal Design Checklist. Section 102 of the DDA entitled Definitions is hereby amended by adding the following definition:

“Universal Design Checklist” shall mean that certain checklist attached to this Agreement as Attachment No. 16 and incorporated herein by this reference.

24. Other Definitions. The definitions of “Affordable Rent”, “Agency Garage Improvements,” “Area Median Income,” “Garage,” “Improvements,” “Leasehold,” “Leasehold Parcels,” “Parcel Map,” “Permitted Transfer,” and “Subordination Agreement” as contained in the DDA are hereby replaced in their entirety as follows:

“Affordable Rent” shall mean the maximum monthly rent, including a reasonable utility allowance, that may be charged to and paid by tenants and shall be calculated as follows:

(a) As to Extremely Low Income households: The maximum monthly rent shall not exceed one-twelfth (1/12) times the product of 30% times 30% of the TCAC Area Median Income, adjusted for family size appropriate for the Unit. In no event shall the Affordable Rent for Extremely Low Income households exceed the product of 30% times 50% of Area Median Income, adjusted for household size.

(b) As to Very Low Income households: The maximum monthly rent shall not exceed one-twelfth (1/12) times the product of 30% times 50% of the Area Median Income, adjusted for family size appropriate for the Unit.

(c) In the event of a Foreclosure Transfer (as defined in the Agreement Affecting Real Property), as to Low Income Households (as defined in the Agreement Affecting Real Property): The maximum monthly rent shall not exceed one-twelfth (1/12) times the product of 30% times 60% of the Area Median Income, adjusted for family size appropriate for the Unit.

“Agency Garage Improvements” shall mean the Improvements within the Agency Garage Parcel, to be owned in fee by the Agency and consisting of approximately twenty-six (26) parking spaces.

“Area Median Income” shall mean the median income of the San Diego Standard Metropolitan Statistical Area, as determined by the United States Department of Housing and Urban Development (“HUD”) and published from time to time by the California Department of Housing and Community Development.

“Garage” shall mean those improvements to be constructed within the Garage Area containing a total of 99 parking stalls, consisting of (i) at least seventy-three (73) parking spaces for the Housing Improvements, sufficient to provide code-required parking, and (ii) approximately twenty-six (26) parking spaces for the Agency.

“Improvements” shall mean the residential, retail and parking garage development to be constructed on the Leasehold Parcels, consisting of ground floor retail space of approximately 4,430 square feet, 65 dwelling units, including 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units, with underground parking containing at least 99 parking stalls, 26 of which parking stalls shall be within the area referred to as the “Agency Garage Parcel,” all as described in the attached Amended Scope of Development. The Improvements shall comply with all applicable local, state and federal laws and the current California Building Code that includes comprehensive accessibility and adaptability requirements for multifamily new construction development. Owner shall use commercially reasonable efforts to incorporate Universal Design components into the Improvements and comply with the items in the Agency’s Universal Design Checklist as required, which is attached to this Agreement as Attachment No. 16.

“Leasehold” shall mean, prior to the recordation of the Parcel Map, amendment of the Ground Lease and quitclaim of the Agency Garage Parcel as required by Section 2.3 of the Ground Lease, the leasehold estate in the Property; upon amendment of the Ground Lease and quitclaim of the Agency Garage Parcel, “Leasehold” shall refer to the leasehold estate in the Housing Parcel and the Retail Parcels only.

“Leasehold Parcels” refers, prior to the recordation of the Parcel Map, amendment of the Ground Lease and quitclaim of the Agency Garage Parcel as required by Section 325, to the Property; upon amendment of the Ground Lease and quitclaim of the Agency Garage Parcel as required by Section 2.3 of the Ground Lease, “Leasehold Parcels” shall refer to the Housing Parcel and the Retail Parcels only.

“Parcel Map” refers to any of a subdivision tract map, a parcel map or a condominium map to be prepared by Owner, approved by the City of San Diego and recorded in the Official Records by the time set forth in the Amended Schedule of Performance. The Parcel Map shall be subject to the reasonable approval of the Agency Executive Director or designee. A conceptual drawing of the Parcel Map as envisioned by the Parties as of the date hereof is attached hereto as Attachment No. 1B. As of the date of this Agreement, the parties anticipate that the Parcel Map shall create 4 parcels: (1) Parcel 1 shall contain a portion of the ground floor, the second floor, and all remaining floors above the second floor, upon which the residential improvements will be located, as well as the middle and lower two floors of the Garage (the “Housing Parcel”); (2) Parcel 2 shall contain a portion of the ground floor retail space (the “Retail Parcel A”); (3) Parcel 3 shall contain a portion of the ground floor retail space (the “Retail Parcel B”; together Retail Parcel A and Retail Parcel B are referred to as the “Retail Parcels”); and (4) Parcel 4 shall contain the upper floor of parking in the Garage (the “Agency Garage Parcel”). Owner, with the prior written consent of the Agency Executive Director or designee, which consent shall not be unreasonably withheld, delayed or conditioned, may file a parcel map other than as described above. The term “Parcel Map” as used in this Agreement shall refer to whichever map Owner uses to subdivide the Property.

“Permitted Transfer” means any of the following:

- a. A conveyance of a security interest in the Leasehold Parcels in connection with any Permitted Leasehold Mortgage;
- b. Any transfer of title by the Permitted Leasehold Mortgagee by foreclosure, deed or other conveyance in lieu of foreclosure in connection with the Permitted Leasehold Mortgage;
- c. A transfer of the Leasehold by the Permitted Leasehold Mortgagee or an Affiliate thereof following a foreclosure, deed or other conveyance in lieu of foreclosure as contemplated by Section 8.2.1 of the Ground Lease;
- d. A conveyance of the Housing Parcel to any Affiliate provided the co-general partner remains the same;

e. The inclusion of equity participation by Owner by addition of limited partners to Owner's limited partnership, or similar mechanism, and the purchase of any such limited partnership interest or interests by the Co-General Partner or Managing General partner;

f. The lease for occupancy of all or any part of the Improvements within the Housing Parcel;

g. The granting of easements or permits to facilitate the development of the Leased Premises in accordance with this Agreement;

h. The removal of the Managing General Partner by the Co-General Partner and the replacement thereof with a non-profit corporation with 501(c)(3) status, or a limited liability company whose sole member is a non-profit corporation with 501(c)(3) status;

i. The transfer of shares in ROEM Development Corporation provided that Robert Emami continues to own more than 50% of the issued and outstanding voting shares of, and remains in control of, ROEM Development Corporation;

j. The transfer of membership interests in Squier Properties, LLC, provided that Gary Squier continues to own more than 50% of the membership interests of, and remains in control of, Squier Properties, LLC; and

Any transfer described in clauses a., e., and g., shall be subject to the reasonable approval of documentation by the Agency Executive Director or designee. Upon any transfer described in clauses b., c., d. and h., the assignor and the assignee shall execute and deliver to the Agency Executive Director or designee an Assignment and Assumption Agreement conforming in form and substance to the Assignment and Assumption Agreement attached hereto as Attachment No. 28."

"Subordination Agreement" shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 14 and incorporated herein by this reference, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel. Any and all substantive modifications prior to recordation shall be submitted to the Agency Board for approval.

25. Agency; Notices. Section 105 b. of the DDA, entitled, "Agency", is hereby amended by changing the address of the Agency contained therein for purposes of receiving notices to the following:

Redevelopment Agency of the City of San Diego
Civic Center Plaza
1200 Third Avenue, Suite 1400
Mail Stop MS56D
San Diego, California 92101
Attn: Deputy Executive Director
Telephone: (619) 236-6700
Fax: (619)533-3219

and

Redevelopment Agency of the City of San Diego
c/o Centre City Development Corporation
401 B Street, Suite 400
San Diego, California 92101
Attn: Coordinator, Affordable Housing
Tel: 619-533-7100
Fax: 619-236-9148

26. Assignments and Transfers. Section 107 b. of the DDA, entitled, “Assignments and Transfers” hereby deleted in its entirety and replaced with the following:

“b. Prior to Issuance of Release of Construction Covenants, Owner shall not assign all or any part of this Agreement, or any interest herein, without the prior written approval of the Agency Executive Director or designee except in the case of a Permitted Transfer; provided that a Permitted Transfer as described in clauses a., e. and g. shall be subject to the reasonable approval of documentation by the Agency Executive Director or designee, and a Permitted Transfer as described in clauses b., c., d. and h., shall be subject to the assignor and the assignee executing and delivering to the Executive Director or designee an Assignment and Assumption Agreement substantially conforming in form and substance to the Assignment and Assumption Agreement attached hereto as Attachment No. 28.”

27. Second Escrow. Section 211 of the DDA entitled, “Second Escrow”, is hereby amended to reflect that the CC&Rs will not be recorded at the Second Closing.

28. Release. Section 222 e. of the DDA entitled, “Release”, is hereby amended to delete the phrase “attorneys’ fees” and replace with the phrase “reasonable attorneys’ fees and costs.”

29. Method of Financing. Section 223 of the DDA entitled, Method of Financing, is hereby deleted in its entirety and replaced with the following:

The Acquisition and Development Costs shall be financed with a combination of sources of financing as provided by this Agreement and in the Amended Method of Financing, attached to this Agreement as Attachment No. 3, which is incorporated herein by this reference. In addition to obtaining the Agency Loan

and construction financing, Owner shall use its best efforts to obtain, Affordable Housing Program (“AHP”) loan financing, Multi-Family Housing Program-Supportive Housing Program (“MHP-SHP”) loan financing, Mental Health Services Act Program (“MHSA”) loan financing and TCAP Loan for the Project. Owner shall submit applications for such financing in accordance with the Amended Schedule of Performance. As of the date of this Agreement, Owner has obtained a CalReUse Remediation Grant in the amount of \$94,000 which is reflected in the Amended Method of Financing.

30. Amount of the Permanent Loan. Section 224 b.1.e. of the DDA, entitled, Equalization Payment, is hereby amended by deleting the dollar amount “\$1,756,000” and replacing it with the following language “\$2,565,000, which amount shall not exceed \$3,075,000,” which is the anticipated amount of the Permanent Loan as of the date of this First Amendment.

31. Reduction of Agency Loan. Section 224 b. of the DDA entitled, Gap Assistance, is hereby amended by adding the following paragraphs as a new Section 224 b.2. :

2. Reduction of Agency Loan Due to Awards and Grants. Owner acknowledges and agrees to timely prepare and submit applications for funding as provided in this Section 224 b.2. Owner shall submit written progress reports to the Agency Executive Director or designee as requested by the Executive Director or designee regarding the status of Owner’s requests for funding.

a. Affordable Housing Program. Owner shall apply for an award of Affordable Housing Program (“AHP”) funds in the amount of Two Hundred Sixty Thousand Dollars (\$260,000). Owner shall submit a completed application prior to that certain date set forth in the Amended Schedule of Performance, attached hereto as Attachment No. 5. In the event the Owner is awarded AHP funds, Owner shall, within ten (10) days of notice of award amount, notify the Agency in writing of the amount of such award. The principal amount of the Agency Loan evidenced in the Agency Note shall be reduced by (or if the principal amount of the Agency Note has already been disbursed at the time of the award of AHP Funds, within five (5) days thereafter Owner shall pay to Agency) the total amount of the AHP award.

b. Other Funding Sources. Owner acknowledges and agrees to pursue and make application for other funding sources as they are identified and for which the Project qualifies. Proceeds from other funding sources shall be applied to the total Acquisition and Development Costs such that the principal amount of the Agency Loan is reduced in equal proportion in furtherance of “gap financing.” The principal amount of the Agency Note shall be reduced in equal proportions to the amount of any additional proceeds obtained by Owner in accordance with Sections 10.(b) (Additional Proceeds) and 10.(c) (Cost Overruns/Additional Proceeds) of

the Agency Note and Sections 2.4(b) and 2.4 (c) of the Amended Method of Financing.

32. Condition of the Leasehold Parcels. Section 302 of the DDA entitled, Condition of the Leasehold Parcels, is hereby amended by deleting the penultimate sentence (which begins, “Owner shall defend, indemnify...” and replacing it with the following:

Owner shall defend, indemnify and hold harmless the Agency, CCDC, the City of San Diego and their 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 reasonable attorneys’ fees) which may result from the presence or clean up of Hazardous Substances on, in, or under the Leasehold Parcels as well as that portion of the Chapel Parcel which is excavated for construction of the Garage.

33. Basic Concept and Schematic Drawings. Section 304 of the DDA entitled, Basic Concepts and Schematic Drawings, is hereby amended by deleting subsection 304 c. in its entirety and replacing it with the following:

“c. Owner shall make commercially reasonable efforts to incorporate Universal Design components into the project as outlined in the Agency’s Universal Design Checklist (Attachment No. 16).”

34. The Garage. Section 308 b. of the DDA entitled, The Garage, is hereby amended as follows:

- a. The second sentence in Section 308 b. 1., entitled, Agency Garage Purchase Price, is hereby amended as follows:
 - i. To delete the number “28” and replace it with the number “26 ”, to reflect that the Agency Garage Improvements will contain approximately twenty-six (26) parking spaces; and
 - ii. To delete the Agency Garage Purchase Price of “One Million Four Hundred Thousand Dollars (\$1,400,000) in the penultimate sentence and replace with the following amount “One Million Three Hundred and Forty-Four Dollars (\$1,344,000).”
- b. Section 308 b. 2, entitled, Disbursement of Agency Garage Purchase Price, shall be deleted in its entirety and replaced with the following:

“2. Disbursement of the Agency Garage Purchase Price. The Agency Garage Purchase Price, less a 10% retainage, shall be disbursed to Owner during

construction of the Agency Garage Improvements, as set forth in the Disbursement Agreement. The remaining portion of the Agency Garage Purchase Price shall be disbursed to Owner upon Issuance of the Release of the Construction Covenants and submission by Owner of its certified costs to construct the Agency Garage Improvements.”

35. Liability Insurance. Section 310 b. (1)(b) of the DDA entitled, Liability Insurance, is hereby amended by replacing the following amounts, “commercial general liability in a general aggregate amount of not less than Three Million Dollars (\$3,000,000), Three Million Dollars (\$3,000,000) Products and Completed Operations Aggregate” with “commercial general liability in a general aggregate amount of not less than Four Million Dollars (\$4,000,000), Four Million Dollars (\$4,000,000) Products and Completed Operations Aggregate.”

36. Construction and Demolition Debris Diversion Deposit Program. Section 313 of the DDA entitled, Permits, is hereby amended by adding the following subsection:

“Section 313.1 Construction and Demolition Debris Diversion Deposit Program.

Developer shall comply with the City of San Diego Construction and Demolition Debris Diversion Deposit Program, as set forth in San Diego Municipal Code sections 66.0601 through 66.0610.”

37. Notice of Default. Section 320 of the DDA entitled, Notice of Default to Lenders; Right of Lender to Cure Defaults, is hereby amended by adding the following phrase at the end of the penultimate sentence in that Section which begins, “Any Senior Lender who forecloses ...”:

“, with such modifications to the Amended Scope of Development, Amended Schedule of Performance, Plans and other construction documents as are reasonably necessary and in accordance with applicable local, state and federal laws and regulations to enable the Senior Lender to complete construction of the Improvements.”

38. Uses. Section 401 b. of the DDA is hereby amended by adding the following at the end of the last sentence in that Section:

“, subject to the provisions of the Agreement Affecting Real Property.”

39. Defaults – General. Section 501 e. of the DDA is hereby amended by deleting the second sentence (which begins, “The Agency agrees to accept cures”) and replacing it with the following sentence:

“On and after the Second Closing, Senior Lender’s cure rights shall be as set forth in Article 8 of the Ground Lease.”

40. Conflict of Interest. Section 603, of the DDA entitled, Conflict of Interest, is hereby deleted in its entirety and replaced with the following:

“Section 603 Conflict of Interest

a. No member, official, or employee of the Agency, CCDC or the City 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 his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested.

b. Owner warrants that it has not paid or given, and will not pay or give, directly or indirectly, any Agency, CCDC or City employee or official, any money or other consideration at all, whether or not connected in any way with the subject matter of this Agreement. Further, Owner warrants that it has no knowledge of any financial interest of any Agency, CCDC or City employee or official in Owner, directly or indirectly, or in any person or entity affiliated with Owner, or in any transaction in which Owner has been involved.”

41. Method of Financing. Attachment No. 3 to the DDA, Method of Financing, is hereby deleted and replaced and superseded in its entirety by the Amended Method of Financing, attached hereto as *Exhibit No. 2* and incorporated herein by this reference.

42. Scope of Development. Attachment No. 4 to the DDA, Scope of Development, is hereby deleted and replaced and superseded in its entirety by the Amended Scope of Development, attached hereto as *Exhibit No. 3* and incorporated herein by this reference.

43. Schedule of Performance. Attachment No. 5 to the DDA, Schedule of Performance, is hereby deleted and replaced and superseded in its entirety by the Amended Schedule of Performance, attached hereto as *Exhibit No. 4* and incorporated herein by this reference.

44. Agreement Affecting Real Property. Attachment No. 6 to the DDA, Agreement Affecting Real Property, is hereby deleted and replaced and superseded in its entirety by the Revised Form of Agreement Affecting Real Property, attached hereto as *Exhibit No. 5* and incorporated herein by this reference.

45. Project Budget. Attachment No. 7 to the DDA, the Project Budget, is hereby deleted and replaced and superseded in its entirety by the Amended Project Budget, attached hereto as *Exhibit No. 6* and incorporated herein by this reference.

46. Agency Note. Attachment No. 8 to the DDA, Agency Note, is hereby deleted and replaced and superseded in its entirety by the Revised Form of Agency Note, attached hereto as *Exhibit No. 7* and incorporated herein by this reference.

47. Agency Leasehold Deed of Trust. Attachment No. 9 to the DDA, Agency Leasehold Deed of Trust, is hereby deleted and replaced and superseded in its entirety by the Revised Form of the Agency Leasehold Deed of Trust, attached hereto as *Exhibit No. 8* and incorporated herein by this reference.

48. Subordination Agreement. Attachment No. 14 to the DDA, the Subordination Agreement, is hereby deleted and replaced and superseded in its entirety by the Revised Form of Subordination Agreement, attached hereto as *Exhibit No. 9* and incorporated herein by this reference.

49. Disbursement Agreement. Attachment No. 15 to the DDA, the Disbursement Agreement, is hereby deleted and replaced and superseded in its entirety by the Revised Form of Disbursement Agreement, attached hereto as *Exhibit No. 10* and incorporated herein by this reference.

50. Ground Lease. Attachment No. 18 to the DDA, Ground Lease, is hereby deleted and replaced and superseded in its entirety by the Revised Form of Ground Lease, attached hereto as *Exhibit No. 11* and incorporated herein by this reference.

51. Option to Purchase Agreement. Attachment No. 20 to the DDA, Option to Purchase Agreement (Housing), is hereby amended by deleting Recital C in its entirety and replacing it with the following:

“Pursuant to that certain Disposition and Development Agreement entered into between the Agency and Optionor (as “Owner” therein) dated as of May 22, 2008, and all amendments thereto, (the “Agreement”), Optionor has agreed to construct an approximately 65 unit affordable housing complex with ground floor retail and related parking facilities (the “Project”).”

52. Notice of Affordability Restrictions on Transfer of Property. Attachment No. 23 to the DDA, the Notice of Affordability Restrictions, is hereby deleted and replaced and superseded in its entirety by the Revised Form of Notice of Affordability Restrictions, attached hereto as *Exhibit No. 12* and incorporated herein by this reference.

53. Public Parking Design Specifications. Attachment No. 25 to the DDA, Public Parking Garage Design Criteria, is hereby amended by deleting, at paragraph 1.C, Parking Spaces, the sentence:

“The structure shall provide twenty-seven (27), single, non-tandem spaces, including two (2) accessible stalls per State of California Building Code Title 24 (ADA) requirements.”

and replacing it with the following sentence:

“The structure shall provide twenty-six (26), single, non-tandem spaces, including two (2) accessible stalls per State of California Building Code Title 24 (ADA) requirements.”

54. Competitive Bids. ROEM Builders, Inc. (“RBI”) will be Owner’s general contractor to construct the Project. RBI is under common control as a party owning a membership interest in the general partner of Owner, ROEM Development Corporation. In order to ensure that the costs to construct the Project are the lowest, fair and reasonable costs, Owner acknowledges and

agrees to require competitive bids for contracts in excess of \$100,000 from all of its subcontractors and to submit all bids received to the Agency Executive Director or designee consistent with the requirements set forth in the Charter and Municipal Code of the City of San Diego. Consistent with the competitive bidding requirements set forth in the Charter and Municipal Code of the City of San Diego, the Agency and Owner agree to the following:

- a. Owner shall award all subcontracts in excess of \$100,000 for construction of the Project and materials related thereto by means of a bid process whereby at least three independent written bids are obtained from licensed, responsible and insured contractors or subcontractors and the contracts are awarded to the lowest and reliable responsible bidders.
- b. The Agency Executive Director or designee may in his or her reasonable discretion reject any or all bids and require Owner to re-advertise for bids.
- c. Owner shall advise the Agency Executive Director or designee in advance of any pre-bid, bid opening, coordination and scheduling meetings to be held with subcontractors relating to the Project. The Agency Executive Director or designee shall have the right to be represented at such meetings, and to meet and confer with individual subcontractors as requested by the Agency Executive Director or designee.
- d. The Agency Executive Director or designee shall be entitled to discuss the bidding process with the Owner at any time and to require reasonable changes thereto and to be represented at the time and place of the award for the opening of the bids.
- e. The Agency Executive Director or designee shall have the right to review and reasonably approve or disapprove Owner's contract with RBI and the contracts in excess of \$100,000 between RBI and its subcontractors for construction of the Project.

55. Declaration of Covenants, Restrictions and Easements. The Parties acknowledge and agree to negotiate in good faith the terms and provisions of the Declaration of Covenants, Restrictions and Easements (as defined in the Ground Lease) relating to the Property, as set forth in the Ground Lease.

56. Reciprocal Easement Agreement. The Parties acknowledge and agree to negotiate in good faith the terms and provisions of the Reciprocal Easement Agreement (as defined in the Ground Lease) relating to the Property, as set forth in the Ground Lease.

57. Subordination to CTCAC. The Agency Deed of Trust securing the Agency Note shall be subordinate and junior to the claims, liens or charges of the California Tax Credit Allocation Committee ("CTAC") deed of trust and all other instruments securing the loan to Owner pursuant to the American Recovery and Reinvestment Act of 2009 as set forth in the Amended Method of Financing. The Agency Executive Director or designee shall execute a subordination

agreement (i) that is consistent with the Amended Method of Financing, the DDA, and this Agreement, and (ii) which substantially conforms in form and substance to the Form of Subordination Agreement with CTCAC (Attachment 31 to the DDA) attached hereto as Exhibit No. 15, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel. Any and all substantive modifications to the Form of the CTCAC Subordination Agreement (Exhibit No. 15) prior to recordation shall be submitted to the Agency Board for approval.

58. Subordination to Department of Housing and Community Development. The Agency Deed of Trust securing the Agency Note and the Agreement Affecting Real Property shall be subordinate and junior to the claims, liens or charges of the Department of Housing and Community Development (“HCD”) deed of trust and all other instruments securing the Multifamily Housing Program (the “MHP”) Loan as set forth in the Amended Method of Financing. The Agency Executive Director or designee shall execute a subordination agreement (i) that is consistent with the Amended Method of Financing, the DDA, and this Agreement, and (ii) which substantially conforms in form and substance to the Form of Subordination Agreement with HCD (Attachment 29 to the DDA) attached hereto as Exhibit No. 13, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel. Any and all substantive modifications to the Form of the HCD Subordination Agreement (Exhibit No. 13) prior to recordation shall be submitted to the Agency Board for approval.

59. Subordination to California Housing Finance Agency. The Agency Deed of Trust securing the Agency Note shall be subordinate and junior to the claims, liens or charges of the California Housing Finance Agency (“CalHFA”) loan deed of trust and all other instruments securing the Mental Health Services Act Loan (the “MHSA Loan”) as set forth in the Amended Method of Financing. The Agency Executive Director or designee shall execute a subordination agreement (i) that is consistent with the Amended Method of Financing, the DDA, and this Agreement, and (ii) which substantially conforms in form and substance to the Form of Subordination Agreement with CalHFA (Attachment 30 to the DDA) attached hereto as Exhibit No. 14, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel. Any and all substantive modifications to the Form of the CalHFA Subordination Agreement (Exhibit No. 14) prior to recordation shall be submitted to the Agency Board for approval.

60. Monitoring Agreement. Pursuant to Section 406 of the DDA Owner shall enter into a Monitoring Agreement with the Agency and the San Diego Housing Commission conforming in form and substance to the Form of Monitoring Agreement attached hereto as Exhibit No. 16.

61. The Agency Executive Director or designee is authorized to make such further changes to the documents and instruments attached to the DDA and to this Agreement as may be necessary or appropriate to effectuate the DDA, as amended by this Agreement, provided the Agency Loan is not increased or subordinated in greater proportion without Agency Board Approval.

62. The Agency Executive Director or designee is authorized to execute such further

instruments required by the DDA, including but not limited to indemnification of title company agreements, estoppel certificates and similar closing documents, as may be necessary or appropriate to effectuate the DDA, as amended by this Agreement.

SECTION 2. MISCELLANEOUS

1. Further Cooperation. The Parties agree to execute such other instruments, agreements and amendments to documents as may be necessary or appropriate to effectuate the DDA as amended by this Agreement.
2. Effectiveness of DDA. Except as expressly provided otherwise in this Agreement, the DDA remains in full force and effect enforceable in accordance with its terms.
3. Interpretation. This Agreement shall be executed in three duplicate originals, each of which is deemed to be an original. This Agreement, when combined with the DDA, constitutes the entire understanding and agreement of the parties and correctly sets forth the rights, duties and obligations of each to the other as of its date.
4. Waivers; Amendments. All waivers of the provisions of this Agreement and all amendments hereto must be in writing and signed by the appropriate authorities of the Agency and Owner.
5. Time of the Essence. Time is of the essence with respect to this Agreement.
6. Effective Date. This Agreement shall be dated and become effective on the date set forth above.
7. Authority to Execute. Owner hereby represents that the persons executing this Agreement on behalf of Owner have full authority to do so and to bind Owner to perform pursuant to the terms and conditions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Agency and Owner have executed this First Amendment to Disposition and Development Agreement as of the date set opposite their signatures.

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

Dated: _____

By: _____

Janice L. Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY
Jan I. Goldsmith, Agency General Counsel

By: _____

Deputy General Counsel

KANE, BALLMER & BERKMAN
Agency Special Counsel

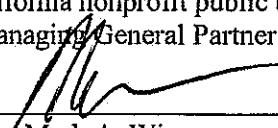
By: Murray O. Kane

Murray O. Kane

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

**CEDAR GATEWAY, L.P.,
a California limited partnership**

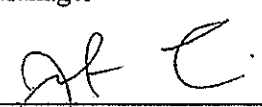
By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: 

Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: 

Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

ATTACHMENTS

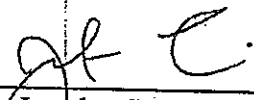
**CEDAR GATEWAY, L.P.,
a California limited partnership**

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

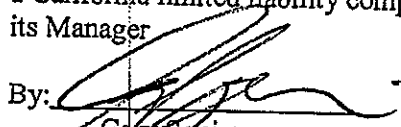
By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: 
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: 
Gary Squier,
President

ATTACHMENTS

EXHIBITS

Exhibit No. 1	FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT
Exhibit No. 2	AMENDED METHOD OF FINANCING
Exhibit No. 3	AMENDED SCOPE OF DEVELOPMENT
Exhibit No. 4	AMENDED SCHEDULE OF PERFORMANCE
Exhibit No. 5	REVISED FORM OF THE AGREEMENT AFFECTING REAL PROPERTY
Exhibit No. 6	AMENDED PROJECT BUDGET
Exhibit No. 7	REVISED FORM OF THE AGENCY NOTE
Exhibit No. 8	REVISED FORM OF THE AGENCY LEASEHOLD DEED OF TRUST
Exhibit No. 9	REVISED FORM OF THE SUBORDINATION AGREEMENT
Exhibit No. 10	REVISED FORM OF THE DISBURSEMENT AGREEMENT
Exhibit No. 11	REVISED FORM OF THE GROUND LEASE
Exhibit No. 12	REVISED FORM OF THE NOTICE OF AFFORDABILITY RESTRICTIONS
Exhibit No. 13	FORM OF SUBORDINATION AGREEMENT WITH HCD
Exhibit No. 14	FORM OF SUBORDINATION AGREEMENT WITH CALHFA
Exhibit No. 15	FORM OF SUBORDINATION AGREEMENT WITH CTCAC
Exhibit No. 16	FORM OF MONITORING AGREEMENT

Exhibit No. 1

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

ATTACHMENTS

ATTACHMENT NO. 28

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

**CEDAR GATEWAY DDA
ASSIGNMENT AND ASSUMPTION AGREEMENT**

This Assignment and Assumption Agreement (the "Agreement") is entered into as of [INSERT DATE] by and among the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic ("Agency"), [INSERT NAME OF ASSIGNOR], a [INSERT FORM OF ENTITY] ("Assignor") and [INSERT NAME OF ASSIGNEE], a [INSERT FORM OF ENTITY] ("Assignee") with reference to the following facts:

A. Agency, as landlord, and Assignor **[DESCRIBE IF PERMITTED TRANSFER]** [Development status description as it relates to DDA]

B. Agency and Cedar Gateway, L.P., a California limited partnership ("Owner" therein) entered into that certain Disposition and Development Agreement dated May 22, 2008, as amended by that certain First Amendment to the Disposition and Development Agreement dated _____, 2009 (the "DDA"), a public record on file with the Secretary of the Agency. The DDA concerns the development of certain improvements on real property of the Agency described in the Legal Description attached hereto as Exhibit "A" ("Property"). Any capitalized term not defined herein shall have the meaning ascribed to such term in the DDA.

C. In connection with the DDA, Agency ("Landlord" therein) and Cedar Gateway, L.P., ("Tenant" therein) executed that certain Ground Lease dated _____, 2009. The Ground Lease creates a leasehold estate (the "Leasehold Estate"), requiring Tenant and any assignee to [construct/rehabilitate] and operate certain buildings and structures on the Parcel, as provided in the DDA (the "Improvements") and the Ground Lease.

D. Assignor has selected and designated the Assignee to [describe] Property, and to [construct/rehabilitate] and operate the Improvements, as required by the DDA, the Ground Lease and all other documents executed in connection thereto.

E. As permitted by the DDA, Assignor intends to assign all of Assignor's rights and obligations and delegate all of its duties under the DDA and any and all related documents and agreements, including, but not limited to the Ground Lease, the Agency Promissory Note, the Agency Leasehold Deed of Trust and the Agreement Affecting Real Property (the "Related Agreements") to Assignee, and Assignee intends to assume all of the Assignor's rights and obligations under the DDA and any and all Related Agreements.

NOW, THEREFORE, the Agency, Assignor and Assignee hereby agree as follows:

1. Assignor hereby assigns to Assignee all of its right, title and interest in and to the DDA and the Related Agreements, and Assignee hereby accepts such assignment and assumes all of the obligations of the Assignor under the DDA and any and all Related Agreements, including, but not limited to the Ground Lease, and agrees to be bound thereby in accordance with the terms thereof. The Agency hereby releases Assignor from all obligations under the DDA and Related Agreements, upon written approval of the Agency Executive Director or designee, in the reasonable discretion of the Agency Executive Director or designee.

2. Assignor shall assign and transfer to Assignee and Assignee shall accept all of the Assignor's obligations under the DDA and the Related Agreements; Assignee shall execute any instrument or document relating to the Property and the Leasehold Estate which is to be executed by the Assignor pursuant to the DDA and the Related Agreements, and be bound thereby in accordance with the terms thereof.

3. Assignee shall assume and perform all executory obligations of Assignor pursuant to the DDA and the Related Agreements, without exception.

4. Neither the assignment which is the subject of this Agreement nor any thing in this Assignment and Assumption Agreement shall be deemed to relieve Assignor of any of its obligations under the DDA, the Ground Lease, or any other Related Agreements executed in connection therewith, unless Agency releases Assignor from all of its obligations under the DDA and Related Agreements upon written approval of the Agency Executive Director or designee, in the reasonable discretion of the Agency Executive Director or designee.

5. Agency hereby consents to and approves the assumption of the DDA and the Related Agreements by Assignee pursuant to the terms and conditions of this Assignment and Assumption Agreement.

6. The principal address of Assignee for purposes of the DDA and the Related Agreements is as follows:

[Name of Assignee]

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

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

9. This Assignment and Assumption Agreement shall be governed by the laws of the State of California.

10. If any term or provision of this Assignment and Assumption 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 Assignment and Assumption Agreement shall not be affected thereby and each other term and provision of this Assignment and Assumption 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 Assignment and Assumption Agreement that is illegal, invalid or unenforceable, there be added as a part of this Assignment and Assumption Agreement an enforceable clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible.

11. Time is expressly declared to be of the essence in this Assignment and Assumption Agreement.

12. No provision in this Assignment and Assumption Agreement is to be interpreted for or against either party because that party or its legal representatives drafted such provision.

13. 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 Assignment and Assumption Agreement.

14. The parties hereto further represent and declare that they carefully read this Assignment and Assumption Agreement and know the contents thereof, and that they sign the same freely and voluntarily.

15. Each party hereto hereby represents that the person executing this Assignment and Assumption Agreement on behalf of said party has full authority to do so and to bind the party to perform pursuant to the terms and conditions of this Assignment and Assumption Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Agency, Assignor and Assignee have executed this Assignment and Assumption Agreement.

"Agency"

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

By: _____

APPROVED AS TO FORM AND LEGALITY

Jan I. Goldsmith
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____
Murray O. Kane

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

"Assignor"

**CEDAR GATEWAY, L.P.,
a California limited partnership**

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

"Assignee"

[INSERT NAME OF ASSIGNEE]

By: _____

By: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PARCEL TO BE ASSIGNED

[TO BE ADDED]

Exhibit No. 2

AMENDED METHOD OF FINANCING

ATTACHMENTS

ATTACHMENT NO. 3

AMENDED METHOD OF FINANCING

This is the Amended Method of Financing attached to the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and Cedar Gateway, L.P. (“Owner” or “Borrower”) as amended by that certain First Amendment to the Disposition and Development Agreement (collectively referred to herein as the “DDA”), pertaining to the development of an approximately 65-unit multi-family housing project to be constructed on the “Housing Parcel” which shall be operated as rental housing that is affordable to very-low and extremely-low income persons, consisting of approximately 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units and related parking, as further described in the DDA. In addition, the DDA provides for the development of the “Agency Garage Parcel,” and the development of, without funding from the Agency, the “Retail Parcel A” and “Retail Parcel B” (together, Retail Parcel A and Retail Parcel B are referred to as the “Retail Parcels”). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA.

If the Agency Executive Director or designee determines that it is necessary to revise the terms of this Amended Method of Financing in order to accomplish the project objectives or protect the Agency’s investment, this Amended Method of Financing may be amended by the Agency Executive director or designee to reflect such revisions, provided, however, that (i) such amendment will be subject to, and conditioned on, such further review and approval by the Agency Board as is needed to satisfy applicable law and Agency policy and procedures and (ii) such modification does not adversely affect the receipt of any benefit or right of Agency under the DDA (including any attachments thereto), including without limitation subordination of the affordability covenants contained in the DDA and the Agreement Affecting Real Property (Attachment No. 6 of the DDA), increase any Agency obligation or liability under the DDA (including any attachments thereto) or result in a greater subordination of the Agency Loan than permitted by the DDA and this Amended Method of Financing.

1. Total Acquisition and Development Costs. The parties estimate that the cost of acquiring and developing the Housing Parcel, the Agency Garage Parcel and the Retail Parcels will be approximately \$33,200,000, to be provided as follows in Section 2 of this Method of Financing. The sources for construction of the Retail Parcels do not include Agency funding.

2. Sources of Financing. The parties anticipate that the costs of acquiring the Property and developing and constructing the Improvements on the Housing Parcel and Retail Parcels (the “Acquisition and Development Costs”) shall be financed with a combination of loans and Owner's equity, as set forth in the following chart and as described below:

<u>Source of Funds</u>	<u>Construction</u>	<u>Permanent</u>
Tax Credit Assistance Program (TCAP)	\$10,518,309	\$14,024,415
Permanent Loan		\$2,565,000
Construction Loan	\$13,085,000	
(Less Interim Repayment)	(\$4,627,363)	
Agency Land Purchase	\$5,265,000	\$5,265,000
Agency Loan	\$3,294,900	\$3,661,000
Multifamily Housing Program		\$3,301,191
Mental Health Services Act Program	\$2,752,000	\$2,752,000
Cal ReUSE Remediation Grant	\$94,330	\$94,330
Deferred Developer Fee	\$1,000,000	\$140,093
Income During Lease-Up	\$51,348	\$51,824
Deferred Funding of Reserves	\$421,329	
Agency Garage Payment	\$1,344,000	\$1,344,000
TOTAL	\$33,198,853	\$33,198,853

2.1 PURCHASE OF THE PROPERTY

Owner shall purchase the Property from Seller in accordance with the terms and conditions of the Squier/Seller Purchase Agreement. In accordance with and subject to all the terms, covenants and conditions of the DDA, Owner agrees to sell the Property to Agency, and Agency agrees to purchase the Property from Owner, for an amount not to exceed Six million three hundred fifty eight thousand dollars (\$6,358,000) (the “Agency Purchase Price”). Agency will own the Property from the First Closing until the Second Closing, at which time (and after satisfaction of all conditions precedent) Agency shall convey a Leasehold in the Leasehold Parcels to Owner, and Agency shall retain fee title to the Chapel Parcel. The allocated land cost of the Chapel Parcel is \$1,093,000. After recordation of the Parcel Map and at the time set forth in the Schedule of Performance, the Ground Lease will be terminated with respect to the Agency Garage Parcel and the Leasehold Parcels will be the Housing Parcel and the Retail Parcels.

2.2 CONSTRUCTION PERIOD FINANCING

- a. Construction Loan. An institutional construction loan (the “Construction Loan”) in the approximate original principal amount of \$13,085,000 shall be secured by one or more senior priority deeds of trust (the beneficiaries of which shall include the lender of the Construction Loan, any credit enhancer or construction period guaranty facility, referred to herein collectively as the “Construction Lenders”).

b. Agency Loan. At such time as all conditions precedent for the benefit of Owner and Agency to the conveyance of the Ground Lease, as set forth in Sections 209 and 210 of the DDA, have been satisfied, Agency shall lend funds (the "Agency Loan") for the Project in a principal amount not to exceed \$3,661,000, which amount shall be determined at the Second Closing and may be reduced if the other sources of Construction Financing (defined below) are increased or the Budget indicates that the Acquisition and Development Costs are reduced.

- (1) The term of the Agency Loan shall commence on the date the Agency Deed of Trust is recorded in the official records and shall terminate on the fifty-fifth (55th) anniversary of the later of the issuance of the final Certificate of Occupancy or the Issuance of the Release of Construction Covenants;
- (2) The Agency Loan shall be evidenced by the Agency Note and secured by the Agency Deed of Trust.
- (3) The outstanding balance of the Agency Loan shall bear simple interest at the rate of five percent (5.0%) per annum.
- (4) The proceeds of the Agency Loan shall be used exclusively to pay Acquisition and Development Costs identified in the Project Budget (Attachment No. 7); provided, however, that no portion of the Agency Loan may be used to pay for construction of the Retail Improvements.
- (5) The Agency Loan shall be repaid to the extent of the Agency's Share of Residual Receipts. The residual receipts shall be divided between Agency and Owner 60%/40% commencing on the issuance of the temporary Certificate of Occupancy and until the 30th anniversary of the later of the issuance of the final Certificate of Occupancy or the Issuance of the Release of Construction Covenants, and 80%/20% from the 30th anniversary of the later of the issuance of the final Certificate of Occupancy or the Issuance of the Release of Construction Covenants until the 55th anniversary of the later of the issuance of the final Certificate of Occupancy or the Issuance of the Release of Construction Covenants. Agency will split its share with other public agencies that similarly require residual receipts payments.
- (6) Upon the Second Closing the Agency shall, if required as a part of the approved evidence of financing, enter into an Intercreditor Agreement with the Construction Lender in form and substance reasonably approved by the Executive Director or designee and Agency legal counsel, providing for the disbursement of the Agency Loan in accordance with this Method of Financing and the Disbursement

Agreement (Attachment No. 15 to the DDA). The Intercreditor Agreement shall provide for funding of 80% of the Agency Loan by the Agency on a *pari passu* basis with the Construction Lender during the construction period subject to and in accordance with the DDA and its attachments, including without limitation this Method of Financing. As used in this paragraph “*pari passu*” means on a pro rata basis according to Agency’s loan amount to be disbursed during construction to the total amount of the Construction Lender’s loan. Ten percent (10%) of the Agency Loan shall be paid at the Issuance of the Certificate of Occupancy, and the remaining ten percent (10%) of the Agency Loan shall be paid at Conversion (unless there are “Cost Savings” or “Additional Proceeds” as discussed below at Section 2.4). In addition, the Intercreditor Agreement shall acknowledge that the improvements constructed within the Agency Garage Parcel are the property of Agency, that when the Agency Garage Parcel becomes a separate legal parcel Owner shall quitclaim any interest it may have in the Agency Garage Parcel to Agency, and that upon such quitclaim and at the written request of Agency, the construction lender(s) agrees to release the Agency Garage Parcel from the lien of its deed of trust.

(7) Notwithstanding any other provisions of this Method of Financing, 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 Acquisition and Development Costs (as defined herein) and the maximum loans and grants obtained by Owner plus Owner's Equity, but in any event not to exceed the amount of the Agency Loan set forth in the Method of Financing. If the amount of the Agency Loan advanced is greater than necessary to bridge the gap between the total Acquisition and Development Costs and the maximum loans and grants obtained by Owner plus Owner's Equity, then at Conversion Owner shall repay to Agency such excess amount as provided below at Section 2.4.

c. Agency Garage Purchase Price. The Scope of Development for the Project requires Owner to construct a subterranean parking garage containing approximately 99 parking spaces. Owner agrees to sell to Agency, and Agency agrees to purchase from Owner, all improvements constructed within the Agency Garage Parcel, consisting of approximately 26 parking spaces (the “Agency Parking Spaces”), which number of spaces may be changed in the discretion of the Executive Director, for Owner’s actual, reasonable and documented costs to construct the Agency Parking Spaces as set forth at Section 308 of the DDA, but not more than \$1,344,000 (the “Agency Garage Purchase Price”). The Agency Parking Spaces shall all be within the Agency Garage Parcel, located on the upper level of the Garage. Agency shall own a fee interest in the Agency Garage Parcel and all Improvements within the

Agency Garage Parcel, and Owner's and Agency's rights and obligations with respect to the Agency Parking Spaces shall be governed by the Covenants, Conditions and Restrictions to be entered into between Owner and Agency governing the rights and obligations of owners of the Housing Parcel, the Retail Parcels and the Agency Garage Parcel.

Up to 90% of the Agency Garage Purchase Price funds shall be disbursed during the construction of the Agency Garage Improvements as set forth in the Disbursement Agreement (Attachment No. 15 to the DDA). The retainage portion of the Agency Garage Purchase Price shall be disbursed to Owner upon Issuance of the Release of the Construction Covenants and submission by Owner of its certified costs to construct the Garage.

- d. Income During Lease Up. Income during the lease-up period ("Income During Lease Up"), prior to permanent conversion, in the approximate amount of \$51,348 shall be used as construction financing.
- e. MHSA. Owner shall obtain a loan pursuant to the Mental Health Services Act Program (the "MHSA Loan") in the amount of \$2,752,000, which MHSA Loan shall be secured by a senior priority deed of trust.
- f. Tax Credit Assistance Program (TCAP). Owner shall obtain a Tax Credit Assistance Program (TCAP) loan from the California Tax Credit Allocation Committee derived from the American Recovery and Reinvestment Act of 2009 Funds ("TCAP Loan") in the amount of \$14,024,415, which TCAP Loan shall be secured by a senior priority deed of trust. Approximately \$10,518,309 will be available during construction.
- g. California Recycle Underutilized Sites (CALReUSE) Remediation Program. Owner shall obtain a grant from California Pollution Control Financing Authority in the amount of \$94,330 ("CALReUSE Grant").
- h. Owner Equity. Equity from the Owner (the "Owner Equity") consisting of the following:
 - (1) A deferred portion of the Developer Fee, in the amount of approximately \$140,000 (the "Deferred Developer Fee"), constituting that portion of the Developer Fee to be paid to Developer from Revenues, with interest at the minimum interest rate allowed by applicable rules of the California Tax Credit Allocation Committee and the IRS, before calculating Residual Receipts (with the balance of the Developer Fee in the amount of \$1,260,000 payable to Developer during construction, which includes the fees payable upon conversion, as the Construction Period Developer Fee under the Disbursement Agreement);

(2) Owner shall be responsible for providing any additional funds which may be needed to pay for cost overruns and any shortfalls in financing and contingencies not otherwise funded by the sources of construction financing described above.

Owner Equity described in this paragraph h. shall consist of funds provided by Owner or borrowed funds so long as repayment is not secured by any deed of trust on the Housing Parcel.

i. Construction Financing. The Construction Loan, the MHSA Loan, the TCAP Loan, the CalReUSE Grant, Income During Lease Up, the Agency Loan, the Agency Garage Purchase Price and the Owner Equity are referred to collectively herein as the “Construction Financing.”

2.3 PERMANENT SOURCES OF FINANCING

- a. A permanent loan (the “Permanent Loan”) in the approximate original principal amount of \$2,565,000, which amount shall not exceed \$3,075,000, secured by one or more senior priority deeds of trust (the beneficiaries of which shall include the Permanent Lender, any credit enhancer or permanent financing guaranty facility, referred to herein collectively as the “Senior Permanent Lenders”, and, together with the Construction Lenders, described above, referred to as the “Senior Lenders”). If the initial principal amount of the Permanent Loan is reduced to less than \$2,565,000, Owner shall be responsible to fund the shortfall with a further deferral of its developer fees or such other sources or cost savings as do not adversely impact payments due to the Agency under the Agency Note.
- b. The Agency Loan, as described in paragraph b. of Section 2.2, above (subject to adjustment to reflect any Cost Savings or Additional Proceeds, described in paragraphs a. and b. of Section 2.4 below).
- c. The Agency Garage Purchase Price, as described in paragraph f. of Section 2.2, above in the amount of \$1,344,000.
- d. The MHSA Loan, as described in paragraph e. of Section 2.2, above in the amount of \$2,752,000.
- e. The TCAP Loan as described in paragraph f. of section 2.2, above in the amount of \$14,024,415.
- f. The CalReUSE Grant, as described in paragraph g. of Section 2.2, above in the amount of \$94,330.

- g. The Income During Lease-Up, as described in paragraph d. of Section 2.2, above in the approximate amount of \$51,824.
- h. Owner Equity, as described in paragraph h. of Section 2.2, above.
- i. The Multi-Family Housing Program - Supportive Housing Program (“MHP-SHP” Loan) financing for the Project in the amount of \$3,301,191, which MHP-SHP Loan shall be secured by a senior priority deed of trust.
- j. Owner shall use its best efforts to obtain Affordable Housing Program (“AHP”) financing for the Project in the amount of \$260,000. In the event the Owner is awarded AHP funds, Owner shall, within ten (10) days of notice of award amount, notify the Agency in writing of the amount of such award. The principal amount of the Agency Loan evidenced in the Agency Note shall be reduced by (or if the principal amount of the Agency Note has already been disbursed at the time of the award of AHP Funds, within five (5) days thereafter Owner shall pay to Agency) the total amount of the AHP award. In the event Owner is awarded AHP funds, the deed of trust securing the AHP Funds, the AHP regulatory agreement and any other document securing the AHP Funds (the “AHP Documents”) shall be subordinate to the Agency Loan, the Agency Deed of Trust, the Agreement Affecting Real Property (Including Rental Restrictions) and all other documents executed in connection with the Agency Loan. Agency and AHP shall enter into a subordination agreement in recordable form in form and substance approved by the Agency’s Executive Director or designee and Agency’s general counsel, subordinating the AHP Documents to the Agency Loan documents. The AHP Documents shall only be recorded against the Leased Premises.
- k. Permanent Financing. The Permanent Loan, the MHSA Loan, the TCAP Loan, the CALReUSE Grant , Income During Lease-Up, the Agency Loan the MHP-SHP Loan and the Owner Equity are referred to collectively herein as the “Permanent Financing.”

2.4 POSSIBLE REDUCTION OF THE AGENCY LOAN AT CONVERSION

As noted above at Section 2.2, at the Second Closing the amount of the Agency Loan may be reduced if the other sources of Construction Financing are increased. In addition, if the amount of the Agency Loan advanced is greater than necessary to bridge the gap between the actual, total Acquisition and Development Costs and the Permanent Financing obtained by Owner, then at Conversion Owner shall repay to Agency an amount equal to the Agency’s share of any “Cost Savings” or in an amount equal to any “Additional Proceeds.” In order to determine if there are any Cost Savings or Additional Proceeds, Owner shall retain, at its expense, a certified public accountant acceptable to Agency to perform a cost certification to be completed within six (6) months after Issuance of Release of Construction Covenants.

- a. Cost Savings. In the event actual Acquisition and Development Costs are less than the Total Acquisition and Development Costs set forth above at Section 1, the resulting cost savings (“Cost Savings”) shall be paid to the Agency to reduce the principal amount of the Agency Loan.
- b. Additional Proceeds. In the event the aggregate amount of the Permanent Financing is greater than the Total Acquisition and Development Costs set forth above at Section 1, and the actual Acquisition and Development Costs are not greater than such Total Acquisition and Development Costs, or in the event Owner obtains additional funds (the “Additional Proceeds”), then such Additional Proceeds shall be applied to pay accrued interest on, and then reduce or repay the principal amount of the Agency Loan, except as provided in paragraph c. below.
- c. Cost Overruns/Additional Proceeds. In the event the aggregate Permanent Financing is greater than the Total Acquisition and Development Costs set forth above at Section 1, and the actual Acquisition and Development Costs are greater than as set forth above at Section 1, then, at Conversion, the increased amount of the Permanent Financing may first be used to pay the increase in Acquisition and Development Costs, then any remaining funds shall be used to reduce the Agency Loan. In the event actual Acquisition and Development Costs are less than as set forth above at Section 1, and the aggregate Permanent Financing is less than the Total Acquisition and Development Costs set forth at Section 1, but greater than the actual Acquisition and Development Costs, then such Additional Proceeds shall be used to reduce the Agency Loan.
- d. No Subordination to Additional Proceeds Except as otherwise provided by this Method of Financing, the Agency Loan shall not be subordinated to such increased amount of any permanent financing sources beyond the sources and respective amounts allowed by the DDA and in this Method of Financing, without the prior written approval of the Executive Director or Designee, which approval shall not be unreasonably withheld. Provided, however, that the Agency Loan shall be subordinated to permanent financing in amounts required to repay the Construction Loan and related interest, costs and fees.
- e. Equalization Payment. The provisions above setting forth the right of the Agency to receive any “Cost Savings” or “Additional Proceeds” shall be subject to the right of the Permanent Lender to receive an “equalization payment” if, upon Conversion, the Project is not performing to the standard anticipated in the Permanent Loan documents so that it does not support the debt service required for a Permanent Loan in the approximate amount of \$2,565,000, which amount shall not exceed \$3,075,000.

- f. Other. The Agency Loan shall also be subject to repayment or reduction upon any refinancing of the Construction Loan or a Permanent Loan in an amount equal to the Agency's share of any "Cost Savings" or and in an amount equal to any "Additional Proceeds."

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

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

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

4. Evidence of Financing. The sum of the sources of Construction Financing described in Section 2.2, above, shall be sufficient at all times to pay all Acquisition and Development Costs as set forth in the most recently approved Project Budget, and the sum of the sources of Permanent financing described in Section 2.3, above, shall be at least equal at all times to the sum of the Construction-period sources of funds plus all other Acquisition and Development Costs. Within the time provided therefor in the Schedule of Performance and in accordance with Section 225 of the DDA, "Evidence of Financing," Owner shall submit for approval by the Executive Director or designee evidence of such financing, including all correspondence relating to TCAP, MHP-SHP, MHSA, CALReUSE and AHP program financing, a commitment from the Construction Lender relating to the Construction Loan and all documents, if any, evidencing the

availability of permanent financing upon completion of the Project. To the extent that the sum of the sources of funds described in Section 2.2 above is insufficient to pay all Acquisition and Development Costs, Owner shall demonstrate the availability prior to the Second Closing of increased Owner's Equity or other additional sources of funding at least equal to the shortfall.

5. Subordination. The Agency Deed of Trust shall be subordinate to the Construction Loan, the Permanent Loan, TCAP Loan, MHP-SHP Loan, MHSA Loan and any deed of trust securing any Senior Loan. The Agency Executive Director or designee shall execute subordination agreement(s) as may be consistent with this Amended Method of Financing and the DDA, as amended, to subordinate the Agency Deed of Trust to the lien of the deed of trust securing the Construction Loan, Permanent Loan, TCAP Loan, MHP-SHP Loan, MHSA Loan or Senior Loan, provided (i) such subordination agreement(s) relating to the Construction Loan, Permanent Loan and Senior Loan substantially conform(s) in form and substance to the form of Subordination Agreement attached to the DDA as Attachment No. 14, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel; (ii) such subordination agreement(s) relating to the TCAP Loan substantially conform in form and substance to the form of Subordination Agreement with CTCAC attached to the DDA, as amended by that certain First Amendment, as Attachment No.31, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel; (iii) such subordination agreement(s) relating to the MHP-SHP Loan substantially conform in form and substance to the form of Subordination Agreement with HCD attached to the DDA, as amended by that certain First Amendment, as Attachment No.29, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel; and (iv) such subordination agreement(s) relating to the MHSA Loan substantially conform in form and substance to the form of Subordination Agreement with CalHFA attached to the DDA, as amended by that certain First Amendment, as Attachment No.30, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel. Any and all substantive modifications to Attachment Nos. 14, 29, 30 and 31 of the DDA, as amended, prior to recordation shall be submitted to the Agency Board for approval. Any modifications to this Amended Method of Financing and the DDA, as amended, that do not substantially conform in a substantive manner with Attachment Nos. 14, 29, 30 and 31 of the DDA shall be submitted to the Agency Board for approval. Upon the reasonable request of a Senior Lender, Agency shall execute from time-to-time such estoppel certificates to the extent they are consistent with the terms of the DDA, as amended.

Exhibit No. 3

AMENDED SCOPE OF DEVELOPMENT

ATTACHMENTS

ATTACHMENT NO. 4

AMENDED SCOPE OF DEVELOPMENT

A. Developer Responsibilities

1. General

The Developer shall construct, or cause to be constructed on the Site (as defined in the DDA), a mixed-use project consisting of approximately 65 residential units and approximately 4,434 square feet of commercial space. The total floor area ratio of the development for all uses above ground (excluding the exempted retail floor area) shall not exceed 4.14.

2. Parking

The development includes approximately 99 parking spaces. A minimum of 73 spaces dedicated to residential units shall be designed to City of San Diego Standards. A minimum of five parking stalls will be provided for staff. A minimum of two guest parking spaces shall be provided. Any tandem parking stalls must be assigned to the same unit. Visitor and/or public parking spaces shall be identified with appropriate signage. In addition, a minimum of four motorcycle spaces shall be provided along with storage area for a minimum of 13 bicycles. Parking Level One (P1) shall be dedicated to public parking, providing approximately twenty-six (26), single, non-tandem spaces, including two (2) accessible stalls per State of California Building Code (ADA) requirements. Level P1 shall be owned and operated by the Redevelopment Agency or its designee. Any subterranean parking facilities encroaching into the public right-of-way shall be located a minimum of six feet back from the face of curb to a depth of eight feet below sidewalk grade, measured to the outside of any shoring. An Encroachment Removal and Maintenance Agreement shall be obtained from the City of San Diego to allow any encroachment of the garage into the public right-of-way.

3. Required Permits/Map Approvals

The Developer shall be responsible for obtaining the approval of a Centre City Development Permit for the project. The Developer shall be responsible for obtaining all map approvals and other permits required by the City of San Diego.

4. Construction Document Drawings

The Developer shall submit for approval to Centre City Development Corporation ("CCDC") 50% and 100% Construction Drawings which implement the design intent of the Basic Concept/Schematic Drawings and any refinements/requirements listed in this Scope.

5. Certification under the Leadership in Energy and Environmental Design (LEED) for New Construction.

The Cedar Gateway project shall receive a Certified Rating of LEED for Homes for Mid-rise per the Green Building Rating System of the U.S. Green Building Council (USGBC). The project shall be commissioned by a LEED accredited professional with the knowledge and skill to successfully steward the LEED certification process.

6. Universal Design Features

The project shall comply with the current California Building Code that includes comprehensive accessibility and adaptability requirements for multifamily new construction development. Developer shall use commercially reasonable efforts to incorporate Universal Design components into the project and comply with the items in the Agency's Universal Design Checklist (Attachment No. 16 to the DDA).

7. Deviation to the Active Commercial Use Requirement

The project has been granted a deviation to the Centre City Planned District Ordinance ("PDO") reduction to the Commercial Street Overlay's Active Commercial Use frontage requirement along Cedar Street from 60% to 44% to allow for the mid-block commercial space to be utilized as either a community room or supportive service space.

8. Urban Design Standards

The proposed development, including its architectural design concepts and off-site improvements, shall be consistent with the Centre City PDO and Centre City Streetscape Manual. These standards, together with the following specific conditions, will be used as a basis for evaluating the development through all stages of the design review process.

- a. Architectural Standards - The architecture of the development shall establish a high quality of design and complement the design and character of the Cortez District and the Site's location on Cedar Street, and 5th and 6th avenues as shown in the approved Basic Concept/Schematic Drawings on file with CCDC. The project shall utilize a coordinated color scheme consistent with the approved Basic Concept/Schematic Drawings.

The Developer shall add secured gates to all three entrances. In addition, the manager's office shall be centrally located in the courtyard.

- b. Form and Scale - The project shall consist of a 7-story building with maximum building height of 75 feet measured to the parapets of the uppermost habitable floors of the building, with roof equipment enclosures, elevator penthouses, and mechanical

screening above this height permitted per the Centre City PDO. All building elements shall be complementary in form, scale, and architectural style.

- c. Building Materials - All building materials shall be of a high quality as shown in the Basic Concept/Schematic Drawings and approved materials board. All materials and installation shall exhibit high-quality design, detailing, and construction execution to create a durable and high quality finish. The building shall be clad materials as illustrated in the approved Basic Concept/Schematic Drawings. The building shall incorporate security gates at all public entries to the courtyard. All down-spouts, exhaust caps, and other additive elements shall be superior grade for urban locations, carefully composed to reinforce the architectural design. Reflectivity of the glass shall be the minimum reflectivity required by Title 24 of the California Code of Regulations.

All construction details shall be highest standard and executed to minimize weathering, eliminate staining, and not cause deterioration of materials on adjacent properties or the public right of way. No substitutions of materials or colors shall be permitted without the prior written consent of CCDC. A final materials board which illustrates the location, color, quality, and texture of proposed exterior materials shall be submitted with 100% Construction Drawings and shall be consistent with the materials board approved with the Basic Concept/ Schematic Drawings.

- d. Street Level Design - Street level storefront windows shall be clear glass and may be lightly tinted. Architectural features such as awnings and other design features which add human scale to the streetscape are encouraged where they are consistent with the design theme of the structure. Exit corridors shall provide a finished appearance to the street with street level exterior finishes wrapping into the openings a minimum of ten feet.

All exhaust caps, lighting, sprinkler heads, and other elements on the undersides of all balconies and projection surfaces shall be logically composed and placed to minimize their visibility, while meeting code requirements. All soffit materials shall be high quality and consistent with adjacent elevation materials (no stucco or other inconsistent material), and incorporate drip edges and other details to minimize staining and ensure long-term durability.

- e. Utilitarian areas - Areas housing trash, storage, or other utility services shall be located in the garage or otherwise completely concealed from view of the public right-of-way and adjoining developments, except for utilities required to be exposed by the City or utility company. The project shall provide trash and recyclable material storage areas per San Diego Municipal Code Sections 142.0810 and 142.0820. Such areas shall be provided within an enclosed building/garage area and shall be kept clean and orderly at all times. The project shall implement a recycling program to provide for the separation of recyclable materials from the non-recyclable trash materials.

The Developer shall prepare a plan which identifies the location of curbside parking control zones, parking meters, fire hydrants, trees, and street lights. Such plan shall be submitted in conjunction with 100% Construction Drawings.

- f. Mail/Delivery Locations - It is the Developer's responsibility to coordinate mail service and mailbox locations with the United States Postal Service and to minimize curb spaces devoted to postal/loading use. The developer shall locate all mailboxes and parcel lockers outside of the public right-of-way, either within the building or recessed into a building wall. A single, centralized interior mail area in a common lobby area is encouraged for all residential units within a project, including associated townhouses with individual street entrances. Individual commercial spaces shall utilize a centralized delivery stations within the building or recessed into a building wall, which may be shared with residential uses sharing a common street frontage address.
- g. Vehicle Access - Vehicular access to the Site shall be limited to Cedar Street; the curb cut may not exceed 25 feet in width.
- h. Circulation and Parking - Subterranean parking shall meet the requirements of the Building Inspection Department, Fire Department, and City Engineer. All parking shall be mechanically ventilated. No subterranean garage mechanical ventilation will occur in the courtyard area. The exhaust system for mechanically ventilated structures shall be located to mitigate noise and exhaust impacts on the residential units, courtyard, adjoining properties, and public right-of-way.

The Developer shall prepare a plan which identifies the location of curbside parking control zones, parking meters, fire hydrants, trees, and street lights. Such plan shall be submitted in conjunction with 100% Construction Drawings.

- i. Open Space/Project Amenities - A landscape plan that illustrates the relationship of the proposed on- and off-site improvements and the location of seating, water, and electrical hookups shall be submitted with 100% Construction Drawings.
- j. Roof Tops - A rooftop equipment and appurtenance location and screening plan shall be prepared and submitted with 100% Construction Drawings. Any roof-top mechanical equipment must be grouped, enclosed, and screened from uphill and surrounding views.
- k. Signage - All signs shall comply with the City of San Diego Sign Regulations and the Centre City PDO.
- l. Lighting - A lighting plan which highlights the architectural qualities of the proposed project and also enhances the lighting of the public right-of-way shall be submitted with 100% Construction Drawings. All lighting shall be designed to avoid illumination of adjoining properties.
- m. 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. All mechanical equipment shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential. Developer shall provide evidence of compliance at 100% Construction Drawings.

- n. Energy Considerations - The design of the improvements shall include, where feasible, energy conservation construction techniques and design, including cogeneration facilities, and active and passive solar energy design. The Developer shall demonstrate consideration of such energy features during the review of the 100% Construction Drawings.
- o. Street Address - Building address numbers shall be provided that are visible and legible from the public right-of-way.

9. On-Site Improvements

All off-site and on-site improvements shall be designed as part of an integral site development. An on-site improvement plan shall be submitted with the 100% Construction Drawings. The on-site landscaping shall establish a high quality of design and be sensitive to landscape materials and design planned for the adjoining public rights-of-way.

10. Off-Site Improvements

The following public improvements shall be installed in accordance with the Centre City Streetscape Manual. The Manual is currently being updated and the Developer shall install the appropriate improvements according to the latest requirements at the time of Building Permit issuance:

	Cedar Street	5th Avenue	6th Avenue
Paving	CCDC Standard	CCDC Standard	CCDC Standard
Street Trees	Carrot Wood	Carrot Wood	Jacaranda
Street Lights	CCDC Standard	CCDC Standard	CCDC Standard

All trees shall be planted at a minimum 36-inch box size with tree grates provided as specified in the Centre City Streetscape Manual, and shall meet the requirements of Title 24 of the California Code of Regulations. Tree spacing shall be accommodated after street lights have been sited, and generally spaced 20 to 25 feet on center. All landscaping shall be irrigated with private water service from the subject property.

The Developer will be responsible for evaluating, with consultation with CCDC, whether any existing trees within the right-of-way shall be maintained and preserved. No trees shall be removed prior to obtaining a Tree Removal Permit from the City’s Streets Division per City Council Policy 200-05.

- a. Street Lights - All existing lights shall be evaluated to determine if they meet current CCDC and City requirements, and shall be modified or replaced if necessary.
- b. Sidewalk Paving - Any specialized paving materials shall be approved through the execution of an Encroachment Removal and Maintenance Agreement with the City.

- c. On-Street Parking - The Developer shall maximize the on-street parking wherever feasible.
- d. Litter Containers - Four CCDC Standard public trash receptacles shall be provided (one at each corner on Cedar Street and one at 5th and 6th avenues).
- e. Public Utilities (sewer, water and storm drain) - The Developer shall be responsible for the connection of on-site sewer, water and storm drain systems from the development to the City Utilities located in the public right-of-way. Sewer, water, and roof drain laterals shall be connected 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, Developer shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals. Private sewer laterals require an Encroachment Maintenance and Removal Agreement from the City.

Prior to the submittal of any public improvement drawings, the Developer shall submit calculations, satisfactory to the Metropolitan Wastewater Department Director, for sizing of the sewer lateral(s) from this Site to its connection with a public sewer main. The Developer shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego Sewer Design Guide. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

The project is below grade and tributary to the bay. The area is in the zone where the Regional Water Quality Control Board (RWQCB) will not issue permits to discharge pumped ground water. Hence, the building will need to be designed water tight with no sump pumps. The structure needs to be designed to withstand any hydrostatic pressure that may result from surface water percolation or ground water and must be designed for hydraulic uplift, unless it is demonstrated to be ten (10) feet above the ground water table at the deepest point.

Public water facilities are located within Cedar Street, and 5th and 6th avenue rights-of-way adjacent to the project Site. The Developer will be required to 'kill' all unused water services adjacent to the project Site and install new services where appropriate. Service kills require an engineering permit and must be shown on a public improvement plan. If and when the developer submits for a tentative map or tentative map waiver, the City Water Department will require Covenants, Conditions & Restrictions to address the operation and maintenance of the private on-site water system serving the project. No structures or landscaping of any kind shall be installed within 10 feet of water facilities.

All roof drainage and sump drainage, if any, shall be connected to the storm drain system in the public street, or if no system exists, to the street gutters through sidewalk underdrains. Such underdrains shall be approved through an Encroachment Removal

Agreement with the City. The project shall comply with the City of San Diego Storm Water Management and Discharge Control Ordinance and the storm water pollution prevention requirements of Chapter 14, Article 2, Division 1 and Chapter 14, Article 2, Division 2 of the Land Development Code.

- f. Franchise Public Utilities - 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 streets. Existing franchised utilities located above grade serving the property and in the sidewalk right-of-way shall be removed and incorporated into the adjoining development where feasible.
- g. Fire Hydrants - If required, the Developer shall install fire hydrants at locations satisfactory to the Fire Department and Development Services Department of the City of San Diego.
- h. Backflow preventers - The Developer shall locate all water meters and backflow preventers in locations satisfactory to the Water Utilities Department of the City of San Diego and CCDC. Backflow preventers shall be located outside of the public right-of-way adjacent to the project's water meters, either within the building, a recessed alcove area, or within a plaza or landscaping area. The devices shall be screened from view from the public right-of-way. All items of improvement shall be performed in accordance with the technical specifications, standards, and practices of the City of San Diego's Engineering and Building Inspection Departments and shall be subject to their review and approval. Improvements shall meet the requirements of Title 24 of the State Building Code.

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

The Developer shall (at its own cost and expense) remove and/or otherwise remedy as provided 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. Such work may include without limitation the following:

- a. Remove (and dispose of) and/or treat any contaminated soil and/or water on the Site (and encountered during installation of improvements in the adjacent public rights-of-way which the Developer is to install) as necessary to comply with applicable governmental standards and requirements.
- b. 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.
- c. Prepare a site safety plan and submit it to the appropriate governmental agency, CCDC, and other authorities 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.

- d. 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.
- e. If required due to the presence of contamination, an impermeable membrane or other acceptable construction alternative shall be installed beneath the foundation of the building. Drawings and specifications for such vapor barrier system shall be submitted for review and approval by the appropriate governmental authorities.

12. Environmental Impact Mitigation

Qualified archaeological and paleontological monitors shall be retained to carefully monitor the excavation and grading activities while the project is underway, and to implement mitigation measures and/or mitigation monitoring requirements as identified in the Secondary Environmental Study, dated April 2008.

13. Model

Prior to obtaining a Building Permit, the Developer shall provide a one-inch (1") to fifty-foot (50') scale block building model which illustrates the true scale of the buildings on the Site based on the building facade and the floor plate of the structure from the ground floor to and including the rooftop. No base is required. Landscaping at the ground level shall also be shown. Architectural detail such as windows, door, and balconies shall not be shown. Other building elements and articulation less than three (3) feet in scaled dimension need not be shown.

The model shall be made of solid acrylic plastic (e.g., Lucite, Plexiglas), be colored solid white and be compatible with the scale and contours of the model of downtown on display at the Centre City Development Corporation's Downtown Information Center. Upon acceptance by CCDC, the model shall be installed by the Developer or his designated representative on the model of downtown and the model shall become the property of the Centre City Development Corporation for its use.

14. Construction Fence

Developer shall install a construction fence pursuant to specifications of, and a permit from, the City Engineer. The fence shall be solid plywood with wood framing, painted a consistent color with the project's design, and shall contain a pedestrian passageway, signs, and lighting as required by the City Engineer. The fencing shall be maintained in good condition and free of graffiti at all times.

15. Development Identification Signs

Prior to commencement of construction on the Site, the Developer shall prepare and install, at its cost and expense, a sign on the barricade around the Site which identifies the development. The sign shall be at least four (4) feet by six (6) feet and be visible to passing pedestrian and vehicular traffic. The sign 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:

Sherry Lightner
Kevin Faulconer
Todd Gloria
Tony Young
Carl De Maio
Donna Frye
Marti Emerald
Ben Hueso

The Centre City Development Corporation

- Completion Date_____.
- For information call_____.

The Developer shall obtain a current roster of Redevelopment Agency members before signs are manufactured. The sign shall also contain the CCDC “Paradise in Progress” logo and the Downtown Construction Hotline phone number. Additional project signs may be provided around the perimeter of the Site. All signs shall be limited to a maximum of 160 square feet per street frontage. Graphics may also be painted on any barricades surrounding the site. All signs and graphics shall be submitted to CCDC for approval prior to installation.

16. 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. 282153 relating to the federally-mandated Americans with Disabilities Act (ADA).

17. Fees and Assessments

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

18. Applicable City Codes and Ordinances

Notwithstanding the approval of the development plans by the CCDC and the Redevelopment Agency, the development must meet all requirements of the Uniform Building Code and Uniform Fire Code and all applicable City Codes and Ordinances.

19. Nondiscrimination and Equal Opportunity

- a. The Developer shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Developer shall provide equal opportunity in all employment practices. The Developer shall ensure that its contractor and subcontractors comply with the City of San Diego's Equal Opportunity Program.
- b. The Developer has received, read, understands and agrees to be bound by the San Diego Municipal Code Division 27 (Equal Opportunity Program) and the City Manager's Policies and Procedures implementing that Program, contained in the Equal Opportunity Packet provided by the Agency.
- c. The Developer shall submit either a Work Force Report or an Equal Opportunity Plan, as required by Section 22.2705 of the San Diego Municipal Code.
- d. The Developer has received, read and understands the Equal Opportunity Contracting Information Packet provided by the Agency.
- e. The Developer shall submit an initial Equal Opportunity Report. The Developer agrees periodically to provide updated reports as requested by the Agency.

B. Agency Responsibilities

1. Encroachment Permits

The Agency shall cooperate and assist Developer in processing any encroachment permits necessary for the development.

2. Easements

The Agency and the Developer shall grant and permit all necessary and appropriate easements and rights for the development of the Site, including but not limited to, easements for utility services, on such terms and conditions as Agency and Developer may agree.

3. Other Entitlements, Approvals and Permits

In addition to the encroachment permits referred to in paragraph B.1. above, the Agency shall cooperate and reasonably assist the Developer in processing with the City applications for such other entitlements, approvals and permits as may be necessary for the development of the improvements described in this Agreement, recognizing that the Developer's responsibility for obtaining such other entitlements, approvals and permits shall not be ameliorated thereby, and that the City departments are separate jurisdictions from the Agency and CCDC, with their own procedures and requirements.

4. Expedited Processing

The Agency shall use its best efforts to expedite and give such status to its processing of the Developer's applications, requests for consents and approvals, and other submittals within the jurisdiction of the Agency necessary for the development of the improvements described in this Agreement as will not obstruct the Developer's timely performance of its obligations under this Agreement.

Exhibit No. 4

AMENDED SCHEDULE OF PERFORMANCE

ATTACHMENTS

ATTACHMENT NO. 5

AMENDED SCHEDULE OF PERFORMANCE

I. APPROVAL OF THE DISPOSITION AND DEVELOPMENT AGREEMENT

1. Approval of Pro Forma Project Budget. Approved.
2. Approval of Basic Concept / Schematic Drawings. Approved.
3. Execution of DDA by Agency. Agency shall, subject to making the requisite findings, authorize execution, and execute and deliver DDA to Owner. Executed as of May 22, 2008.

II. DESIGN/CONSTRUCTION DRAWINGS

4. Approval – Basic Concept/Schematic Drawings. Agency shall approve or disapprove the Basic Concept/Schematic Drawings and related documents. Approved.
5. Submission – Design Development (50% Construction) Drawings. Developer shall prepare and submit to City and CCDC Staff the Design Development Drawings. Submitted.

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

6. Approval – Design Development (50% Construction) Drawings. CCDC President shall approve or disapprove the Design Development Drawings. Approved.

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

- 7. Submission – Final (100%) Construction Drawings. Owner shall prepare and submit to City and CCDC Staff the 100% Construction Drawings. Submitted.
- 8. Approval – Final (100%) Construction Drawings. CCDC President shall approve or disapprove the 100% Construction Drawings. Prior to the Second Closing.

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

- 9. Submission – Preliminary and Final Landscaping and Grading Plans. Owner shall prepare and submit to City and CCDC Staff the preliminary, then the final, landscaping and grading plans. Submitted.
- 10. Approval – Preliminary and Final Landscaping and Grading Plans. CCDC President shall approve or disapprove the preliminary, then the final, landscaping and grading plans. Submitted.

III. FINANCING COMMITMENTS

- 11. Multifamily Housing Program. The Owner shall demonstrate to the Agency that it has timely applied to the State Department of Housing and Community Development for MHP – Supportive Housing funds in the amount of not less than \$3,301,191 Submitted.
In the event Owner is unsuccessful in obtaining a loan, Owner shall timely apply to the State Department for the next allocation.
- 12. Tax Credit Assistance Program (TCAP). The Owner shall demonstrate to the Agency that it has timely applied to California Tax Credit Advisory Committee (TCAC) for TCAP Funds in the amount of not less than \$ 14,024,415. In the event Owner is unsuccessful in obtaining the loan or grant, Owner shall timely apply to TCAC for the next allocation.

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| 13. <u>MHSA</u> . The Owner shall demonstrate to the Agency that it has timely applied to the State Department of Mental Health for Mental Health Services Act Program funds in the amount of not less than \$2,752,000. | Completed. |
| 14. Reserved. | . |
| 15. <u>Affordable Housing Program</u> . The Owner shall demonstrate to the Agency that it has timely applied to the Federal Home Loan Bank of San Francisco for Affordable Housing Program funds in the amount of \$260,000. | Owner shall submit its application for Affordable Housing Program funds by December 2009.

In the event Owner is unsuccessful in obtaining an allocation, Owner shall timely apply for the next allocation. |

IV. FIRST CLOSING

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| 16. <u>First Closing Date Conditions</u> . Owner shall satisfy all conditions precedent to the Closing as set forth at Sections 203 and 204 of the DDA. Those conditions not otherwise set forth in this Schedule are: | Closed May 29, 2008 |
| <ul style="list-style-type: none"> a. Owner approval of condition of Property. b. Owner approval of General Plan. c. Title Company prepared to issue title insurance as required. d. Owner has executed and delivered the Grant Deed, Environmental Indemnity and a termination or assignment of the surface parking lease. e. Owner and Agency have executed and delivered the Option to Ground Lease. f. Owner has either assigned or terminated the parking lease. | |
| 17. <u>Delivery of purchase price</u> : Agency shall deliver to escrow the purchase price of the property | Completed |
| 18. <u>First Closing</u> . Owner shall purchase the | Completed |

Property.

19. First Closing. Agency shall purchase the Property. Completed. Closed on May 29, 2008.

V. SECOND CLOSING, LEASE AND COMMENCEMENT OF CONSTRUCTION

20. Submission - Evidence of Financing. The Owner shall submit to the Agency evidence of financing described in Section 223, including construction commitment and draft Tax Credit Exchange Fund documents. No later than thirty (30) days prior to the scheduled date for the Second Closing.
21. Approval of Financing. Agency shall approve or disapprove the evidence of financing. Within fifteen (15) days after Agency receives complete submission of evidence of financing.
22. Submission – Final Project Budget and Disbursement Schedule. Owner shall submit to the Agency the Final Project Budget and Disbursement Schedule. Within thirty (30) days prior to the scheduled date for the Second Closing.
23. Approval of Final Project Budget and Disbursement Schedule. Agency shall approve or disapprove the Final Project Budget and Disbursement Schedule. Within fifteen (15) days after Agency receipt.
24. Submission – Construction Contract. Owner shall submit to Agency the Construction Contract. Within forty-five (45) days prior to the scheduled date for the Second Closing.
25. Approval – Construction Contract. Agency shall approve or disapprove the Construction Contract. Within thirty (30) days after Agency receipt.
26. Approval – Lot Consolidation and Lot Split. City shall have approved a lot consolidation and lot split creating the Chapel Parcel and the remainder of the Property as legal parcels. Completed.
27. Delivery – Notice of Exercise of Option. Thirty (30) days prior to Second

Owner shall deliver to Agency notice that it shall, upon satisfaction of all conditions precedent, exercise its option to ground lease the Leasehold Parcels.

Closing.

28. Conditions to Conveyance of the Ground Lease, Closing of the Construction Loan and the Agency Loan and Commencement of Construction. Owner shall satisfy all conditions precedent to the conveyance of the Ground Lease, closing of the construction loan and the Agency Loan and commencement of construction as set forth at Sections 209 and 210 of the DDA. Those conditions not otherwise set forth in this Schedule are:

a. Title Company prepared to issue leasehold owner's policy and ALTA lender's policy and to issue mechanics lien endorsement, if requested.

a, b, c, d and e: Not later than ten (10) days prior to the date scheduled for the Second Closing.

b. Owner has submitted evidence of insurance.

c. Owner has prepared and submitted the Work Force Report/EO Plan and Report

d. All grading, building and other required permits obtained, including "will serve" letters if appropriate.

e. Termination of parking lease.

f. Owner has completed a lot consolidation and lot line adjustment for the Chapel Parcel and the remainder of the Property.

f, g and h: Not later than five (5) days prior to the date scheduled for the Second Closing.

g. Owner has prepared a Parcel Map in form acceptable to the Agency Executive Director or designee and submitted such map to the City for approval and obtained City approval.

h. All documents as set forth at Section 209 j. and k. of the DDA have been executed and delivered.

29. Second Closing – Deposit of Documents. Agency and Owner shall execute and deposit with Escrow Agent the Agreement Affecting Real Property, the Notice of Affordability Requirements, the Ground Lease, the Memorandum of Ground Lease, the Reciprocal Easement Agreement, the Assignment of Rents, the Right of First Refusal (Retail) and a memorandum thereof, the Option to Purchase (Housing) and a memorandum thereof, the Subordination Agreement, and Owner shall execute and deposit with the Escrow Agent the Agency Note and the Agency Deed of Trust. 5 days prior to the date scheduled for the Second Closing.
30. Second Closing - Conveyance of the Leasehold. Agency shall convey, and Owner shall accept, the Leasehold. Within fifteen (15) days after satisfaction of all conditions precedent to the Second Closing, but in any event not later than December 31, 2009.
31. Closing of the Construction Loan and Subordination of the Agency Loan. Owner shall close the Construction Loan and Agency shall subordinate the lien of the Agency Loan to the lien of the Construction Loan. Concurrently with the conveyance of the Leasehold.
32. Commencement of Construction. Owner shall commence construction of the Improvements. Within 30 days after conveyance of the Leasehold.
33. Vertical Parcel Map; CC&Rs. Owner shall file its vertical parcel map and the CC&Rs with the County Recorder. At least ninety (90) days prior to the completion of construction.
34. Completion of Construction. Owner shall complete construction of the Improvements. Within 20 months after the commencement of construction.

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| <p>35. <u>Amendment of Ground Lease and Quitclaim of Agency Garage Parcel.</u> Owner and Agency shall amend the Ground Lease and Owner shall quitclaim any interest it may have in the Agency Garage Parcel to Agency.</p> | <p>At Agency's request, after recording of the vertical parcel map and not later than the closing of Owner's take out financing.</p> |
| <p>36. <u>Partial Releases.</u> Owner shall cause the Senior Lenders and all other lenders, senior or junior, to release the Agency Garage Parcel from the lien of those deeds of trust.</p> | <p>Concurrently with Owner's quitclaim of the Agency Garage Parcel.</p> |
| <p>37. <u>Reporting and Monitoring Agreement.</u> Owner, San Diego Housing Commission and Agency shall enter into a Reporting and Monitoring Agreement pursuant to Section 406 b. of the DDA and Health and Safety Code §33418.</p> | <p>At least ninety (90) days prior to the Issuance of Release of Construction Covenants.</p> |
| <p>38. <u>Issuance of the Release of Construction Covenants.</u> Agency shall issue a Release of Construction Covenants for the Improvements.</p> | <p>Within twenty (20) days after written request of Owner, which request may be given after completion of all construction, issuance of a final certificate of occupancy and 35 days following the recordation of a Notice of Completion pursuant to Civil Code Section 3093.</p> |
| <p>39. <u>LEED Certification.</u> Owner shall obtain LEED certification for the Project.</p> | <p>Within six (6) months after Issuance of the Release of Construction Covenants.</p> |
| <p>40. <u>Occupancy.</u> Project to reach 95% occupancy.</p> | <p>Within nine (9) months after completion of construction.</p> |

IV. TAKE OUT FINANCING; OPTION TO PURCHASE

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| <p>41. <u>Cost Certification.</u> Owner shall deliver to Agency its cost certification, prepared by a CPA acceptable to Agency.</p> | <p>Within six (6) months after Issuance of Release of Construction Covenants and prior to Conversion.</p> |
| <p>42. <u>Take-Out Financing.</u> Owner shall either</p> | <p>As required per lender /investor</p> |

take out the construction loan with a permanent loan, or convert the construction loan to a permanent loan (referred to in the DDA as the "Conversion.")

agreements but in no event later than nine (9) months after Issuance of Release of Construction Covenants.

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| 43. <u>True Up</u> . Owner shall pay interest, then principal on the Agency Loan to the extent of Cost Savings or Additional Proceeds. | At Conversion. |
| 44. <u>Subordination of the Agency Deed of Trust</u> . Agency shall subordinate its deed of trust to the deeds of trust securing Owner's permanent financing including MHP and MHSA. | At Conversion. |
| 45. <u>Right of First Refusal (Retail)</u> . Agency shall have the right of first refusal to purchase the Retail Parcels and the Retail Improvements. | From and after the 55 th anniversary of Conversion. |
| 46. <u>Election to Exercise the Option</u> . Agency may, in its sole discretion and only after compliance with the California Redevelopment Law, exercise the Option to purchase the Housing Parcel and the Housing Improvements. | From and after the 55 th anniversary of Conversion. |
| 47. <u>Right of First Refusal (Housing)</u> . Agency shall have a right of first refusal to purchase the Housing Parcel and the Housing Improvements. | From and after the 55 th anniversary of Conversion. |

NOTES:

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

Exhibit No. 5

REVISED FORM OF THE AGREEMENT AFFECTING REAL PROPERTY

ATTACHMENT NO. 6

REVISED FORM OF
AGREEMENT AFFECTING
REAL PROPERTY

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

Recording Requested by and When
Recorded Return to:

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO
c/o Centre City Development Corporation
401 B Street, Suite 400
San Diego, California 92101

Attn: Centre City Project Manager

Space above this line for Recorder's use only

AGREEMENT AFFECTING REAL PROPERTY
(INCLUDING RENTAL RESTRICTIONS)

THIS AGREEMENT AFFECTING REAL PROPERTY (the "Agreement") is entered into as of _____, 2009, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic (herein referred to as "Agency") and CEDAR GATEWAY, L.P., a California limited partnership (hereinafter referred to as "Owner").

A. This Agreement is entered into pursuant to California Redevelopment Law (the "CRL") (Ca. Health and Safety Code § 33334.3) in compliance with the CRL's requirement of recordation of covenants and restrictions.

B. Owner owns leasehold title to that certain real property (the "Leasehold Parcels") located in the City of San Diego, County of San Diego, State of California, legally described in the "Legal Description" attached hereto and incorporated herein as Exhibit A, which Leasehold

Parcels are made up of the "Housing Parcel," the "Retail Parcel A," and the "Retail Parcel B."

C. The Leasehold Parcels are within the Centre City Redevelopment Project area (the "Project") in the City of San Diego and is subject to the provisions of the Redevelopment Plan for the Project adopted by Ordinance No. 17676[NS] on May 11, 1992 by the City Council of the City of San Diego, as amended.

D. For the purpose of providing housing that will be affordable to Very Low Income and Extremely Low Income Households, Agency and Owner have entered into that certain Disposition and Development Agreement, dated as of May 22, 2008, which was amended by that certain First Amendment to the Disposition and Development Agreement dated _____, (both the Disposition and Development Agreement and its First Amendment are collectively referred to herein as the "DDA"). Any capitalized term not defined herein shall have such meaning ascribed to it in the DDA.

E. Pursuant to the DDA, Agency acquired the underlying Property from Owner, and ground leased the Leasehold Parcels to Owner pursuant to that certain Ground Lease dated as of _____, 200__, entered into between Agency and Owner, a memorandum of which is recorded in the Official Records concurrently herewith (the "Ground Lease").

F. In addition, Agency has agreed to make a loan to Owner to provide part of the financing for the construction of certain improvements on the Leasehold Parcels.

G. Pursuant to the DDA, Owner shall develop an approximately 65 unit multi-family housing project and related parking on the Housing Parcel, which shall be operated as rental housing that is affordable to very low and extremely low income persons, as well as supportive housing units targeted for the special needs population; and shall develop, without funding from the Agency, the Retail Parcels (collectively, the "Improvements"). The Improvements expressly do not include those improvements constructed within real property owned by Agency described in the DDA as the "Agency Garage Parcel."

H. This Agreement is entered into and recorded in accordance with the Redevelopment Plan and the DDA.

NOW, THEREFORE, AGENCY AND OWNER COVENANT AND AGREE AS FOLLOWS:

1. Development of the Leasehold Parcels. Owner covenants and agrees for itself, its successors and assigns and every successor in interest to the Leasehold Parcels or any part thereof, that Owner, its successors and assigns, shall develop and construct, or cause the development and construction, on the Leasehold Parcels, within the time required in the DDA, the Improvements. The Improvements shall be operated exclusively as rental housing that is affordable to very low- and extremely low-income persons, and ground floor retail space, all as more specifically provided in this Agreement, the DDA and the Scope of Development.

2. Release of Construction Covenants. Following completion of the Improvements on the Leasehold Parcels in accordance with the Amended Scope of Development, and Agency's determination that all of those conditions precedent set forth at Section 324 of the DDA have been satisfied, Agency shall record a Release of Construction Covenants on the Leasehold Parcels. Following the recording of the Release of Construction Covenants, the covenants contained at Paragraph 1 relating only to the development and construction of the Improvements shall terminate and be of no further force and effect with respect to the Leasehold Parcels. Further, following the recording of a Release of Construction Covenants, any successor-in-interest to the Leasehold Parcels or any portion thereof shall have no obligation relating to the development and construction of the Improvements pursuant to the DDA. Should the DDA terminate for reasons which prevent the construction of the Project described in the Amended Scope of Development attached to the DDA, within sixty (60) days after such termination and after written request by Owner, Agency shall record a certificate of termination which terminates those covenants set forth at Paragraph 1 above.

3. Use of the Leasehold Parcels. Owner, on behalf of itself and its successors, assigns, and each successor in interest to Owner's interest in the Leasehold Parcels or any part thereof, hereby covenants and agrees as follows:

a. Owner, its successors and assigns, shall use the Leasehold Parcels only for the uses permitted in the DDA and this Agreement, and shall use the Improvements within the Housing Parcel for residential rental uses consisting of twenty-three (23) one-bedroom units, sixteen (16) two-bedroom units and twenty-six (26) three-bedroom units (collectively referred to herein as the "Units").

b. For a period commencing with the recordation in the official records of this Agreement and continuing for fifty-five (55) years from Completion (as defined in DDA), Owner, on behalf of itself and its successors and assigns, hereby covenants and agrees as follows:

(1) All of the residential Units shall be rented to and occupied by (i) Very Low Income households whose incomes do not exceed the qualifying limits for very low income families as defined in Health and Safety Code Section 50105 as published annually by the Department of Housing and Urban Development ("HUD") and (ii) Extremely Low Income households whose incomes do not exceed the qualifying limits for extremely low income families as defined in Health and Safety Code Section 50106 as published annually by HUD (and as such shall be rented at an Affordable Rent to persons of Very Low and Extremely Low Income) subject to increases as set forth below at Section 3(b)(5)(C). The number of Units by unit-types and the Affordable Rent applicable to the Units by unit-types (applicable to rents), shall be as set forth in the Schedule of Affordable Rents attached to this Agreement as Exhibit "B".

(2) Twenty-three (23) of the Units shall be supportive housing units targeted for the special needs population.

(3) If the lender of the Construction Loan forecloses, judicially, non-judicially or by deed in lieu of foreclosure, upon Owner's leasehold interest in the Leasehold Parcels (a "Foreclosure Transfer"), that the foreclosing purchaser, its successors and assigns, shall thereafter use the Housing Parcel exclusively to provide affordable housing for Low Income Households without any obligation to provide the services described above at Section 3.b(2) relating to the supportive housing units, subject to all of the terms and conditions of this Agreement. The term "Low Income" shall mean households whose incomes do not exceed the qualifying limits for lower income families as defined in Health and Safety Code Section 50079.5 as published annually by HUD. The maximum incomes of residential tenants eligible to rent the Units shall be determined on the basis of the area median income for the San Diego Standard Metropolitan Area, as determined by HUD and published from time to time by the California Department of Housing and Community Development ("Area Median Income").

(4) Reserved.

(5) Rents charged shall not exceed "Affordable Rent" as follows: The maximum monthly rent, including a reasonable utility allowance that may be charged to tenants shall be calculated as follows:

(A) As to Extremely Low Income households: The maximum monthly rent shall not exceed one-twelfth (1/12) times the product of 30% times 30% of TCAC Area Median Income, adjusted for family size appropriate for the Unit. In no event shall the Affordable Rent for Extremely Low Income households exceed the product of 30% times 50% of Area Median Income, adjusted for household size.

(B) As to Very Low Income households: The maximum monthly rent shall not exceed one-twelfth (1/12) times the product of 30% times 50% of the Area Median Income, adjusted for family size appropriate for the Unit.

(C) In the event of a Foreclosure Transfer, as to Low Income Households: The maximum monthly rent shall not exceed one-twelfth (1/12) times the product of 30% times 60% of the Area Median Income, adjusted for family size appropriate for the Unit.

For purposes of this Agreement, the phrase "adjusted for family size appropriate for the Unit" shall mean the number of bedrooms in the Unit plus one (1).

(6) To the extent permitted by law, this Section shall govern in the event of increases in tenant incomes: (a) A tenant who initially qualified as an Extremely Low Income Household, but who, due to an increase in income, no longer qualifies as an Extremely Low Income Household but does qualify as a Very Low Income

Household, shall pay as rent an amount that is Affordable Rent to a Very Low Income Household, as defined in Section 5(B) above; (b) a tenant who initially qualified as a Very Low Income Household, but who, due to an increase in income, no longer qualifies as a Very Low Income shall pay as rent the lesser of the amount payable by the tenant under State law or 30% of the family's adjusted income; and (c) if a household's income increases to above 140% of the applicable income limitation, when another unit in the project is vacant and can be converted to an Affordable Rent to replace the former affordable Unit, the household, whose income has increased to above 140% of the applicable income limitation, shall pay the market rent.

(7) To the extent permitted by law, Owner agrees that among Extremely Low and Very Low Income households who are otherwise eligible to rent the Units to be developed pursuant to the Agreement, Owner shall make reasonable efforts to give first priority to those persons who have been displaced by any redevelopment project within the City of San Diego over other eligible persons. The Owner agrees that prior to the initial rent-up of the Units, Owner shall consult with and obtain the approval of the Agency in developing a fair marketing plan for renting the Units.

(8) Agency and the San Diego Housing Commission (the "Housing Commission"), and their respective successors and assigns, shall have the right to monitor and enforce the covenants contained in this subsection 3.b. Owner covenants that it shall comply with any monitoring program set up by Agency and/or the Housing Commission to enforce said covenants. In complying with such monitoring program, Owner or its agent shall prepare and submit to Agency (or the Housing Commission) an occupancy report, financial information and income verification documents for each tenant of a Unit, and all supporting documentation, on forms provided by Owner (or the Housing Commission), annually, setting forth the required information for the preceding year. On an annual basis Owner or its agent shall additionally submit to Agency (or the Housing Commission) evidence of each Very Low or Extremely Low Income tenant's continuing eligibility for the Units. Agency (or the Housing Commission) shall review such reports within 14 days of receipt for certification of continuing affordability of Units and eligibility of tenants. Owner shall pay such costs associated with said monitoring and enforcement efforts as required by the Housing Commission.

(9) Except for a resident manager, no officer, employee, agent, official or consultant of Owner may occupy any of the Units.

c. For a period commencing with the recordation of this Agreement in the official records and continuing for fifty-five (55) years after Completion, Owner, on behalf of itself and its successors and assigns, hereby covenants and agrees that the rent of the sixty-five (65) Units shall include one (1) non-tandem parking space located in the Garage portion of the Housing Parcel, at no extra charge to the tenant of the Unit or, if the Unit comes with two (2) parking spaces, the Unit may have both spaces in tandem.

d. Owner herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that this Agreement is made and accepted upon and subject to the agreement by Owner that it shall assign to Agency the rights, if any, which Owner may have against Cedar Investors, LLC, a California limited liability company and Hedionda Properties, LLC, a California limited liability company (collectively the "Seller" as defined in the DDA), to recover costs arising from the remediation of Hazardous Materials found within the Property; provided, however, that Owner reserves unto itself any and all claims it may have against Seller arising from breach by Seller of its obligations under that certain purchase and sale agreement between Seller and Owner dated as of March 15, 2007, as amended.

e. Owner herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that this Agreement is made and accepted upon and subject to the following conditions: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Leasehold Parcels, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Leasehold Parcels.

f. Owner, its successors and assigns, shall refrain from restricting the rental, sale, or lease of the Leasehold Parcels 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 Leasehold Parcels, or any portion thereof, after the date of this Agreement shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(2) In leases: "The lessee herein covenants by and for himself or herself,

his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

(3) In contracts: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

d. Owner shall adopt written selection policies and criteria that meet the following requirements:

(1) Are consistent with the purpose of providing housing for Very Low and Extremely Low Income households.

(2) Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease.

(3) Provide for:

(A) The selection of otherwise eligible tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and

(B) The prompt written notification to any rejected applicant of the grounds for any rejection;

(4) To the extent permitted by law, provide first priority in the selection

of otherwise eligible tenants to persons displaced by the Agency; and

(5) Carry out the Affirmative Marketing procedures of the City of San Diego, to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market area. Owner and Agency shall cooperate to effectuate this provision during the Owner's initial lease-up of the Units and as vacancies occur.

4. Maintenance of the Leasehold Parcels. Owner, its successors and assigns, shall maintain the Improvements on the Leasehold Parcels in the same aesthetic and sound condition (or better) as the condition of the Leasehold Parcels at the time Agency issues a Release of Construction Covenants pursuant to the Agreement, reasonable wear and tear excepted. This standard for the quality of maintenance of the Leasehold Parcels 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 Leasehold Parcels, 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 Owner, 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 Leasehold Parcels upon reasonable notice to Owner, correct any violation, and hold Owner, or such successors or assigns responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Leasehold Parcels.

5. Management. Owner 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 the Agency which property manager will be charged with managing the Improvements on behalf of the Owner. The Agency shall have the right to review and approve any such entity prior to its selection by the Owner. Such approval shall not be unreasonably withheld. Owner 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 (30) days following the giving of notice of such violations by the Agency or any other governmental entity; provided, however, that in the case of a violation that cannot be cured within such thirty (30) day period, that such cure shall be commenced within thirty (30) days of notification and shall be diligently prosecuted to completion not later than ninety (90) days after notification.

6. Covenants Running with the Land. All conditions, covenants and restrictions contained in this Agreement 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 Agency, its successors and assigns, and the City of San Diego (the "City") and its successors and assigns, against Owner, its successors and assigns, to or of the Leasehold Parcels or any portion thereof or any interest therein, and any party in possession or occupancy of said Leasehold Parcels or portion thereof. Agency and the City (and the Housing Commission to the extent provided in paragraph (6) of subsection 3.b. hereof) shall be deemed the beneficiaries of the covenants, conditions and restrictions of this Agreement 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 the Agency and the City, without regard to whether the Agency 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 Agreement shall not benefit nor be enforceable by any owner of real property within or outside the Project Area or any person or entity having any interest in any such real property, except the Agency and the City.

7. Permitted Mortgages. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage permitted by the DDA.

8. Term. Every covenant and condition and restriction contained in this Agreement shall remain in effect for the longest feasible time, but not less than 55 years from the date of Completion.

9. Notice and Opportunity to Cure. Prior to exercising any remedies hereunder, Agency shall give Owner notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Owner shall have such period to effect a cure prior to exercise of remedies by Agency. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Owner (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 Owner shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Agency, but in no event no more than ninety (90) days of receipt of such notice of default from the Agency. If Owner fails to take corrective action or to cure the default within a reasonable time, Agency shall give Owner and each of the general and limited partners written notice thereof, whereupon the limited partner 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.

10. Enforcement. If a violation of any of the covenants or provisions of this Agreement remains uncured after the respective time period set forth in Paragraph 9 above, Agency and its successors and assigns, without regard to whether Agency 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 Owner 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. Extended Use Agreement. Agency acknowledges that Owner and the California Tax Credit Allocation Committee (“TCAC”) intend to enter into an extended use agreement, which constitutes the extended low-income housing commitment described in Section 42(h)(6)(B) of the Internal Revenue Code, as amended (the “Code”). As of the date hereof, Code Section 42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under Code Section 42 for a period of three (3) years after the date the building is acquired by foreclosure or by instrument in lieu of foreclosure. In the event the extended use agreement requirement by TCAC is recorded against the Leasehold Parcels, Agency agrees to comply with the provisions set forth in Code Section 42(h)(6)(E)(ii).

12. Liens. Nothing herein contained shall be deemed to prohibit Owner from contesting the validity or amounts of any encumbrance, lien, levy or attachment, nor to limit the remedies available to Owner in respect thereto.

13. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. The signature pages of one or more counterpart copies may be removed from such counterpart copies and all attached to the same copy of this Agreement, which, with all attached signature pages, shall be deemed to be an original Agreement.

[signatures on the following page]

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

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

By: _____
Janice L. Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY
Jan Goldsmith
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____
Murray O. Kane

[signatures continued on following page]

CEDAR GATEWAY, L.P.,
a California limited partnership

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

State of California

County of _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION

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

[to be inserted]

EXHIBIT “B”

SCHEDULE OF AFFORDABLE RENTS

Type of Units	Maximum Income	Maximum Rent
23 One Bedroom	Extremely Low Income	1/12 of 30% of 30% TCAC AMI
2 Two Bedroom	Extremely Low Income	1/12 of 30% of 30% TCAC AMI
3 Three Bedroom	Extremely Low Income	1/12 of 30% of 30% TCAC AMI
14 Two Bedroom	Very Low Income	1/12 of 30% of 50% AMI
23 Three Bedroom	Very Low Income	1/12 of 30% of 50% AMI

* “TCAC AMI” means the area median income for San Diego County determined in accordance with 26 USC 42 (g). In no event shall the Affordable Rent for Extremely Low Income households exceed the product of thirty percent (30%) times fifty percent (50%) of Area Median Income, adjusted for household size.

Exhibit No. 6

AMENDED PROJECT BUDGET

ATTACHMENTS

CEDAR GATEWAY
REVISED PROJECT BUDGET
October 2009

Acquisition Costs **\$ 5,265,000**

Direct Costs

Off-Site Improvements	\$ 320,000
Shell Construction- Residential	\$ 17,677,000
Shell Construction - Retail	\$ 1,304,000
Shell Construction - Public Garage	\$ 1,344,000
Contingency	\$ 1,100,000
<i>Total Direct Costs</i>	<i>\$ 21,745,000</i>

Indirect Costs

Architecture & Engineering	\$ 1,083,000
Permits & Fees	\$ 1,000,000
Legal & Accounting	\$ 20,000
Taxes & Insurance	\$ 425,000
Developer Fee	\$ 1,400,000
Marketing/Lease-Up	\$ 20,000
Contingency	\$ 240,000
<i>Total Indirect Costs</i>	<i>\$ 4,188,000</i>

Financing Costs

Loan Fees	\$ 483,000
Interest During Construction	\$ 869,000
TCAC/Syndication Fees	\$ 109,000
Operating Lease-Up/Reserves	\$ 540,000
<i>Total Financing Costs</i>	<i>\$ 2,001,000</i>

TOTAL **\$ 33,199,000**

Exhibit No. 7

REVISED FORM OF THE AGENCY NOTE

ATTACHMENTS

ATTACHMENT NO. 8

REVISED FORM OF AGENCY NOTE

PROMISSORY NOTE
SECURED BY DEED OF TRUST
TO THE REDEVELOPMENT AGENCY
OF THE CITY OF SAN DIEGO

5.0% Interest
\$3,661,000.00

San Diego, California
[Date of Closing]

FOR VALUE RECEIVED, CEDAR GATEWAY, 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 THREE MILLION SIX HUNDRED SIXTY ONE THOUSAND DOLLARS AND NO CENTS \$3,661,000.00 (the “Agency Loan”). This Note is given pursuant to that certain Disposition and Development Agreement dated as of May 22, 2008, between Borrower (“Owner” therein) and Agency, as amended by that certain First Amendment to Disposition and Development Agreement dated as of _____, 2009, (the “DDA”) and evidences the Agency 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 Deed of Trust securing this Note (the “Property”). The proceeds of this Note shall be disbursed to Borrower in accordance with the Disbursement Agreement attached to the DDA as Attachment No. 15 and incorporated herein by this reference. 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, where applicable, executed and delivered by Borrower for the purpose of securing this Note: a Subordinate Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) (“Agency Deed of Trust”); an Assignment of Agreements, Plans, Specifications and Entitlements (“Assignment of Agreements”); and a UCC-1 Financing Statement (“UCC-1”). Said documents are public records on file in the offices of Agency, and the provisions of said documents are incorporated herein by this reference. The Borrower shall pay interest at the rate, in the amount and at the time hereinafter provided.

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

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

“Affiliate” shall mean (1) any Person directly or indirectly controlling, controlled by or under common control with another Person; (2) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities of such other Person; or (3) if that other Person is an officer, director, member or partner, any company for which such Person acts in any such capacity. The term “control” as used in the immediately preceding sentence, shall mean the power

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

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

“Agency Loan” shall mean the loan made by the Agency to Borrower pursuant to the DDA in the maximum amount of \$3,661,000, which is evidenced by this Note.

“Agency Loan Documents” shall mean this Note, the Agency Deed of Trust, Assignment of Rents, Assignment of Agreements, Environmental Indemnity and the UCC-1 Financing Statement, each dated on or about the date hereof. The Agency Loan Documents do not include the Agreement Affecting Real Property (Including Rental Restrictions).

“Agency’s Share of Residual Receipts” shall be sixty percent (60%) from the issuance of the temporary Certificate of Occupancy until the thirtieth (30th) anniversary of the later of the issuance of the final Certificate of Occupancy or the Issuance of the Release of Construction Covenants, and eighty percent (80%) commencing on the thirtieth (30th) anniversary of the later of the issuance of the final Certificate of Occupancy or the Issuance of the Release of Construction Covenants to the fifty-fifth (55th) anniversary of such date. Provided that Agency’s Share of Residual Receipts shall be shared on a *pari passu* basis with other public agencies in amounts proportional to the agencies’ respective loan amounts.

“Annual Financial Statement” shall mean the annual audited financial statement of Borrower showing 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, regardless of how it is characterized, paid to the Borrower or all general partners for the purpose of managing the affairs of the Borrower’s partnership, not to exceed cumulatively \$13,000 per year. The asset management fee will be restricted by regulations (specifically California Code of Regulations, Title 25, section 8314(a)(1)(B)) accompanying the Multifamily Housing Program Loan, which loan is a part of the Permanent Financing for the Project.

“Conversion” shall mean the date upon which the Construction Loan is converted to the Permanent Loan (as those capitalized terms are defined in the DDA).

“Deferred Developer Fee” shall mean that portion of the Developer Fee as set forth in the Method of Financing which was not paid to Borrower prior to the Occupancy Date and which shall be paid to Borrower, with interest at the minimum interest rate allowed by the rules applicable to tax-exempt bonds and California Tax Credit Allocation Committee Note issued by the State of California and the IRS, from the Revenue remaining after payment of Operating Expenses, prior to any payment of Residual Receipts to the Agency.

“Ground Lease” refers to that certain ground lease by Agency as “Landlord” and Borrower as “Tenant” of even date herewith, encumbering the Property; a memorandum of the Ground Lease was recorded in the official records concurrently with the recordation of the Agency Deed of Trust.

“Ground Rent” refers to the rent payable by Borrower pursuant to the Ground Lease.

“Improvements” shall mean the approximately 65-unit residential development to be constructed on the Property and that portion of the garage within the Housing Parcel, all as described in the DDA.

“Method of Financing” and “Amended Method of Financing” shall mean that certain Amended Method of Financing attached to the DDA as Attachment No. 3 and incorporated herein by this reference.

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

“Operating Expenses” shall mean actual, reasonable and customary costs, fees and expenses directly attributable to the operation, maintenance and management of the Improvements and the Property, expressly including, without limitation: debt service on any Senior Loan; property taxes and assessments; onsite administrative costs (including salaries and benefits); maintenance costs (including materials and labor); reasonable and customary payments to a replacement reserve account of \$500 per year, payments to a transitional operating reserve as approved by the Agency Executive Director or designee, 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, not to exceed six percent (6%) of effective gross income; reasonable Asset Management Fees not to exceed \$13,000 per year, 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; the amortized value of tenant improvements, the repayment of any operating deficit. The calculation of Operating Expenses shall be made so that no expense is counted twice, and shall be subject to the reasonable approval of the Agency Executive Director or designee.

“Permitted Transfer” shall mean a “Permitted Transfer” as defined in the DDA and the Ground Lease.

“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 and, as appropriate, Borrower’s leasehold interest in the Property conveyed by the Ground Lease.

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

“Revenue” shall mean the gross rental income from the Improvements, and any other income to the Borrower derived from the ownership, operation and management of the Property.

“Senior Loan” shall mean the construction period loan in the amount of approximately \$13,085,000 made to Borrower (such loan to be referred to as the “Construction Loan” and the maker of such loan, and its successors and assigns, to be referred to as the “Construction Lender”), the permanent loan, estimated to be in the approximate amount of \$2,565,000, which amount shall not exceed \$3,075,000, that repays all or part of the Construction Loan (the “Permanent Loan”), which shall be secured by a deed of trust that is senior and superior to the Agency Deed of Trust, and any other loan secured by a deed of trust or other instrument to which the Agency agrees to subordinate this Note, the Agency Deed of Trust, other Agency Loan Documents, the deed of trust securing MHP Loan and other MHP Loan documents (as defined in the Revised Method of Financing attached to the DDA as Attachment No.3), the deed of trust securing the MHSA Loan and other MHSA Loan documents (as defined in the Revised Method of Financing) and the deed of trust securing the TCAP Loan and other TCAP Loan documents (as defined in the Revised Method of Financing).

“Term” of this Note shall commence on the date the Agency Deed of Trust is recorded in the official records and shall terminate on the fifty-fifth (55th) anniversary of the earlier of the issuance of the final Certificate of Occupancy or the Issuance of the Release of Construction Covenants.

“Transfer” shall have the meaning set forth in Section 11 of this Note.

2. Evidence of Obligation. This Note evidences the obligation of the Borrower to the Agency for the repayment of the Agency Loan. All of the funds provided pursuant to the Agency Loan were funded only from Agency’s Low and Moderate Income Housing Fund.

3. Where and How Payable. This Note is payable at the principal office of Agency, c/o Centre City Development Corporation, 401 B Street, Suite 400, San Diego, California 92101, or at such other place as the holder hereof may inform the Borrower in writing, in lawful money of the United States.

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

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

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

7.A. Due on Expiration of Term or Upon Event of Acceleration. The entire unpaid principal balance of this Note and any accrued but unpaid interest shall be due and payable upon the expiration of the Term hereof, or immediately upon the occurrence of either of the following events of acceleration:

(a) if 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) if there is a default by the Borrower under the terms of this Note, the Agency Deed of Trust, the DDA, the Ground Lease or any deed of trust or other instrument securing any Senior Loan or other obligations secured by a deed of trust on the Property, which is not cured within the respective time period provided herein and therein.

7.B. Portion Due upon Receipt of Additional Funding.

(a) Affordable Housing Program. Pursuant to the DDA, Borrower has agreed to apply for an award of AHP funds in the amount of two hundred sixty thousand dollars (\$260,000). In the event Borrower is awarded AHP funds, Borrower shall, within ten (10) days of notice of award, notify the Agency in writing of the amount of such award. The principal amount of this Note shall be reduced by (or if the principal of this Note has already been disbursed at the time of the award of AHP funds, within five (5) days thereafter Borrower shall pay to Agency) the amount equal to the amount of the AHP award.

(b) Reserved.

(c) Other Funding Sources. Borrower shall pursue and make application for other funding sources as they are identified and for which the Project qualifies. The principal amount of this Note shall be reduced in equal proportions to the amount of any additional proceeds obtained by Borrower in accordance with Sections 10.(b) (Additional Proceeds) and 10.(c) (Cost Overruns/Additional Proceeds) herein and Sections 2.4(b) and 2.4 (c) of the Amended Method of Financing relating to the same.

8. Residual Receipts. Commencing on the issuance of a temporary Certificate of Occupancy and until the fifty-fifth (55th) anniversary of the later of the final Certificate of Occupancy or the Issuance of Release of Construction Covenants, and subject to the adjustments described in Section 10 of this Note, Borrower shall be obligated to repay the Agency Loan exclusively from the Agency's Share of Residual Receipts, as follows: for each calendar year (or portion thereof for the first and last years of the Term) not later than the last day of the following April (the "Payment Date"). On the Payment Date, Borrower shall submit to Agency an audited Annual Financial Statement for the preceding calendar year (or portion thereof for the first and last years of the Term), prepared by a certified public accountant reasonably acceptable to the Agency, determining the amount of Residual Receipts, if any, generated in that year, together with payment of the Agency's Share of such Residual Receipts. The first such Annual Financial Statement shall be for the partial year beginning on the issuance of a Temporary Certificate of Occupancy and ending on December 31 of that year. The Agency shall review and approve such Annual Financial Statement, or request revisions, within 30 days after receipt. In the event as the result of the Agency's review of the statement, there is an increase in the amount of any payment due and payable to Agency (as the result, for example, of a determination that the actual amount of Residual Receipts to which the Agency is entitled exceeds the amount of Agency's share of Residual Receipts shown in the Annual Financial Statement submitted by Borrower), Borrower shall promptly pay to the Agency the difference, with interest, from the date on which such payment was due, at the rate of five percent (5%) per annum.

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

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

(a) Cost Savings. In the event actual Acquisition and Development Costs, as determined by a cost certification, are less than the Total Acquisition and Development Costs set forth in Section 1 of the Amended Method of Financing, the resulting cost savings ("Cost Savings") shall be paid to the Agency to reduce the principal amount of the Agency Loan.

(b) Additional Proceeds. In the event the aggregate amount of the Permanent Financing is greater than the Total Acquisition and Development Costs set forth in Section 1 of the Amended Method of Financing, and the actual Acquisition and Development Costs are not greater than such Total Acquisition and Development Costs, or in the event Owner obtains additional funds (the "Additional Proceeds"), then such Additional Proceeds shall be applied to reduce the principal amount of the Agency Loan.

(c) Cost Overruns/Additional Proceeds. In the event the aggregate Permanent Financing is greater than the Total Acquisition and Development Costs set forth in Section 1 of the Amended Method of Financing, and the actual Acquisition and Development Costs are greater than as set forth in Section 1 of the Amended Method of Financing, then, at Conversion, the increased amount of the

Permanent Financing may be applied first to pay the additional costs and second to reduce the principal amount of the Agency Loan. In the event actual Acquisition and Development Costs are less than as set forth in Section 1 of the Amended Method of Financing, and the aggregate Permanent Financing is less than the Total Acquisition and Development Costs set forth in Section 1 of the Amended Method of Financing, but greater than the actual Acquisition and Development Costs, then such Additional Proceeds shall be applied to reduce the principal amount of the Agency Loan.

In the event the aggregate Permanent Financing is less than the actual Acquisition and Development Costs, then, at Conversion, the deficiency shall be paid by deferring an additional portion of the developer fee or from other non-Agency funding.

11. Transfers.

(a) Prior to the repayment in full of the Agency 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 its leasehold in the Property, the Improvements thereon, or any portion thereof or interest therein (referred to hereinafter as a “Transfer”).

(b) No unauthorized Transfer shall relieve the Borrower or any other party from any obligations under this Note, the DDA or the Ground Lease.

(c) In the event of an unauthorized Transfer prior to the time the Agency Loan is paid in full, the remaining principal balance of the Agency Loan and all accrued but unpaid interest shall be immediately due and payable.

(d) (i) As used herein, “Transfer” includes the sale, transfer or conveyance of Borrower’s leasehold interest in 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.

(ii) “Transfer” shall also include the transfer, assignment, hypothecation or conveyance of legal or beneficial ownership of any interest in Borrower, or any conversion of Borrower to an entity form other than that of Borrower at the time of execution of this Note.

(iii) “Transfer” shall not include any Permitted Transfer.

12. Low and Moderate Income Housing. The Agency Loan is funded from the Agency's Low and Moderate Income Housing Fund. Accordingly, Borrower agrees for itself, its successors and assigns that the use of the Property shall be subject to the restrictions on rent and occupancy set forth in the DDA, Ground Lease, Agreement Affecting Real Property and any regulatory agreement recorded against the Property. Further, Borrower agrees that no portion of the Agency Loan shall be used for the development of the Retail Improvements.

13. Limited Recourse. Subject to the provisions and limitations of this Section 13, the obligation to repay the Agency Loan is a nonrecourse obligation of the Borrower. Borrower and any general or limited partner of Borrower's limited partnership shall not have any personal liability for repayment of the Agency Loan evidenced hereby, except as provided in this Section 13. The sole recourse of Agency shall be the exercise of its rights against the Property and any related security for the Agency Loan. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by this Note or the Deed of Trust; (b) limit the right of the Agency to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (c) release or impair this Note or the Deed of Trust; (d) prevent or in any way hinder Agency from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder Agency from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Note; (f) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to Agency; or (g) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Deed of Trust. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of a default, after expiration of all applicable cure periods, Borrower and its successors and assigns shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Borrower, its principals, shareholders, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property after the occurrence of such default and after expiration of all applicable cure periods, 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 after the occurrence of such default, 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 (i) Borrower, (ii) any general partner of Borrower, (iii) any member of a general partner of Borrower, (iv) any principal of such member of the general partner of Borrower, or (v) from any other party:

(A) any damages, costs and expenses incurred by Agency as a result of fraud or any criminal act or acts of Borrower or any member, partner, shareholder, officer, director or employee of Borrower, or of any member or general partner of Borrower, or of any general or limited 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 to pay Acquisition and Development Costs, 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 any indemnity set forth in the DDA or the indemnification regarding Hazardous Substances pursuant to the Environmental Indemnity, and

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

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

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

16. Defaults.

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

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

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

(d) If a monetary event of default occurs under the terms of this Note or the Agency Deed of Trust, or any deed of trust securing the Senior Loan or Permanent Loan or other obligations secured by a deed of trust on the Property, prior to exercising any remedies hereunder or

thereunder Agency shall give Borrower written notice of such default. Borrower shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Agency under this Note and/or the Agency Deed of Trust. In no event shall Agency be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of the DDA, this Note, the Agency Deed of Trust, the Agreement Affecting Real Property, the regulatory Agreement, the Ground Lease or any document amending or implementing the DDA or any deed of trust securing the Senior Loan or other obligations secured by a deed of trust on the Property, prior to exercising any remedies hereunder or thereunder, Agency shall give Borrower notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Borrower shall have such period to effect a cure prior to exercise of remedies by the Agency under the DDA, the Ground Lease, this Note and/or the Agency Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Borrower (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Agency. If Borrower fails to take corrective action or to cure the default within a reasonable time, Agency shall give Borrower written notice thereof. In no event shall Agency be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the notice of default is received or deemed received.

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

(g) The execution and delivery of any purchase option and right of first refusal agreement described in Borrower's Partnership agreement shall not constitute a default under this Note or any of the Agency Loan Documents or accelerate the maturity of the Agency Loan. Any requisite consent of Agency to (i) the exercise of said purchase option and right of first refusal agreement by the project sponsor identified therein, and to (ii) the assumption without penalty of Agency Loan obligations by the project sponsor and the release of Borrower from such obligations, shall not be unreasonably withheld. Subject to any such consent requirement, the exercise of rights under such agreement shall not constitute a default or accelerate maturity of the Agency Loan.

(h) If any purchase option and right of first refusal agreement described in Borrower's Partnership Agreement is not exercised and the Project is sold subject to low and moderate-income housing use restrictions as contained in the Ground Lease, other existing

regulatory agreement or other recorded covenant, any requisite consent of Agency to said sale, and to the assumption without penalty of loan obligations by the purchaser and the release of Borrower from such obligations, shall not be unreasonably withheld.

17. Force Majeure; Agreed Upon Extensions.

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

(b) Times of performance under this Agreement may also be extended in writing by the Agency and Borrower.

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

19. Reserved.

20. Reserved.

21. Subordination. The Agency Deed of Trust securing this Note shall be subordinate and junior to the claims, liens or charges of the Construction Loan deed of trust, the Permanent Loan deed of trust, TCAP Loan deed of trust, MHP-SHP Loan deed of trust, MHSA Loan deed of trust and any deed of trust securing any Senior Loan and all other instruments securing the Senior Loan, Construction Loan, Permanent Loan, TCAP Loan, MHP-SHP Loan and MHSA Loan as set forth in the Amended Method of Financing. The Agency Executive Director or designee shall execute subordination agreement(s) as may be consistent with the Amended Method of Financing and the DDA, as amended, to subordinate the Agency Deed of Trust to the lien of the deed of trust securing the Construction Loan, Permanent Loan, TCAP Loan, MHP-SHP Loan, MHSA Loan or Senior Loan, provided (i) such subordination agreement(s) relating to the Construction Loan, Permanent Loan and Senior Loan substantially conform(s) in form and substance to the form of Subordination Agreement attached to the DDA as Attachment No. 14, with non-substantive

modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel; (ii) such subordination agreement(s) relating to the TCAP Loan substantially conform in form and substance to the form of Subordination Agreement with CTCAC attached to the DDA, as amended by that certain First Amendment, as Attachment No.31, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel; (iii) such subordination agreement(s) relating to the MHP-SHP Loan substantially conform in form and substance to the form of Subordination Agreement with HCD attached to the DDA, as amended by that certain First Amendment, as Attachment No.29, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel; and (iv) such subordination agreement(s) relating to the MHSA Loan substantially conform in form and substance to the form of Subordination Agreement with CalHFA attached to the DDA, as amended by that certain First Amendment, as Attachment No.30, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel. Any and all substantive modifications to Attachment Nos. 14, 29, 30 and 31 of the DDA, as amended, prior to recordation shall be submitted to the Agency Board for approval. Any modifications to this Note, the Amended Method of Financing and the DDA, as amended, that do not substantially conform in a substantive manner with Attachment Nos. 14, 29, 30 and 31 of the DDA shall be submitted to the Agency Board for approval. Upon the reasonable request of a Senior Lender, Agency shall execute from time-to-time such estoppel certificates to the extent they are consistent with the terms of the DDA, as amended.

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

23. Right to Prepay. Borrower shall have the right to prepay the obligation evidenced by this Note, or any part thereof, without penalty. However, prepayment of the obligation evidenced by this Note prior to the expiration of the term of the covenants set forth in the Agreement Affecting Real Property, attached to the DDA as Attachment No.6 and incorporated herein by this reference, shall not entitle Borrower to a reconveyance of the deed of trust securing this Note.

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

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

**CEDAR GATEWAY, L.P.,
a California limited partnership**

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

Exhibit No. 8

REVISED FORM OF THE AGENCY LEASEHOLD DEED OF TRUST

ATTACHMENTS

ATTACHMENT NO. 9

REVISED FORM OF AGENCY LEASEHOLD DEED OF TRUST

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
c/o CENTRE CITY DEVELOPMENT CORPORATION
225 Broadway, Suite 1100
San Diego, California 92101-5072
Attn: David Allsbrook

SPACE ABOVE THIS LINE FOR RECORDER'S USE

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

This Subordinate Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) (the "Deed of Trust") is made as of _____, 200__, by CEDAR GATEWAY, L.P., a California limited partnership (hereinafter referred to as "Trustor") whose address is Cedar Gateway, L.P., c/o ROEM Development Corporation, 1650 Lafayette Street, Santa Clara, California 95050, ----- Attn: Robert Emami, to STEWART TITLE COMPANY (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 c/o Centre City Development Corporation, 401 B Street, Suite 400, San Diego, California 92101.

WITNESSETH: That 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 (the "Trust Estate"):

(a) Trustor's leasehold estate in 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 leasehold interest in real property is hereafter referred to as the "Subject Property" or "Property");

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

(c) 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 (the "Appurtenances"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "Real Property");

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

(e) all present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "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"); and

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

conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types 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 (the "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 9334 and 9502(b) 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 Promissory Note executed by Trustor ("Borrower" therein) for the benefit of Beneficiary ("Agency" therein) in the amount of \$3,661,000, of dated of even date herewith (the "Note");
 - (b) that certain Disposition and Development Agreement dated May 22, 2008, between Trustor ("Owner" therein) and Beneficiary ("Agency" therein) as amended by that certain First Amendment to Disposition and Development Agreement dated _____, 2009 (the "DDA");
 - (c) that certain Ground Lease entered into between Beneficiary ("Landlord" therein) and Trustor ("Tenant" therein) dated _____ (the "Ground Lease"); and
 - (d) that certain Agreement Affecting Real Property executed by Trustor ("Owner" therein) and Beneficiary ("Agency" therein) recorded of even date herewith ("AARP");
- (2) payment of indebtedness of the Trustor to the Beneficiary not to exceed \$3,661,000 (the "Note Amount") according to the terms of the Note ("Payment of Note

Amount”).

Said DDA, Ground Lease, Note, AARP and Payment of Note Amount (collectively, referred to herein 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. All capitalized terms not defined herein shall have the meaning ascribed to such term in the DDA as amended.

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

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

2. 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.

3. That all rents, profits and income from the Subject 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.

4. 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.

5. 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. Unless approved otherwise in writing by the Executive Director of the Beneficiary, or his or her designee, Trustor shall maintain insurance as required by Exhibit B to this Deed of Trust, which is incorporated herein by this reference.

6. To pay, at least 10 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 DDA, AARP, Ground Lease, the entire indebtedness evidenced by the Note shall at the option of the Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding.

13. 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 (30) days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request, prior to foreclosure) record in the Office of the Recorder of San Diego County, a surety bond in the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary.

14. 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.

IT IS MUTUALLY AGREED THAT:

15. 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 reasonable attorneys 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.

16. Upon default by Trustor in making any payments provided for herein or upon default by Trustor in making any payment required in the Note secured hereby, or if Trustor shall fail to perform any covenant or agreement in this Deed of Trust within 30 days after written demand therefor by Beneficiary (or, in the event that more than 30 days is reasonably required to cure such default, should Trustor fail to promptly commence such cure, and diligently prosecute

same to completion), after the giving of notice and the expiration of any applicable cure period, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the Property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby.

17. 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 Deed of 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 Note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto.

18. 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.

19. 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.

20. Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in such reconveyance of any matters 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."

21. The Trust created hereby is irrevocable by Trustor.

22. 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 Note secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

23. 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.

24. 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.

25. 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.

26. Trustor agrees that the indebtedness secured by this Deed of Trust is made expressly for the purpose of financing the acquisition of the Property and construction of improvements thereon as provided in the DDA.

27. Trustor agrees that, except as otherwise provided in the Note, 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.

28. Notwithstanding specific provisions of this Deed of Trust, non-monetary performance hereunder shall not be deemed to be in default where delays or defaults are due to: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor or supplier; acts of the other party; acts or failure to act of the 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 (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Deed of Trust may also be extended in writing by the Beneficiary and

Trustor. 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 thirty (30) days after it obtains actual knowledge of the event.

29. 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.

30. (a) Subject to the extensions of time set forth in Section 28, and subject to the further provisions of this Section 30, failure or delay by Trustor to perform any term or provision respectively required to be performed under the DDA 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 the 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 (10) calendar 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, the Note, this Deed of Trust, 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 (30) calendar 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 Note and/or this Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Trustor (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary. If Trustor fails to take

corrective action or to cure the default within a reasonable time, Beneficiary shall give Trustor written notice thereof. 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 (90) days after the notice of default is received or deemed received.

(f) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a “hard” copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Trustor; 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.

(g) The execution and delivery of any purchase option and right of first refusal agreement described in Trustor’s Partnership Agreement shall not constitute a default under the Note secured hereby or any of the Agency Loan Documents or accelerate the maturity of the Agency Loan. Any requisite consent of Beneficiary to (i) the exercise of said purchase option and right of first refusal agreement by the project sponsor identified therein, and to (ii) the assumption without penalty of Agency Loan obligations by the project sponsor and the release of Trustor from such obligations, shall not be unreasonably withheld. Subject to any such consent requirement, the exercise of rights under such agreement shall not constitute a default or accelerate maturity of the Agency Loan.

(h) If any purchase option and right of first refusal agreement described in Trustor’s Partnership Agreement is not exercised and the Project is sold subject to low and moderate-income housing use restrictions as contained in the Ground Lease, other existing regulatory agreement or other recorded covenant, any requisite consent of Beneficiary to said sale, and to the assumption without penalty of loan obligations by the purchaser and the release of Trustor from such obligations, shall not be unreasonably withheld.

31. Subject to the provisions and limitations of this Section 31, the obligation to repay the Agency Loan is a nonrecourse obligation of the Trustor. Trustor and any general or limited partner of Trustor’s limited partnership shall not have any personal liability for repayment of the Agency Loan secured hereby, except as provided in this Section 31. The sole recourse of Beneficiary shall be the exercise of its rights against the Property and any related security for the Agency Loan. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by the 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 the 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 the 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 the 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 the Note; (f) relieve Trustor of any of its obligations under any indemnity delivered by Trustor to Beneficiary; or (g) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by the 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, after expiration of all applicable cure periods, 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 after the occurrence of such default and after expiration of all applicable cure periods, 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 after the occurrence of such default, 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 (i) Trustor, (ii) any general partner of Trustor, (iii) any member of a general partner of Trustor, (iv) any principal of such member of the general partner of Trustor, or (v) or 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 member, partner, shareholder, officer, director or employee of Trustor, or any member or general partner of Trustor, or of any general or limited partner of such member or general partner;
- (b) any damages, costs and expenses incurred by Beneficiary as a result of any misappropriation of funds provided to pay Acquisition and Development Costs, as described in the DDA as amended, 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 any indemnity set forth in the DDA as amended or the indemnification regarding Hazardous Substances pursuant to the Environmental Indemnity, and
- (d) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that Beneficiary shall pay Trustor's reasonable court costs and attorneys' fees if Trustor is the prevailing party in any such enforcement or collection action).

32. This Deed of Trust shall be subordinate and junior to the Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing recorded concurrently herewith securing the Construction Loan, and its successors and assigns. 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 to the deed of trust described in this Section 32, above, any regulatory agreement recorded in connection therewith and any deed of

trust securing a loan that refinances any part of the Construction Loan. In the event of a default or breach by Trustor of any security instrument securing a senior obligation described in this Section 32, 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.

33. In the event of any fire or other casualty to the Project or eminent domain proceedings resulting in condemnation of the Project or any part thereof, Trustor shall have the right to rebuild the Project, and to use all available insurance or condemnation proceeds therefor, provided that (a) such proceeds are sufficient to keep the Agency Loan in balance and rebuild the Project in a manner that provides adequate security to Beneficiary for repayment of the Loan or if such proceeds are insufficient then Trustor shall have funded any deficiency, (b) Beneficiary shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material default then exists under the 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 Agency Loan in a manner that provides adequate security to Beneficiary for repayment of the remaining balance of the Agency Loan.

34. Extended Use Agreement. Beneficiary acknowledges that Trustor and TCAC intend to enter into an extended use agreement, which constitutes the extended low-income housing commitment described in Section 42(h)(6)(B) of the Internal Revenue Code, as amended (the "Code"). As of the date hereof, Code Section 42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under Code Section 42 for a period of three (3) years after the date the building is acquired by foreclosure or by instrument in lieu of foreclosure. In the event the extended use agreement requirement by TCAC is recorded against the Property, the Beneficiary agrees to comply with the provisions set forth in Code Section 42(h)(6)(E)(ii).

[SIGNATURES ON FOLLOWING PAGE]

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

CEDAR GATEWAY, L.P.,
a California limited partnership

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

State of California
County of San Diego

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California
County of San Diego

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

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Signature _____ (Seal)

State of California
County of San Diego

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION

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

[to be inserted]

Exhibit "B" to Deed of Trust
Insurance Requirements

1. Commencing upon the first to occur of (i) the entry by Trustor onto the Property for any purposes hereunder and (ii) the Second Closing, and at all times prior to the full reconveyance of the Beneficiary's Subordinate Leasehold Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) (the "Beneficiary Deed of Trust"), Trustor shall maintain in effect and deliver to Beneficiary duplicate originals or appropriate certificates of the following insurance policies (the "Insurance Policies"):

(A) All-Risk Policies: Trustor shall maintain or cause to be maintained coverage of the type now known as All Risk insurance. Such insurance shall insure against direct physical loss or damage by fire, lightning, wind, storm, explosion, collapse, underground hazards, vandalism, malicious mischief, glass breakage and such other causes as are covered by such form of insurance. Such policy shall include (1) an endorsement for broad form property damage, breach of warranty, demolition costs and debris removal, (2) a "Replacement Cost Endorsement" in amount sufficient to prevent Trustor from becoming a co-insurer under the terms of the policy, but in any event in an amount not less than 100% of the then full replacement cost, to be determined at least once annually and subject to reasonable approval by Beneficiary, and (3) an endorsement to include coverage for budgeted soft costs. The replacement cost coverage shall be for work performed and equipment, supplies and materials furnished to the Property or any adjoining sidewalks, streets and passageways, or to any bonded warehouse for storage pending incorporation into the work, without deduction for physical depreciation and with a deductible not exceeding \$25,000 per occurrence (except that earthquake coverage, if obtained at Trustor's sole discretion, shall carry a deductible not to exceed 25% of the policy amount, or such other deductible amount as Beneficiary may reasonably determine is acceptable, in light of the cost of the premium for such insurance);

(B) Liability Insurance: Trustor shall maintain or cause to be maintained general 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 Trustor on the Property, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Trustor, or any person acting for Trustor, 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 Trustor or its tenants, or any person acting for Trustor, or under its control or direction. Such property damage and personal injury insurance shall also provide for and protect Beneficiary 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 until reconveyance in full of the Agency Leasehold Deed of Trust in the following amounts: commercial general liability in a general aggregate amount of not less than Four Million Dollars (\$4,000,000), \$2,000,000 Products and Completed Operations Aggregate, and \$4,000,000 Each Occurrence, which amounts shall be subject to increases equal to increases in the Consumer Price Index. Trustor agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Trustor may be held responsible for the

indemnification of Beneficiary or the payment of damages to persons or property resulting from Trustor's activities, activities of its tenants or the activities of any other person or persons for which Trustor is otherwise responsible.

(C) Automobile Insurance: Trustor shall maintain or cause to be maintained automobile insurance, maintained in full force and effect in an amount of not less than Two Million Dollars (\$2,000,000) per accident, which amount shall be subject to increases equal to increases in the Consumer Price Index.

(D) Workers' Compensation Insurance: Trustor 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 Trustor 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 Trustor. Notwithstanding the foregoing, Trustor 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 Trustor shall deliver to Beneficiary 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 thirty (30) days prior written notice to Beneficiary. All fire and liability insurance policies (not automobile and Workers' Compensation) may name the Beneficiary and Trustor as insureds, additional insureds, and/or loss payable parties as their interests may appear.

3. The Insurance Policies shall name as additional insureds the following:

"The City of San Diego, the Redevelopment Agency of the City of San Diego, Centre City Development Corporation and their respective officers, employees, contractors, agents and attorneys."

4. Trustor 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. Trustor agrees to submit binders or certificates evidencing such insurance to Beneficiary prior to the Second Closing (as defined in the DDA as amended). Within thirty (30) 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 Beneficiary. All insurance herein provided for in this Insurance Requirements document shall be provided by insurers licensed to do business in the State of California and rated A-VII or better.

5. If Trustor fails or refuses to procure or maintain insurance as required by this Insurance Requirements document, Beneficiary shall have the right, but not the obligation, at Beneficiary's election, and upon ten (10) days prior notice to Trustor, to procure and maintain such

insurance. The premiums paid by Beneficiary shall be treated as a loan, due from Trustor, to be paid on the first day of the month following the date on which the premiums were paid. Beneficiary shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

Exhibit No. 9

REVISED FORM OF THE SUBORDINATION AGREEMENT

ATTACHMENTS

ATTACHMENT NO. 14
REVISED FORM OF THE SUBORDINATION AGREEMENT

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:

Mr. David N. Allsbrook
Centre City Development Corporation
401 "B" Street, 4th Floor
San Diego, CA 92101

T.O. No.
05725326-609-611W

APN:
533-382-01
533-382-04
533-382-05
533-382-06

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SUBORDINATION AGREEMENT

[Construction to Permanent Financing]

Centre City Redevelopment Project Area

Cortez Sub Area

[DRAFTING NOTE: THE SUBSTANTIVE PROVISIONS OF THIS FORM SHALL BE USED FOR THE SENIOR LENDER SUBORDINATION AGREEMENT AUTHORIZED BY THE DDA, EXCEPT FOR MODIFICATIONS (INCLUDING ADDITIONS) TO THE RIGHTS AFFORDED TO THE AGENCY IN SECTIONS 7 AND 8 HEREOF, REASONABLY REQUESTED BY THE AGENCY EXECUTIVE DIRECTOR OR

**DESIGNEE TO PROTECT THE AGENCY'S INTERESTS IN THE AGENCY LOAN
AND AGENCY LOAN DOCUMENTS. ANY AND ALL SUBSTANTIVE
MODIFICATIONS PRIOR TO RECORDATION SHALL BE SUBMITTED TO THE
AGENCY BOARD FOR APPROVAL.]**

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 _____, 2009, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic(hereinafter referred to as the "Agency"), CEDAR GATEWAY, L.P., a California limited partnership (hereinafter referred to as "Borrower") and CITICORP USA, INC., a Delaware corporation ("Lender").

RECITALS

A. Agency is the owner of that certain real property (the "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 increment funds and bond proceeds, if applicable, made available to the Agency exclusively for the purpose of increasing, improving, and preserving the community's supply of affordable low and moderate income housing (referred to in this Agreement as the "Housing Funds"). For the purpose of increasing the supply of housing in the City of San Diego that will be affordable to Extremely Low and Very Low Income households, Agency and Borrower have entered into that certain Disposition and Development Agreement, dated May 22, 2008, as amended by that certain First Amendment to the Disposition and Development Agreement dated _____ (the Disposition and Development Agreement and its First Amendment are collectively referred to herein as the "Disposition and Development Agreement"), 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 a loan of Housing Funds to Borrower to provide a portion of the financing for the construction of a 65-unit affordable housing residential development (the "Improvements").

C. In conformance with the Disposition and Development Agreement and in furtherance of the Agency's utilization of the Housing Funds, the Agency and Borrower entered into an Agreement Affecting Real Property, which, among other things specifically set forth therein, restricted the use of the Property to affordable housing ("Agreement Affecting Real Property"). The Agreement Affecting Real Property is to be recorded in the Official Records of the Office of the San Diego County Recorder ("Official Records") concurrently herewith and is at all times senior in priority to the matters in this Agreement.

D. Pursuant to a ground lease between Agency as Landlord and Borrower as Tenant,

dated _____, 2009, a memorandum of which was recorded in the Official Records concurrently herewith (the "Ground Lease"), Agency conveyed a leasehold interest (the "Leasehold") in the Property to Borrower.

E. Pursuant to the Disposition and Development Agreement, among other things, the Agency has made a loan to Borrower in the amount of up to \$3,661,000 ("the Agency Loan"). The Agency Loan is evidenced by a promissory note in the principal amount of the Agency Loan, dated on or about the date hereof (the "Agency Note"), which is secured by the following, each of which is dated on or about hereof: a Deed of Trust, Security Agreement and Fixture Filing (the "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". The Agreement Affecting Real Property and its priority are not affected by this Agreement. The Agreement Affecting Real Property is not an Agency Loan Document.

F. The Agency and Lender acknowledge and agree Borrower's payments and obligations to the Agency under the Agency Loan Documents are separate and apart from the Borrower's payments and obligations to the Agency under that certain Ground Lease creating the Leasehold.

G. The Lender will originate a first priority mortgage construction loan in the approximate principal amount of \$13,085,000 consistent with the Agency approved Project Budget (the "Construction Loan") which, upon conversion and anticipated paydown, may become a first priority mortgage permanent loan in the approximate principal amount of \$2,565,000, which amount shall not exceed \$3,075,000 (the "Permanent Loan"). The Construction Loan and Permanent Loan shall collectively be referred to as the "Citi Loans". The Citi Loans are reflected in a floating rate loan converting to fixed rate loan promissory note in the amount of the Construction Loan, which, under the terms said loan converts to a Permanent Loan (the "Citi Loan Note") and are secured by, among other things, a construction to permanent leasehold deed of trust with assignment of rents, security agreement and fixture filing in favor of the Lender (the "Citi Loan Deed of Trust"). The Citi Loan Note and the Citi Loan Deed of Trust and any other documents and instruments executed by Borrower in connection with the Citi Loans are referred to collectively as the "Citi Loan Documents".

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

I. The Agency and Lender have agreed and required as a condition of making their respective loans that the Citi Loan Documents will encumber the Leasehold only and not the Agency's fee simple interest in the Property, and that the order of priority of their respective liens recorded against the Leasehold shall be as follows: (1) the Citi Loan Documents; and (2) the Agency Loan Documents.

J. Agency used Housing Funds to the purchase the Property and committed Housing Funds in the Agency Loan Documents in connection with the development of the Improvements. At the request of Lender and Borrower and in furtherance of Agency's duties to provide affordable housing to the community under the California Community Redevelopment Law, Agency agrees to enter into this Agreement to assure Borrower may access the additional

funding sources provided by Lender under the Citi Loans to realize and construct the Improvements contemplated in the Disposition and Development Agreement.

K. Lender evaluated how funding the Citi Loans would further the goals of the Disposition and Development Agreement and agrees to enter into the Citi Loan Documents to assist Borrower in the construction of the Improvements contemplated by the Disposition and Development Agreement.

L. Due to the Lender's risk associated with funding the Citi Loans to Borrower during the development of the Improvements, Lender asked Agency to enter into this Agreement to subordinate only the Agency Loan Documents to the Citi Loan Documents in connection with the Leasehold only. In response to Lender and to protect the Agency's investment of Housing Funds in the Property, the Agency obtained these separate written commitments below from Lender for the Construction and Permanent Loan phases of the Citi Loans to Borrower.

AGREEMENT TO SUBORDINATE LIEN PRIORITIES

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

1. The Citi Loan and the Citi Loan Documents 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, and all liens thereunder, shall at all times be junior and are hereby subordinated to the Citi Loans and the Citi Loan Documents.

3. The Lender would not originate the Citi Loans without this Agreement.

4. The Agency Loan and Agency Loan Documents are hereby subordinated in right of payment to any and all of the Citi Loans and Citi Loan Documents in connection with the Leasehold only. Notwithstanding the foregoing, unless and until the holder of the Citi Loans under the Citi Loan Documents gives Agency notice of the occurrence of a default under the Citi Loan Documents, the Agency may receive and accept payments on account of principal and interest payable under the Agency Loan Documents. If the Agency shall receive any payments or other rights in any property of the Borrower under the Agency Loan Documents after the holder of the Citi Loans has given Agency notice of a default under the Citi Loan Documents, such payment or property shall not be applied to the Agency Loan Documents but be received by the Agency in trust for the holder of the Citi Loans and shall immediately be delivered, transferred and paid over to the holder of the Citi Loans.

5. This Agreement shall be the whole and only agreement with regard to the priority and subordination of the Citi Loans, the Citi Loan 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.

6. Agency and Lender declare, agree and acknowledge that:

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

(b) Lender consents to and approves all provisions of the Agency Loan Documents described in the Recitals, above; and

(c) Agency intentionally and unconditionally waives, relinquishes and subordinates the lien, charge or encumbrance of the Agency Loan Documents in favor of the prior lien, charge or encumbrance upon the Leasehold only as referred to in this Agreement in favor of the Lender 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 affecting the Leasehold which would not be made or entered into by Lender but for said reliance upon this waiver, relinquishment and subordination.

7. Notwithstanding anything to the contrary contained in this Agreement, the Lender hereby agrees as follows with respect to the Citi Loans prior to the Conversion Date, as defined in Section 1.2.4 (“Conversion Date”) of that certain Construction Loan Agreement [Construction to Permanent] between Lender and Borrower (“Citi Loan Agreement”) entered into concurrently with this Agreement:

(a) Upon the occurrence of an event of default under the Citi Loan Documents (“Event of Default”), prior to the Conversion Date, Lender acknowledges and agrees to provide the Agency with written notice of such default no less than thirty (30) days prior to Lender recording an official Notice of Default in the Official Records, at the addresses set forth in paragraph 10 below (the “Pre-Notice of Default Period”). The Pre-Notice of Default Period shall not commence until Agency is in receipt of such written notice. During the Pre-Notice of Default Period, Agency shall have the right, but not the obligation, to record an official Notice of Default in the Official Records for an event of default under the Agency Loan Documents. Lender acknowledges and agrees that, only after the expiration of the Pre-Notice of Default Period shall Lender record a Notice of Default in the Official Records pertaining to an Event of Default. Lender reserves the right to seek a receiver during such Pre-Notice of Default Period, if it is reasonably necessary to preserve the value of the Leasehold.

Lender further acknowledges and agrees that upon the recordation of the Notice of Default by Lender, and for one hundred and twenty (120) days thereafter (the “Agency Cure Period”), Agency shall have the right, but not the obligation, to either (i) contact Lender to negotiate potential cures of such Event of Default whereby Lender shall consider in good faith any proposals from Agency; or (ii) formally notice or agendize the Agency’s desire to foreclose, take a deed in lieu of foreclosure, or other proceeding or transaction whereby Agency takes title to the Borrower’s interest in the Leasehold in connection with the exercise of remedies under the Agency Loan Documents (“Agency Foreclosure”). The

Agency Cure Period shall not commence until the Agency is in receipt of a copy of the official Notice of Default recorded in the Official Records at the addresses set forth in paragraph 10 below. Lender acknowledges and agrees that Lender shall not complete a Lender Foreclosure (as defined below) during the Agency Cure Period.

Lender agrees to provide duplicate copies of all Borrower notices pertaining to an Event of Default to the Agency at the addresses set forth in paragraph 10 below at the same time Lender notifies Borrower in writing of such Event of Default.

(b) In the event the Agency formally notices or agendizes an Agency Foreclosure pursuant to subparagraph 7. (a) above, or otherwise acquires title to the Leasehold estate prior to a Lender Foreclosure and otherwise cures all Events of Default under the Citi Loan Documents, Lender acknowledges and agrees that Lender shall not declare a default or accelerate its Citi Loan under the Citi Loan Documents based upon the due-on-sale clause set forth in the Citi Loan Documents, for one hundred and eighty (180) days thereafter during which time Agency may submit an application for approval of Agency or a designee to assume Borrower's Construction Loan pursuant to the terms of the Citi Loan Documents (the "Pre-Conversion Option Period"). Upon reviewing any application submitted to Lender during the Pre-Conversion Option Period, Lender will approve or disapprove the application according to its then current underwriting standards, provided that such underwriting standards are the same or similar underwriting standards used for developers of comparable projects in Southern California. Agency acknowledges and agrees that Agency shall use best efforts to ensure that an Event of Default will not occur during the Pre-Conversion Option Period. If no substitute borrower is approved by Lender upon the expiration of the Pre-Conversion Option Period, Lender may complete the Lender Foreclosure.

(c) Subsequent to the filing or commencement of any judicial or non judicial foreclosure sale, deed in lieu of foreclosure or other proceeding or transaction whereby Lender or a purchaser takes title to the Borrower's interest in the Leasehold in connection with the exercise of remedies under the Citi Loan Documents (a "Lender Foreclosure") prior to the Conversion Date, Lender shall notify Agency at the addresses set forth in paragraph 10 below, which notification shall be provided to Agency pursuant to California Civil Code Section 2924b(c)(2)(D);

(d) In the event of any Lender Foreclosure on the Construction Loan, Agency shall have the right to propose to Lender or such other purchaser, as applicable, without any obligation on the part of Lender or such other purchaser, as applicable, to accept, terms and conditions pursuant to which Lender or such other purchaser, as applicable, might agree to complete the Improvements as contemplated by the Disposition and Development Agreement and in conformance with the Agency's goal of increasing affordable housing as reflected in the Agreement Affecting Real Property recorded against the Property in favor of the Agency and prior in seniority to the Citi Loan Documents; and

(e) Prior to completion of a Lender Foreclosure on the Construction Loan, if requested by the Agency, but not an obligation of the Agency, Lender agrees that it will assign to Agency its entire interest in the Construction Loan, without recourse or warranty so long as the Agency pays to Lender all obligations of Borrower under the Citi Loan

Documents including the entire principal amount outstanding under the Citi Loan Documents, all accrued interest and any prepayment fees thereunder and all other amounts due and owing under the Lender Documents.

8. Notwithstanding anything to the contrary contained in this Agreement, the Lender hereby agrees as follows with respect to the Citi Loans subsequent to the Conversion Date:

(a) Upon the occurrence of an event of default under the Citi Loan Documents (“Event of Default”), subsequent to the Conversion Date, Lender acknowledges and agrees to provide the Agency with written notice of such default no less than thirty (30) days prior to Lender recording an official Notice of Default in the Official Records, at the addresses set forth in paragraph 10 below (the “Pre-Notice of Default Period (Post-Conversion)”). The Pre-Notice of Default Period (Post-Conversion) shall not commence until Agency is in receipt of such written notice. During the Pre-Notice of Default Period (Post-Conversion), Agency shall have the right, but not the obligation, to record an official Notice of Default in the Official Records for an event of default under the Agency Loan Documents. Lender acknowledges and agrees that, only after the expiration of the Pre-Notice of Default Period (Post-Conversion), shall Lender record a Notice of Default in the Official Records pertaining to an Event of Default. Lender reserves the right to seek a receiver during such Pre-Notice of Default Period (Post-Conversion), if it is reasonably necessary to preserve the value of the Leasehold.

Lender further acknowledges and agrees that upon the recordation of the Notice of Default by Lender, and for one hundred and twenty (120) days thereafter (the “Agency Cure Period (Post-Conversion)”), Agency shall have the right, but not the obligation, to either (i) contact Lender to negotiate potential cures of such Event of Default whereby Lender shall consider in good faith any proposals from Agency; or (ii) formally notice or agendize the Agency’s desire to foreclose, take a deed in lieu of foreclosure, or other proceeding or transaction whereby Agency takes title to the Borrower’s interest in the Leasehold in connection with the exercise of remedies under the Agency Loan Documents (“Agency Foreclosure”). The Agency Cure Period (Post-Conversion) shall not commence until the Agency is in receipt of a copy of the official Notice of Default recorded in the Official Records at the addresses set forth in paragraph 10 below. Lender acknowledges and agrees that Lender shall not complete a Lender Foreclosure (as defined below) during the Agency Cure Period (Post-Conversion).

Lender agrees to provide duplicate copies of all Borrower notices pertaining to an Event of Default to the Agency at the addresses set forth in paragraph 10 below at the same time Lender notifies Borrower in writing of such Event of Default.

(b) In the event the Agency formally notices or agendizes an Agency Foreclosure pursuant to subparagraph 8. (a) above, or otherwise acquires title to the Leasehold estate prior to a Lender Foreclosure and otherwise cures all Events of Default under the Citi Loan Documents, Lender acknowledges and agrees that Lender shall not declare a default or accelerate its Citi Loan under the Citi Loan Documents based upon the due-on-sale clause set forth in the Citi Loan Documents, for one hundred and eighty (180) days thereafter during which time Agency may submit an application for approval of Agency or a designee to assume Borrower’s Permanent Loan pursuant to the terms of the Citi Loan

Documents (the "Post-Conversion Option Period"). Upon reviewing any application submitted to Lender during the Post-Conversion Option Period, Lender will approve or disapprove the application according to its then current underwriting standards, provided that such underwriting standards are the same or similar underwriting standards used for developers of comparable projects in Southern California, and further provided that substantial review of the Agency and/or designee shall include, together with the usual underwriting standards, the applicant's ability to operate the Improvements in accordance with applicable law and restrictions, including the terms and provisions of Borrower's Multi-Family Housing Program-Supportive Housing Program Loan and Borrower's Mental Health Services Act Program Loan (all as defined in the Method of Financing attached to the DDA as Attachment No. 3 and incorporated herein by this reference), the Disposition and Development Agreement, the Agreement Affecting Real Property, the Ground Lease and any other applicable document executed in connection with the Leasehold. Agency acknowledges and agrees that Agency shall use best efforts to ensure that an Event of Default will not occur during the Post-Conversion Option Period.

(c) If no substitute borrower is approved by Lender upon the expiration of the Post-Conversion Option Period, Lender may complete the Lender Foreclosure. Subsequent to the filing or commencement of any judicial or non judicial foreclosure sale, deed in lieu of foreclosure or other proceeding or transaction whereby Lender or a purchaser takes title to the Borrower's interest in the Leasehold in connection with the exercise of remedies under the Citi Loan Documents (a "Lender Foreclosure") subsequent to the Conversion Date, Lender shall notify Agency at the addresses set forth in paragraph 10 below, which notification shall be provided to Agency pursuant to California Civil Code Section 2924b(c)(2)(D);

(d) Prior to completion of a Lender Foreclosure on the Permanent Loan, if requested by the Agency, but not an obligation of the Agency, Lender agrees that it will assign to Agency its entire interest in the Permanent Loan, without recourse or warranty so long as the Agency pays to Lender all obligations of Borrower under the Citi Loan Documents including the entire principal amount outstanding under the Citi Loan Documents, all accrued interest and any prepayment fees thereunder and all other amounts due and owing under the Lender Documents.

9. Nothing in this Agreement, the DDA, the Ground Lease, or the Agency Trust Deed shall impose on the Agency the financial obligations of the Borrower under the Citi Loan Documents, or require the Agency to cure Events of Default under the Citi Loan Documents or commence an Agency Foreclosure, unless the Agency forecloses on the Leasehold estate under the Agency Deed of Trust, accepts a deed in lieu of foreclosure or accepts an assignment of Borrower's obligations therein.

10. All notices, requests, demands or other communications to the respective parties hereto (unless otherwise expressly stipulated in this Agreement) shall be deemed to have been duly given or made if addressed as follows:

If to Lender, to: Citi Community Capital
Asset Management
325 E. Hillcrest Drive, #160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset
Management
Telephone: (805) 557-0930, Ext. 222
Facsimile: (805) 557-0924
Loan/Transaction/File #: [Citi#]

and

Citi Community Capital
Middle Office
390 Greenwich, 2nd Floor
New York, New York 10013
Attention: Desk Head
Loan/Transaction/File #: [Citi#]

and

Citigroup Inc.
Citi Community Capital
Municipal Securities Division
388 Greenwich Street
New York, New York 10013
Attention: General Counsel's Office
Loan/Transaction/File #: [Citi#]

and

Citicorp USA, Inc.
Citi Community Capital
787 W. Fifth Street, 29th Floor
Los Angeles, California 90071
Attention: Loan Administrator
Loan/Transaction/File #: [Citi#]

If to Borrower, to: Cedar Gateway, L.P.
c/o ROEM Development Corporation
1650 Lafayette Street
Santa Clara, California 95050
Attn: Robert Emami
Tel: (408) 984-5600
Fax: (408) 984-311

and

Squier Properties
3129 6th Street
Santa Monica, California 90405
Attn: Gary Squier
Tel: (310) 850-9043
Fax: 310-392-5831

and

Pacific Housing, Inc.
1801 L Street, Suite 245
Sacramento, California 95811
Attention: Mark Wiese

With a copy to:

Cox, Castle & Nicholson, LLP
555 California Street, 10th Floor
San Francisco, California 94104
Attention: Stephen C. Ryan, Esq.

For Agency:

Redevelopment Agency of the City of San Diego
1200 Third Avenue, Suite 1400
Mail Stop MS56D
San Diego, California 92101
Attn: Deputy Executive Director
Facsimile: (619) 553-3219

and

Redevelopment Agency of the City of San Diego
c/o Centre City Development Corporation
401 "B" Street, Suite 400
San Diego, California 92101
Attn: Ms. Eri Kameyama
Centre City Affordable Housing
Telephone: (619) 533-7100
Facsimile: (619) 236-9148

With copies to:

Office of City Attorney
1200 Third Avenue, Suite 1100
Mail Stop MS56D
San Diego, California 92101
Attention: Kendall Berkey, Esq.

and

Kane, Ballmer & Berkman
515 S. Figueroa St. Suite 1850
Los Angeles, California 90071
Attention: Murray O. Kane, Esq.
Facsimile: (213) 625-0931

or to such other address or such other person as either party may from time to time hereafter specify to the other in writing delivered in the manner provided herein. Any notice, request, demand or other communication to be given or made hereunder may (except to the extent otherwise required by law) be given or made by registered or certified U.S. mail, return receipt requested with postage prepaid, or by personal service (including service by a reputable overnight courier service, such as FedEx, DHL or other comparable courier). Unless otherwise expressly stipulated in this Agreement, notices shall be deemed to have been given or made on the documented date of receipt, in the case of notice by certified mail on the date reflected on the return receipt, or in the case of delivery by courier, on the date signed received by the addressee of the courier's delivery receipt.

11. 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.

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

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

[Signatures on the Following Page]

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS PROVISIONS WHICH ALLOW THE PERSON OBLIGATED ON YOUR REAL PROPERTY LEASEHOLD 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.

BORROWER:

CEDAR GATEWAY, L.P.,
a California limited partnership

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

[Signatures Continue on the Following Page]

DRAFT

LENDER:

CITICORP USA, INC.,
a Delaware corporation

By: _____
Richard Gerwitz
Vice President

[Signatures Continue on the Following Page]

DRAFT

AGENCY:

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

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY

Jan I. Goldsmith
Agency General Counsel

By: _____

Kendall D. Berkey
Deputy General Counsel

Agency Special Counsel
KANE, BALLMER & BERKMAN

By: _____

Murray O. Kane

DRAFT

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:

[to be inserted]

DRAFT

State of California

County of _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

DRAFT

State of California

County of San Diego

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of Los Angeles

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit No. 10

REVISED FORM OF THE DISBURSEMENT AGREEMENT

ATTACHMENTS

ATTACHMENT NO. 15

REVISED FORM OF
DISBURSEMENT AGREEMENT

DISBURSEMENT AGREEMENT
(Cedar Gateway Project)

THIS DISBURSEMENT AGREEMENT is entered into by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic (“Agency”) and CEDAR GATEWAY, L.P., a California limited partnership (“Borrower”), as of _____, 2009.

R E C I T A L S

A. Agency and Borrower, have entered into that certain Disposition and Development Agreement dated May 22, 2008, as amended by that certain First Amendment to Disposition and Development Agreement dated _____, 2009 (collectively referred to as the “DDA” or “Agreement”), relating to that real property legally described in Attachment No. 2 to the DDA (the “Property”). The DDA, the promissory note evidencing the Agency Loan (defined below), the deed of trust securing the Agency Loan, and other instruments referred to in the DDA, are sometimes referred to collectively herein as the “Agency Loan Documents.” Any capitalized term not defined herein shall have the meaning ascribed to such term in the DDA.

B. In accordance with the DDA, Borrower intends to construct a residential development (the “Project”) consisting of rental housing that is affordable to very-low and extremely-low income persons, consisting of approximately 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units (the “Units”) and as further described in the DDA. Of the approximately 65 units, 23 shall be set aside as supportive housing units targeted for the special needs population. The costs of acquiring the Property and developing the Project (“Costs”) are set forth in the Project Budget approved by the Agency and Citicorp USA, Inc., a Delaware corporation (the “Construction Lender”) as the final project budget, which is attached to this Agreement as Exhibit “A” and incorporated herein by this reference (the “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, upon which approval the Project Budget shall be replaced by the approved revised Project Budget.

C. Pursuant to the DDA, Agency has agreed to purchase the Property from Borrower for the Purchase Price not to exceed \$6,358,000.

D. Pursuant to the DDA, Agency has agreed to make a loan to Borrower (the “Agency Loan” or “Agency Funds”), to be used to finance a portion of the Costs. The Agency Loan shall be in the original principal amount not to exceed \$3,661,000, and shall be evidenced by the Agency Promissory Note and secured by the Agency Deed of Trust.

E. Pursuant to the DDA, Owner has agreed to construct and to sell to Agency, and Agency has agreed to purchase, the Agency Garage Parcel and related Improvements containing approximately 26 parking spaces (the “Agency Parking Spaces”), which number of Agency Parking Spaces may change in the discretion of the Executive Director, for a purchase price (the “Agency Garage Purchase Price”) equal to Owner’s actual, reasonable and documented cost to construct the Agency Parking Spaces, but not more than \$1,344,000.

F. Borrower shall at a later date enter into a Construction Loan Agreement (“Construction Loan Agreement”), pursuant to which Construction Lender shall agree to lend Borrower funds in the amount of approximately \$13,085,000 (the “Construction Loan” or “Construction Loan 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 shall sometimes referred to collectively as the “Construction Loan Documents”. This Agreement does not concern the disbursement of the Construction Loan or affect any of the Construction Loan Documents. In addition, Borrower shall be responsible, during the construction period, to provide the Mental Health Services Act (MHSA) Program funds in the approximate amount of \$2,752,000, Tax Credit Assistance Program (TCAP) funds in the approximate amount of \$10,518,000, California Recycle Underutilized Sites (CalReUSE) Remediation Program funds in the amount of \$94,330 and income during the lease-up period (“Income During Lease-Up”) in the approximate amount of \$103,648. Any funds needed to pay for cost overruns and contingencies not otherwise funded by other sources of construction financing shall be referred to as “Additional Funds”, and although Borrower is entitled to a Developer Fee of up to \$1,400,000, during construction Borrower shall be paid a fee not to exceed \$1,260,000 (the “Construction Period Developer Fee”). The \$140,000 balance shall be referred to as the “Deferred Developer Fee”. The Deferred Developer Fee in the amount of \$94,000 shall be paid with interest at the minimum interest rate allowed by applicable rules relating to Tax Credit Exchange Funds, out of Revenues before calculating Residual Receipts (as provided in the Agency Loan Note). No interest shall accrue on that portion of the deferred developer fees in excess of \$94,000. The TCAP Funds, MHSA funds, CalReUSE funds, Income During Lease-Up and Additional Funds shall be referred to as “Borrower’s Funds”. Although the Deferred Developer Fee is considered a contribution of the Borrower, it shall not be considered a part of the Borrower’s Funds for purposes of this Agreement since it is not in the form of “cash,” but is rather a cost that is not being paid.

G. The Agency Funds, Agency Garage Purchase Price funds, Construction Lender Funds and Borrower’s Funds are referred to herein collectively as the “Project Funds.”

H. The Agency and Borrower desire to enter into this Disbursement Agreement solely to provide for the disbursement of the Agency Funds and Agency Parking Purchase Price funds for approved Costs.

NOW, THEREFORE, the parties agree as follows:

1. Deposit and Use of Funds.

a. Borrower's Account. Agency acknowledges that except to the extent Borrower's Funds have been spent on Costs prior to the Closing, Borrower will deposit any Borrower's Funds into a fully segregated disbursement account held by the Construction Lender (the "Borrower's Account").

b. Loan Balancing.

(i) In the event Agency determines, from time-to-time, that the mathematically combined amounts of the Agency Funds, Construction Loan Funds and Borrower's Funds, 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 ("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 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 disbursement of any of the proceeds of the Agency Loan.

(iii) As used in this Disbursement Agreement, the term "Approved Costs" shall mean all hard and soft costs (and modifications thereto), which were 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 by the Construction Lender and the Agency.

(iv) In the event Agency determines, from time-to-time, that the amount of the Agency Garage Purchase Price funds, as set forth in the attached Project Budget, are insufficient to pay costs related to the development and construction of the Agency Parking Spaces located on the Agency Garage Parcel, including increased costs due to change orders, cost overruns or otherwise, then, upon notice from the Agency, Borrower shall be responsible to provide for any additional funds as may be necessary to pay all such obligations.

c. Agency Funds/ Agency Garage Purchase Price Funds.

(i) The Agency Funds shall be deposited and held by the Agency as the Agency shall determine, to be disbursed as provided in this Disbursement Agreement. The Agency Funds are not pledged to the Construction Lender nor shall they constitute security for the Construction Loan. No Agency Funds may be used for any portion of the construction of improvements within the Retail Parcels or the Agency Garage Parcel. The Agency Loan proceeds are to be disbursed throughout the construction of the Garage and the Housing Improvements; no portion of the Agency Loan may be used to construct the Retail Improvements or the Agency Parking Spaces.

(ii) The proceeds of the Agency Garage Purchase Price funds are to be disbursed during the construction of the Agency Parking Spaces.

d. Disbursement Schedule. The Disbursement Schedule attached to this Disbursement Agreement as Exhibit "B" represents a good faith estimate of when the Project Funds will be disbursed to pay Costs. 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.

The Agency Funds, Agency Garage Purchase Price funds, Construction Loan Funds and the Borrower's Funds shall be used exclusively for the payment of, or reimbursement for, Approved Costs as shown in the Project Budget, as the same may be amended from time to time with the written approval of the Construction Lender and the written approval of the Agency Executive Director or designee, such payment of, or reimbursement for, Costs to be made only after the same have been incurred by the Borrower.

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 acceptable to Agency (the "Application for Payment" or "Draw Request"), subject to the conditions set forth below. The term "disbursement" shall include, without limitation, disbursement of Agency Funds, Borrower's Funds that have been delivered to Construction Lender, Borrower's prior expenditures of Borrower's Funds, and Construction Loan Funds. An Application for Payment shall be submitted not more frequently than once monthly. Agency 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 Agency determines has not been satisfied.

b. Order of Disbursement. Project Funds shall be disbursed in the order set forth below:

1. First, the first installment of the Borrower's Funds;

2. Second, the disbursement of the Agency Funds, with the timing of such disbursements by the Agency; provided, however, that the disbursements of the Agency Funds shall (i) be in proportion to the Construction Loan disbursements, with such proportion based upon the maximum loan amounts of the Agency Loan and the Construction Loan, and (ii) be disbursed at the same time and frequency as the Construction Loan disbursements, subject to a cumulative total of Agency Loan disbursements during construction of \$2,928,800 (80% of the Agency Loan amount, not including the Agency Garage Purchase Price).

Up to 90% of the Agency Garage Purchase Price funds shall be disbursed during construction of the Agency Parking Spaces. The remaining portion of the Agency Garage Purchase Price shall be paid to Borrower upon Issuance of the Release of the Construction Covenants and submission by Borrower of its certified costs to construct the Agency Parking Spaces.

3. Third, Agency shall disburse any hard cost retention (“the “Retention”) held by it in accordance with Section 6 infra.

As used in this subparagraph b., “pari passu” as used in connection with the Agency Loan means, on a pro rata basis according to Agency’s loan amount to be disbursed during construction to the total amount of the Construction Lender’s loan.

4. After commencement of construction of the first floor of the Agency Parking Parcel, Up to 90% of the Agency Garage Purchase Price funds will be disbursed to Borrower upon Agency receipt and approval of an Application for Payment as set forth herein. The remaining portion of the Agency Garage Purchase Price funds shall be paid pursuant to paragraph 3.b.2. above.

c. Contents of Application for Payment. Each Application for Payment shall set forth the following: (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; (3) the percentage of completion of the portion of the Work to be paid from the Item, and (4) a certification by Borrower that no Agency Funds or Agency Parking Purchase Price funds will be used to pay for Improvements constructed within the Retail Parcels. Agency hereby consents to the use of the form of Application for Payment attached to the Construction Loan Agreement for draw requests, with the certification described in clause (4) above added.

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 loans.

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. Agency

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, Borrower shall transmit to Agency, to the extent available to Borrower, 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 Agency a statement of all Costs previously paid by Borrower with Borrower's Funds, if any, 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 pursuant to this paragraph g. shall be deemed included in Borrower's Funds 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 Agency Loan Documents.

b. Procedure. Agency shall, within fifteen (15) 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, appropriate members of the construction team and the Construction Lender of such amount, and, if and as required pursuant to paragraph b. of Section 3, above, disburse the approved amount, by check, to Borrower, Construction Lender or to the respective contractor or subcontractor, as determined by the Agency Executive Director or designee.

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, Agency may disapprove all or part of a requested draw request. In the event Agency disapproves any portion of the amount requested by Borrower in an Application for Payment (the "disapproved amount"), Agency shall promptly notify the Construction Lender and the Borrower of the disapproved amount and the reason therefor.

d. Concurrent Review of Applications for Payment. In the event any item shall be disapproved or deemed disapproved, the representatives of the Borrower and Agency shall meet promptly and in good faith to attempt to resolve the matter to their mutual satisfaction. To effectuate this paragraph, Borrower shall submit to the Agency and the Construction Lender each Application for Payment concurrently, and Agency shall notify the Construction Lender of its

approval or disapproval of such request as soon as possible. Borrower shall transmit to Agency any notice of approval or disapproval of an Application for Payment as soon as the same is received from the Construction Lender. Agency shall signify its approval of an Application for Payment by signing and transmitting to the Construction Lender a copy of the Application for Payment, by hard copy or facsimile transmission.

e. Disbursement of Undisputed Amounts. In the event of any dispute, the Agency and Borrower shall each disburse the amount of any Application for Payment not in dispute, and fund any disputed amounts promptly upon resolution of the dispute. Disputed amounts shall not be deducted from the Agency's loan, but shall be available for disbursement for other approved Costs in accordance with the Project Budget. The Agency and the Borrower shall seek to resolve any disputes promptly and in good faith.

g. Right to Condition Disbursements. The Agency shall have the right to condition any disbursement upon receipt and approval of such documentation, evidence or information that Agency 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.

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

(1) Agency shall use the disbursement procedures set forth in the Agency Loan Documents and this Agreement; provided, however, Agency shall not be obligated to disburse any Project Funds until the Construction Lender has approved all or a portion of the corresponding Application for Payment for the funds to be disbursed; and

(2) The Agency 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 shall have the right in its sole discretion to make disbursements of Project Funds directly to third parties entitled to such payment.

5. Early Release of Retention Amounts By Agency. Subject to the prior written consent of the Agency Executive Director or designee (which Agency, acting through its Executive Director or designee, shall not unreasonably withhold, condition or delay), the Borrower may request that the Agency release Retention amounts relating to subcontractors in categories designated by Borrower prior to Completion, within 30 days after substantial completion of the work to be performed by such subcontractors with approval of the same by the inspectors for the applicable governing authorities and subject to the following conditions as to such subcontract:

a. submission to the Agency of unconditional lien releases or waivers relating to the work performed by such subcontractors;

b. certification by the project architect that the work covered by such subcontract has been substantially completed in a good and workmanlike manner and in accordance with the approved plans and specifications; and

c. delivery to Agency of satisfactory evidence of payment, settlement, bonding, discharge or other extinguishment of any mechanic's liens that have been recorded or stop notices that have been delivered to Agency, including without limitation all statutory waivers.

6. Approval of Final Draw Request. Except as provided in Section 5, one-half of the Agency Loan Retention (*i.e.*, 10% of the Agency Loan) shall be disbursed to Borrower by Agency 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 Agency of unconditional lien releases or waivers obtained by Borrower or Borrower's agent, (d) certification by the project architect that the Project has been completed in a good and workmanlike manner and in accordance with the approved plans and specifications, (e) disposition of any mechanic's liens that have been recorded or stop notices that have been delivered to either Agency or Construction Lender, so that any such liens shall 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) issuance by the Agency of its Release of Construction Covenants pursuant to the Disposition and Development Agreement. Notwithstanding the foregoing and notwithstanding the provision of any other document, the first one-half of the Retention shall not be disbursed until at least thirty-five (35) 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. The remainder of the Agency Loan Retention shall be disbursed at Conversion.

7. Disbursement of Borrower's Funds. All of the Borrower's Funds shall be disbursed 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. Inspection of the Project. Agency shall have the right to inspect the Property during construction and agrees to deliver to the Borrower copies of any inspection reports. Borrower shall deliver to Agency any inspection reports prepared on behalf of the Construction Lender, to the extent available to Borrower. Inspection of the Property shall be for the sole purpose of protecting the Agency's security and is not to be construed as a representation by Agency 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.

9. Supervision of Construction. Agency 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. Agency is not the agent for Borrower, neither are Agency and Borrower partners or joint venturers with each other.

10. Integrated Agreement. This Disbursement 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 Disbursement 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 Disbursement Agreement, this Disbursement Agreement does not supersede and shall not be deemed to amend any of the Agency Loan Documents.

11. Termination of this Disbursement Agreement. This Disbursement Agreement shall terminate when all of the Agency Funds and Agency Garage Purchase Price funds have been fully disbursed.

12. Counterparts. This Disbursement 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.

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

14. Governing Law. This Disbursement 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.

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

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

17. 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 Disbursement Agreement may be amended only by a written agreement executed by the parties in interest at the time of the modification.

18. 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 Disbursement Agreement.

19. Severance. If any provision of this Disbursement 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 Disbursement Agreement.

20. Independent Advice of Counsel. The parties hereto and each of them, represent and declare that in executing this Disbursement 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.

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

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

(Signatures on following page)

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

**CEDAR GATEWAY, L.P.,
a California limited partnership**

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

(Signatures continue on following page)

DRAFT

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

By: _____
Janice Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY
Jan I. Goldsmith
Agency General Counsel

By: _____
Kendall D. Berkey
Deputy City Attorney

Agency Special Counsel
KANE, BALLMER & BERKMAN

By: _____
Murray O. Kane

(Signatures continue on following page)

DRAFT

**CITICORP USA, INC.,
a Delaware corporation**

By: _____
Richard Gerwitz
Vice President

DRAFT

Exhibit "A" to Disbursement Agreement

PROJECT BUDGET

[behind this page]

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**CEDAR GATEWAY
REVISED PROJECT
BUDGET
October 2009**

Acquisition Costs	\$ 5,265,000
Direct Costs	
Off-Site Improvements	\$ 320,000
Shell Construction- Residential	\$17,677,000
Shell Construction - Retail	\$ 1,304,000
Shell Construction - Public Garage	\$ 1,344,000
Contingency	\$ 1,100,000
<i>Total Direct Costs</i>	<i>\$21,745,000</i>
Indirect Costs	
Architecture & Engineering	\$ 1,083,000
Permits & Fees	\$ 1,000,000
Legal & Accounting	\$ 20,000
Taxes & Insurance	\$ 425,000
Developer Fee	\$ 1,400,000
Marketing/Lease-Up	\$ 20,000
Contingency	\$ 240,000
<i>Total Indirect Costs</i>	<i>\$ 4,188,000</i>
Financing Costs	
Loan Fees	\$ 483,000
Interest During Construction	\$ 869,000
TCAC/Syndication Fees	\$ 109,000
Operating Lease-Up/Reserves	\$ 540,000
<i>Total Financing Costs</i>	<i>\$ 2,001,000</i>
TOTAL	\$33,199,000

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Exhibit "B" to Disbursement Agreement

DISBURSEMENT SCHEDULE

[Disbursement Schedule to be attached]

ROEM Development Corporation

Disbursement Schedule	Month>>>>															
	Total	1	2	3	4	5	6	7	8	9	10	11	12	13	14	
Exchanges Funds - TCAC	14,024,415	406,838	1,042,473	1,136,803	1,136,803	1,136,803	750,047	0	0	0	0	0	0	0	0	
Perm - Loan	2,565,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Construction Loan	13,085,000	0	0	0	0	0	545,685	935,699	940,020	944,360	981,556	953,253	961,759	999,035	970,813	
CCDC Loan Disbursed Pari Passu with 18%	2,928,800	0	0	0	0	0	122,140	209,436	210,403	211,375	219,701	213,365	215,269	223,613	217,296	
CCDC Loan Disbursed at Cons. Completion	366,100	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
CCDC Loan Permanent Period Funding	366,100	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Public Parking Contribution (CCDC)	1,344,000	0	324,400	324,400	324,400	324,400	46,400	0	0	0	0	0	0	0	0	
MHP Loan	3,301,191	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Lease Up Income	51,824	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
MHSA Capital Loan	2,752,000	2,752,000	0	0	0	0	0	0	0	0	0	0	0	0	0	
Remediation Funds	94,330	0	94,330	0	0	0	0	0	0	0	0	0	0	0	0	
Deferred Developer Fee	140,093	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
TOTAL SOURCES:	41,018,853	3,158,838	1,461,203	1,461,203	1,461,203	1,461,203	1,464,272	1,145,136	1,150,423	1,155,735	1,201,256	1,166,619	1,177,028	1,222,648	1,188,109	
Off-Site (incl. CCDC Parking)	1,622,000	0	324,400	324,400	324,400	324,400	324,400									
Retail Specific Improvements	1,132,322	0	62,907	62,907	62,907	62,907	62,907	62,907	62,907	62,907	62,907	62,907	62,907	62,907	62,907	
Construction	15,354,845	0	853,047	853,047	853,047	853,047	853,047	853,047	853,047	853,047	853,047	853,047	853,047	853,047	853,047	
General Requirements (incl.)	1,086,550	0	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	
Overhead (incl.)	362,183	0	20,121	20,121	20,121	20,121	20,121	20,121	20,121	20,121	20,121	20,121	20,121	20,121	20,121	
Profit (incl.)	1,086,550	0	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	60,364	
Hard Cost Contingency	1,100,000	0	61,111	61,111	61,111	61,111	61,111	61,111	61,111	61,111	61,111	61,111	61,111	61,111	61,111	
Appraisal/Market Study	10,000	10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	
Architect	527,800	427,800	5,556	5,556	5,556	5,556	5,556	5,556	5,556	5,556	5,556	5,556	5,556	5,556	5,556	
Engineering/Consultants	555,637	555,637	0	0	0	0	0	0	0	0	0	0	0	0	0	
Permits & Fees	1,000,438	1,000,438	0	0	0	0	0	0	0	0	0	0	0	0	0	
Taxes	175,000	0	0	0	0	0	0	0	0	0	40,000	0	0	40,000	0	
Insurance	250,000	210,000	0	0	0	0	0	0	0	0	0	0	0	0	0	
Accounting	20,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Construction Loan Interest	868,609	0	0	0	0	0	3,069	8,333	13,620	18,932	24,454	29,816	35,226	40,845	46,306	
Borrower Legal	205,000	205,000	0	0	0	0	0	0	0	0	0	0	0	0	0	
Constr./Perm Fees and Costs (see detail)	172,918	172,918	0	0	0	0	0	0	0	0	0	0	0	0	0	
Lender Costs	95,000	95,000	0	0	0	0	0	0	0	0	0	0	0	0	0	
Marketing/Lease Up/Start Up	20,000	0	0	0	0	0	0	0	0	0	0	0	5,000	5,000	5,000	
TCAC Application Fee	2,000	2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	
TCAC Allocation Fee	80,045	80,045	0	0	0	0	0	0	0	0	0	0	0	0	0	
TCAC Monitoring Fee	26,650	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Soft Cost Contingency	240,000	0	13,333	13,333	13,333	13,333	13,333	13,333	13,333	13,333	13,333	13,333	13,333	13,333	13,333	
Developer Fee	1,400,000	400,000	0	0	0	0	0	0	0	0	0	0	0	0	0	
Cash Reserves (See detail sheet)	540,306	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Construction Loan Repayment	13,085,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
TOTAL USES:	41,018,853	3,158,838	1,461,203	1,461,203	1,461,203	1,461,203	1,464,272	1,145,136	1,150,423	1,155,735	1,201,256	1,166,619	1,177,028	1,222,648	1,188,109	

ROEM Development Corporation

Disbursement Schedule	Month>>>>													Permanent Loan Conversion
	Total	15	16	17	18	19	20	21	22	23	24	25	26	
Exchanges Funds - TCAC	14,024,415	0	0	0	0	0	4,693,404	52,110	38,179	31,213	31,213	31,213	31,213	3,506,106
Perm - Loan	2,565,000	0	0	0	0	0	0	0	0	0	0	0	0	2,565,000
Construction Loan	13,085,000	975,296	975,695	980,200	1,198,670	722,571	0	0	0	0	0	0	0	389
CCDC Loan Disbursed Pari Passu with 18%	2,928,800	218,299	218,389	219,397	268,297	161,732	0	0	0	0	0	0	0	87
CCDC Loan Disbursed at Cons. Completion	366,100	0	0	0	0	366,100	0	0	0	0	0	0	0	0
CCDC Loan Permanent Period Funding	366,100	0	0	0	0	0	0	0	0	0	0	0	0	366,100
Public Parking Contribution (CCDC)	1,344,000	0	0	0	0	0	0	0	0	0	0	0	0	0
MHP Loan	3,301,191	0	0	0	0	0	0	0	0	0	0	0	0	3,301,191
Lease Up Income	51,824	0	0	0	0	0	(18,469)	(4,538)	9,393	16,359	16,359	16,359	16,359	0
MHSA Capital Loan	2,752,000	0	0	0	0	0	0	0	0	0	0	0	0	0
Remediation Funds	94,330	0	0	0	0	0	0	0	0	0	0	0	0	0
Deferred Developer Fee	140,093	0	0	0	0	0	0	0	0	0	0	0	0	140,093
TOTAL SOURCES:	41,018,853	1,193,595	1,194,083	1,199,597	1,466,966	1,250,404	4,674,935	47,572	47,572	47,572	47,572	47,572	47,572	9,878,966
Off-Site (incl. CCDC Parking)	1,622,000													0
Retail Specific Improvements Construction	1,132,322	62,907	62,907	62,907	62,907	62,907	0	0	0	0	0	0	0	0
General Requirements (incl.)	15,354,845	853,047	853,047	853,047	853,047	853,047	0	0	0	0	0	0	0	0
Overhead (incl.)	1,086,550	60,364	60,364	60,364	60,364	60,364	0	0	0	0	0	0	0	0
Profit (incl.)	362,183	20,121	20,121	20,121	20,121	20,121	0	0	0	0	0	0	0	0
Hard Cost Contingency	1,086,550	60,364	60,364	60,364	60,364	60,364	0	0	0	0	0	0	0	0
Appraisal/Market Study	1,100,000	61,111	61,111	61,111	61,111	61,111	0	0	0	0	0	0	0	0
Architect	10,000	0	0	0	0	0	0	0	0	0	0	0	0	0
Engineering/Consultants	527,800	5,556	5,556	5,556	5,556	5,556	0	0	0	0	0	0	0	0
Permits & Fees	555,637	0	0	0	0	0	0	0	0	0	0	0	0	0
Taxes	1,000,438	0	0	0	0	0	0	0	0	0	0	0	0	0
Insurance	175,000	0	0	0	95,000	0	0	0	0	0	0	0	0	0
Accounting	250,000	0	0	0	0	40,000	0	0	0	0	0	0	0	0
Construction Loan Interest	20,000	0	0	0	20,000	0	0	0	0	0	0	0	0	0
Borrower Legal	868,609	51,792	57,280	62,794	69,536	73,601	47,572	47,572	47,572	47,572	47,572	47,572	47,572	0
Constr./Perm Fees and Costs (see detail)	205,000	0	0	0	0	0	0	0	0	0	0	0	0	0
Lender Costs	172,918	0	0	0	0	0	0	0	0	0	0	0	0	0
Marketing/Lease Up/Start Up	95,000	0	0	0	0	0	0	0	0	0	0	0	0	0
TCAC Application Fee	20,000	5,000	0	0	0	0	0	0	0	0	0	0	0	0
TCAC Allocation Fee	2,000	0	0	0	0	0	0	0	0	0	0	0	0	0
TCAC Monitoring Fee	80,045	0	0	0	0	0	0	0	0	0	0	0	0	0
Soft Cost Contingency	26,650	0	0	0	26,650	0	0	0	0	0	0	0	0	0
Developer Fee	240,000	13,333	13,333	13,333	13,333	13,333	0	0	0	0	0	0	0	0
Cash Reserves (See detail sheet)	1,400,000	0	0	0	0	0	0	0	0	0	0	0	0	1,000,000
Construction Loan Repayment	540,306	0	0	0	118,977	0	0	0	0	0	0	0	0	421,329
	13,085,000	0	0	0	0	0	4,627,363	0	0	0	0	0	0	8,457,637
TOTAL USES:	41,018,853	1,193,595	1,194,083	1,199,597	1,466,966	1,250,404	4,674,935	47,572	47,572	47,572	47,572	47,572	47,572	9,878,966

Exhibit No. 11

REVISED FORM OF THE GROUND LEASE

ATTACHMENTS

ATTACHMENT NO. 18

REVISED FORM OF GROUND LEASE

**GROUND LEASE
(Cedar Gateway Project)**

by and between

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

“Landlord”,

and

CEDAR GATEWAY, L.P.

“Tenant”

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EXHIBITS

- Exhibit A - Legal Description of the Leased Premises
- Exhibit B - Site Plan
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- Exhibit D - Estoppel Certificate
- Exhibit E - Regulatory Agreement
- Exhibit F - CalHFA Lease Rider
- Exhibit G - HCD Lease Rider

GROUND LEASE

This Ground Lease ("**Lease**") is dated for identification purposes as of the ___ day of _____, 200__, and is entered into by and between the following (collectively, the "**Parties**"): THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic ("**Landlord**"), and CEDAR GATEWAY, L.P., a California limited partnership ("**Tenant**").

RECITALS

A. The subject property (the "**Property**") is located in the Centre City Redevelopment Project Area, and is a portion of the real property commonly known as 1601 5th Avenue and 1620 6th Avenue. The Property is legally described in the Legal Description, attached hereto as Exhibit A, and depicted on the Site Plan, attached hereto as Exhibit B.

B. This Ground Lease is entered into pursuant to that certain Disposition and Development Agreement by and between Landlord (as "**Agency**") and Tenant (as "**Owner**") dated as of May 22, 2008, as amended by that certain First Amendment to Disposition and Development Agreement dated as of _____, 2009 (collectively referred to herein as the "**DDA**"). Any capitalized term not defined herein shall have such meaning ascribed to it in the DDA.

C. This Ground Lease is expressly subject to that certain Agreement Affecting Real Property executed by Landlord and Tenant, the Regulatory Agreement, the Reciprocal Easement Agreement executed by Landlord and Tenant and Covenants, Restrictions and Easements executed by Landlord and Tenant, all of even date herewith and recorded in the official records of San Diego County concurrently herewith.

NOW, THEREFORE, in consideration of the payments to be made hereunder and the covenants and agreements contained herein, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the real property hereinafter defined as the "Leased Premises" upon the following terms and conditions.

ARTICLE 1 - DEFINITIONS

1.1 AHP. The term "AHP" shall refer to the Affordable Housing Program.

1.2 Additional Rent. The term "Additional Rent" means all sums of money required to be paid pursuant to the terms of this Lease other than Rent including but not limited to the sums to be paid pursuant to Section 7.4 (regarding liens), Section 10.1 (regarding Impositions), and Section 14.3 (regarding self help).

1.3 Affiliate. The term "Affiliate" as used herein shall mean any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with another person, which, in the case of a partnership, shall include each of the general partners thereof. The term control, as used in the immediately preceding sentence, means the

possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

1.4 Agency Note. The term "Agency Note" refers to the residual receipts note by Tenant as maker and Landlord as payee.

1.5 Agency Loan. The term "Agency Loan" refers to the loan to be made by Landlord to Tenant under the DDA, evidenced by the Agency Note.

1.6 Agreed Rate. The term "Agreed Rate" as used herein shall mean an annual rate of interest equal to the lesser of (i) two percent (2%) above the rate of interest announced from time to time by the Bank of America, Downtown San Diego, Main Branch, as the prime or reference rate (or, in the event said bank ceases to announce a prime or reference rate or is acquired or ceases operations and there is no successor bank, another established and financially secure commercial bank, having a headquarters in California, selected by Landlord), or (ii) the highest rate permitted by law, if any.

1.7 Agreement Affecting Real Property. The term "Agreement Affecting Real Property" shall mean that certain Agreement Affecting Real Property (Including Rental Restrictions) conforming in form and substance with the Revised Form of Agreement Affecting Real Property attached to the DDA as Attachment No. 6 and incorporated herein by this reference.

1.8 CTCAC. The term "CTAC" shall refer to the California Tax Credit Allocation Committee.

1.9 Commencement Date. The Commencement Date is that certain date on which this Lease is fully executed by Landlord and Tenant.

1.10 Conversion Date. The Conversion Date shall mean the date upon which the Tenant's construction loan is converted to a permanent loan.

1.11 Covenants, Restrictions and Easements. The term "Covenants, Restrictions and Easements" refers to the Declaration of Covenants, Restrictions and Easements for Cedar Gateway to be executed by Landlord and Tenant and to be recorded concurrently with the Parcel Map.

1.12 CalHFA. The term "CalHFA" refers to the California Housing Finance Agency, a public instrumentality and a political subdivision of the State of California.

1.13 Default(s). The term "Default(s)" as used herein shall have the meaning described in Section 14.1.

1.14 Effective Gross Income. The term "Effective Gross Income" is defined at Section 4.2.3.

1.15 Environmental Laws. The term "Environmental Laws" means any federal, state or

local environmental, health and/or safety-related law, rule, regulation, requirement, order, ordinance, directive, guideline, permit or permit condition, currently existing and as amended, enacted, issued or adopted in the future. The term Environmental Laws includes, but is not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and similar state or local laws.

1.16 Force Majeure Events. The term "Force Majeure Events" shall have the meaning described in Section 14.8.

1.17 General Partner. The term "General Partner" refers to one or all of Tenant's general partners.

1.18 Governmental Restrictions. The term "Governmental Restrictions" as used herein shall mean and include any and all laws, statutes, official policies, ordinances, codes, formal decrees, rulings, regulations, writs, injunctions, orders, rules, conditions of approval or authorizations of any governmental entity, agency or political subdivision, now in force or hereafter adopted, which are applicable to the Leased Premises or the use thereof as of the date such term is being applied.

1.19 Hazardous Materials. The term "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; or "hazardous substances" as defined in section 33459(c) in the California Health and Safety Code; and in the regulations adopted and publications promulgated pursuant to said laws.

1.20 HCD. The term "HCD" shall mean the California Department of Housing and Community Development.

1.21 Improvements. The term "Improvements" shall mean and include all buildings, structures, fixtures, excavation, parking areas, walkways, drives, landscape areas, underground installations and all other improvements of whatsoever character constructed on, around, under or over the Property by Tenant and shall include the residential development construction on the Property, to consist of 65 dwelling units, including 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units, with parking, all as described in the Scope of Development. Subject to the Agreement Affecting Real Property, twenty three (23) units shall be supportive housing units targeted for the special needs population. The Improvements are owned by Tenant and are not a part of the Leased Premises.

1.22 Index. The term "Index" shall mean means the Consumer Price Index Urban Wage

Earners and Clerical Workers (Los Angeles Anaheim Riverside, CA, All Items, Base 1982 84 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics. Should the Bureau discontinue the publication of the Index, or publish the same less frequently or on a different schedule, or alter the same in some other manner including, but not limited to, changing the name of the Index or the geographic area covered by the Index, Landlord and Tenant shall adopt a substitute index or procedure which reasonably reflects and monitors consumer prices.

1.23 Leased Premises. The term "Leased Premises" as used herein shall have the meaning described in Article 2 below.

1.24 Leasehold. The term "Leasehold" refers to tenant's leasehold estate in the Leased Premises created by this Lease.

1.25 Leasehold Mortgage. The term "Leasehold Mortgage" shall mean any mortgage, deed of trust, or other established method of securing real property financing secured by the Leasehold as approved by the Agency.

1.26 Leasehold Mortgagee. The term "Leasehold Mortgagee" shall mean any Lender of a Leasehold Mortgage.

1.27 Lease Year. The term "Lease Year" as used herein shall mean each of the consecutive twelve (12) calendar month periods beginning on the first day of the first calendar month following the Commencement Date unless the Commencement Date falls on the first day of a calendar month, in which event the Lease Year shall commence on the Commencement Date.

1.28 Lender. The term "Lender" shall mean the owner and holder of any Mortgage or Leasehold Mortgage permitted by this Lease.

1.29 Losses and Liabilities. The term "Losses and Liabilities" as used herein shall mean all liabilities, claims, losses, causes of action, charges, penalties, damages, costs and expenses (including reasonable attorneys' fees and costs), of whatsoever character, nature and kind, whether to property or person, whether by direct or derivative action, and whether known or unknown, suspected or unsuspected, latent or patent.

1.30 MHP-SHP Loan. The term "MHP-SHP Loan" shall mean that certain loan by HCD to Tenant in the amount of approximately Three Million Three Hundred One Thousand One Hundred and Ninety One Dollars (\$3,301,191), which shall be evidenced by a note and secured by a deed of trust recorded against the Leasehold.

1.31 Official Records. The term "Official Records" means the Office of the County Recorder for the County of San Diego. Further, any lower case references throughout to recorded, recording or recordation, shall mean the act of registering for recordation documents with the Official Records.

1.32 Option to Purchase. The term "Option to Purchase Agreement" shall mean that certain Option to Purchase and Right of First Refusal Agreement in form as attached to the DDA

as Attachment No. 20, to be entered into by Landlord as “Agency” and Tenant as “Owner” pursuant to Article 17 of this Lease. The Option to Purchase Agreement grants to Landlord an option to purchase, and a right of first refusal to purchase, the Tenant’s leasehold interest in the Housing Parcel, and all Improvements within such parcel, at any time from the 55th anniversary of Conversion until the expiration of the extended term of this Lease.

1.33 Parcel Map. The term “Parcel Map” shall refer to any of a subdivision tract map, a parcel map or a condominium map to be prepared and recorded in the official records at such time as provided in the DDA. As of the date of this Lease the parties anticipate that the Parcel Map shall create 4 parcels: (1) Parcel 1 shall contain a portion of the ground floor, the second floor, and all remaining floors above the second floor, upon which the residential improvements will be located, as well as the middle and lower two floors of the Garage (the “Housing Parcel”); (2) Parcel 2 shall contain a portion of the ground floor retail space (the “Retail Parcel A”); (3) Parcel 3 shall contain ground floor retail space (the “Retail Parcel B”; together Retail Parcel A and Retail Parcel B are referred to as the “Retail Parcels”); and (4) Parcel 4 shall contain the upper floor of parking in the Garage (the “Agency Garage Parcel”).

1.34 Party or Parties. The term “Party” shall refer to one of Landlord or Tenant; the term “Parties” shall refer to both Landlord and Tenant.

1.35 Permanent Loan. The term “Permanent Loan” refers to the loan encumbering the Leased Premises as of the Commencement Date and any refinancing thereof.

1.36 Permitted Leasehold Mortgage. The term "Permitted Leasehold Mortgage" shall mean a Leasehold Mortgage satisfying all of the conditions set forth in Section 8.1. The approximate \$13,085,000 construction loan and approximate \$2,565,000 permanent loan by Citicorp USA, Inc., a Delaware corporation, the \$3,301,191 loan by HCD, the \$2,752,000 loan by CalHFA, the \$14,024,415 Tax Credit Assistance Program Loan are Permitted Leasehold Mortgages and any award of Affordable Housing Program fund amounts granted to Tenant.

1.37 Permitted Leasehold Mortgagee. The term "Permitted Leasehold Mortgagee" shall mean a Leasehold Mortgagee satisfying all of the conditions set forth in Section 8.1. Citicorp USA, Inc., a Delaware corporation, the maker of an approximately \$13,085,000 construction loan and approximately \$2,565,000 permanent loan by Citicorp USA, Inc., a Delaware corporation to Tenant; HCD, the maker of an approximately \$3,301,191 loan to Tenant pursuant to the Multifamily Housing Program; CalHFA, the maker of an approximately \$2,752,000 loan to Tenant pursuant to the Mental Housing Servicing Act; CTAC, the maker of an approximately \$14,024,415 loan to Tenant pursuant to pursuant to the Tax Credit Assistance Program; and AHP, the maker of an award pursuant to the Affordable Housing program are all deemed Permitted Leasehold Mortgagees.

1.38 Permitted Transfer. The term “Permitted Transfer” means any of the following:

- a. A conveyance of a security interest in the Leasehold Parcels in connection with any Permitted Leasehold Mortgage;

b. Any transfer of title by the Permitted Leasehold Mortgagee by foreclosure, deed or other conveyance in lieu of foreclosure in connection with the Permitted Leasehold Mortgage;

c. A transfer of the Leasehold by the Permitted Leasehold Mortgagee or an Affiliate thereof following a foreclosure, deed or other conveyance in lieu of foreclosure as contemplated by Section 8.3(h) of the Ground Lease;

d. A conveyance of the Housing Parcel to any Affiliate provided the co-general partner remains the same;

e. The inclusion of equity participation by Owner by addition of limited partners to Owner's limited partnership, or similar mechanism, and the purchase of any such limited partnership interest or interests by the General Partner;

f. The lease for occupancy of all or any part of the Improvements within the Housing Parcel;

g. The granting of easements or permits to facilitate the development of the Leased Premises in accordance with this Agreement;

h. The removal of the Managing General Partner by the Co-General Partner and the replacement thereof with a non-profit corporation with 501(c)(3) status, or a limited liability company whose sole member is a non-profit corporation with 501(c)(3) status;

i. The transfer of shares in ROEM Development Corporation provided that Robert Emami continues to own more than 50% of the issued and outstanding voting shares of, and remains in control of, ROEM Development Corporation;

j. The transfer of membership interests in Squier Properties, LLC, provided that Gary Squier continues to own more than 50% of the membership interests of, and remains in control of, Squier Properties, LLC; and

Any transfer described in clauses a., e. and g., shall be subject to the reasonable approval of documentation by the Agency Executive Director or designee. Upon any transfer described in clauses b., c., d. and h., the assignor and the assignee shall execute and deliver to the Agency Executive Director or designee an Assignment and Assumption Agreement conforming in form and substance to the Assignment and Assumption Agreement attached to the DDA as Attachment No. 28."

1.39 Person. The term "Person" refers to an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company or other entity, domestic or

foreign .

1.40 Property. The term "Property" refers to the real property located in the City and County of San Diego, State of California, legally described in the Legal Description, attached hereto as Exhibit A, and depicted on the Site Plan, attached hereto as Exhibit B.

1.41 REA. The term "REA" refers to the Reciprocal Easement Agreement encumbering the Property and recorded concurrently herewith.

1.42 Regulatory Agreement. The term "Regulatory Agreement" shall refer to that certain CTAC Regulatory Agreement recorded against the Leasehold pursuant to the \$14,024,415 California Tax Credit Allocation Committee American Recovery and Reinvestment Act of 2009 Loan funded to Tenant.

1.43 Rent. The term "Rent" as used herein shall have the meaning described in Section 4.2.

1.44 Representatives. The term "Representatives" as used herein shall mean elected and appointed officials, officers, agents, contractors, employees and attorneys.

1.45 Retail Parcels. The term "Retail Parcels" refers to the parcels on the ground floor of the Improvements containing approximately 4,865 square feet (net) of space, suitable for retail/commercial use.

1.46 Right of First Refusal (Retail). The term "Right of First Refusal (Retail)" shall mean the right of first refusal of the Landlord to purchase the Retail Parcel from Tenant together with the Retail Improvements therein as described in Section 226 of the DDA.

1.47 Senior Lender. The term "Senior Lender" shall refer to the Lender whose loan is secured by a first priority deed of trust encumbering the Leasehold Parcels as approved by the Agency.

1.48 Term. The term "Term" as used herein shall mean the term of this Lease as described in Section 3.1 below.

1.49 Transfer Documents. The term "Transfer Documents" as used herein shall have the meaning described in Section 9.2.

1.50 Transfer/Transferee. The term "Transfer" as used herein shall mean and include any conveyance, transfer, sale, assignment, lease, license, concession, franchise, gift, hypothecation, mortgage, pledge, encumbrance, or the like, to any person or entity ("Transferee"), excluding any Leasehold Mortgage which encumbers Tenant's leasehold estate created by this Lease.

1.51 Uncured Default(s). The term "Uncured Default(s)" as used herein shall have the meaning described in Section 14.2.5.

ARTICLE 2 - LEASED PREMISES

2.1 Leased Premises.

The premises demised and leased hereunder ("**Leased Premises**") consist of the Property, legally described at Exhibit A, and depicted on the Site Plan, Exhibit B, together with all right, title and interest of Landlord in and to all rights of way or use, servitudes, licenses, easements, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to the use of such real property during the Term, including, but not limited to, any easements granted to Tenant pursuant to the REA described in Section 5.8, but expressly excluding all Improvements now or to be located thereon. The parties agree that Tenant alone shall be entitled to all federal tax attributes of ownership of the Improvements, including without limitation, the right to claim depreciation or cost recovery deductions and the right to claim low-income housing tax credits thereon. The Parties contemplate that the Property shall be subdivided by the Parcel Map into the following parcels: the Housing Parcel, the Retail Parcel A, the Retail Parcel B, and the Agency Garage Parcel. (The Retail Parcel A and the Retail Parcel B are referred to collectively as the "Retail Parcels.") As provided below at Section 2.3, after recordation of the Parcel Map and prior to the issuance of a certificate of occupancy for the Improvements, this Lease shall be amended to provide that the Leased Premises shall include the Housing Parcel and the Retail Parcels; the Leased Premises shall not include the Agency Garage Parcel. Further, that portion of the Improvements within the Agency Garage Parcel will be owned by Landlord.

2.2 Leased Premises; Condition of Premises; Zoning.

Prior to the Commencement Date, Tenant, at Tenant's sole expense, shall have investigated and approved the physical condition of, and the condition of title with respect to, the Leased Premises and the Improvements. Tenant acknowledges and agrees that Landlord makes no representation or warranty, express or implied, written or oral, with respect to the condition of the Leased Premises or the Improvements, or their fitness or availability for any particular use.

2.2.1 Landlord makes no representations, express or implied, with respect to the legality, fitness, or desirability of the Leased Premises for Tenant's intended use. If Tenant desires to do so, Tenant shall have the right to conduct its own investigation, to its satisfaction, with respect to any matters affecting Tenant's ability to use the Leased Premises for Tenant's intended use. Landlord shall deliver title to the Leased Premises to Tenant in the condition required by Section 210 of the DDA.

2.2.2 Tenant hereby acknowledges and agrees, and represents and warrants to Landlord, that Tenant is taking possession of the Leased Premises and acquiring leasehold title to the Leased Premises "as is" as of the Commencement Date and "with all faults" and without Landlord's covenant, warranty or representation as to physical condition, title, leases, rents, revenues, income, expenses, operation, zoning or other regulation, compliance with law, suitability for particular purposes or any other matter whatsoever. Tenant acknowledges and agrees that Landlord has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or

character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to any matter whatsoever, including but not limited to: (a) value; (b) the income to be derived from the Leased Premises; (c) the suitability of the Leased Premises for any and all activities and uses which Tenant may conduct thereon, including the possibilities of future development of the Leased Premises; (d) the fitness for a particular purpose of the Leased Premises; (e) the manner, quality, state of repair or lack of repair of the Leased Premises; (f) the nature, quality or condition of the Leased Premises, including without limitation, soils and geology; (g) the compliance of or by the Leased Premises or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (h) the conformity of the Leased Premises to past, current or future applicable zoning or building requirements; (i) deficiency of any drainage; (j) the proximity of the Leased Premises to, or that the Leased Premises may be on or near an earthquake fault line; (k) the existence or non existence of vested land use, zoning or building entitlements affecting the Leased Premises; or (l) any other matter. Tenant further acknowledges and agrees that having been given the opportunity to inspect the Leased Premises and such information and documentation affecting the Leased Premises as Tenant has deemed necessary or appropriate, Tenant is relying solely on its own investigation of the Leased Premises and review of such files, and not on any information provided or to be provided by Landlord. Tenant further acknowledges and agrees that any information made available to Tenant or provided or to be provided by or on behalf of Landlord with respect to the Leased Premises was obtained from a variety of sources and that Landlord has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Landlord is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Leased Premises, or the operation thereof, furnished by any real estate broker, agent, employee, servant or other person. Tenant further acknowledges and agrees that to the maximum extent permitted by law and except as otherwise provided herein, the lease of the Leased Premises as provided for herein is made on an "as is" condition and basis, with all faults, and that Landlord has no obligations to make repairs, replacements or improvements.

2.2.3 Effective on the Commencement Date, Tenant releases and discharges Landlord, Centre City Development Corporation ("CCDC") and the City of San Diego ("City") and their respective Representatives, for all costs, claims, demands, expenses, actions, causes of action, liability, loss, or damage, including attorneys' fees and costs ("Claims") Tenant may have at any time against the Landlord, CCDC or City arising from the presence of Hazardous Material on the Leased Premises, or the seismic or geological condition of the Leased Premises, during any period of time after the Commencement Date, except to the extent such Claims arise from the gross negligence or willful misconduct by the Landlord, CCDC or City (as applicable). Tenant expressly waives the benefits of Civil Code Section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or expect to exist in his favor at the time of executing the release which if known by him must have materially affected his settlement with the debtor."

Tenant Initials

2.2.4 Landlord has provided to Tenant without any representation or warranty all information in Landlord's possession or control regarding the condition of the Leased Premises, including information concerning Hazardous Materials and seismic faulting. Landlord makes no representation or warranty, express or implied regarding any conditions of the Leased Premises. It shall be the sole responsibility of Tenant, at Tenant's expense, to investigate and determine all conditions of the Leased Premises and the suitability of the Leased Premises for the uses to which the Leased Premises is to be put in accordance with this Agreement. If the conditions of the Leased Premises are not in all respects entirely suitable for the uses to which the Leased Premises will be put, then it is the responsibility and obligation of Tenant, as between Landlord and Tenant, without cost to Landlord, to take such action as may be necessary to place the Leased Premises in all respects in a condition entirely suitable for its development and use in accordance with this Lease. Except as provided in Section 2.1d of the Environmental Indemnity, as between Landlord and Tenant, Tenant agrees to perform and be responsible for the clean-up of any Hazardous Materials on, in, under or within the Leased Premises, at the sole cost, risk and expense of Tenant as part of the Development Costs. Tenant shall defend, indemnify and hold harmless the Landlord, the City, CCDC and their respective 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 Materials, and the cost of attorneys' fees) which may be sustained as the result of the presence or clean up of Hazardous Materials on, in, or under the Leased Premises.

2.3 Parcel Map; Covenants, Restrictions and Easements; Release of the Agency Garage Parcel.

2.3.1 Tenant shall file the Parcel Map, in form as approved by the Agency Executive Director or designee, in the Official Records of San Diego County approximately ninety (90) days prior to the completion of construction, and concurrently therewith shall file the Covenants, Restrictions and Easements, in form as approved by the Agency Executive Director or designee, in the Official Records.

2.3.2 Upon Landlord's request, which request shall be given after recordation of the Parcel Map and prior to the Conversion Date, Tenant and Landlord shall execute and record in the Official Records of San Diego County an amendment to this Lease, in form approved by Landlord's General Counsel, amending Exhibit A hereto, Legal Description of the Leased Premises, to refer to the Parcel Map as recorded, and including the Housing Parcel and the Retail Parcels. Concurrently therewith Tenant shall execute and Landlord shall accept and record in the official records, a quitclaim deed, in form approved by Landlord's General Counsel, by which Tenant quitclaims all of its right, title and interest in and to the Agency Garage Parcel and all Improvements within the Agency Garage Parcel.

2.3.3 Concurrently with the amendment of this Lease and Tenant's quitclaim of its interest in the Agency Garage Parcel, Tenant shall cause all Lenders or other lienholders to release the Agency Garage Parcel from the lien of their deeds of trust or any other liens.

ARTICLE 3 - TERM

3.1 Term

The Term of this Lease shall be that period of time beginning on the Commencement Date and ending at midnight on the seventieth (70th) anniversary of the Commencement Date, unless the Term of this Lease is sooner terminated as provided for herein.

3.2 Option to Extend.

Provided that Tenant is not in default under this Lease, the Agreement Affecting Real Property, the Agency Loan Documents or the Permanent Loan Documents on the date of exercising the Option and on the last day of the initial Term, Tenant may extend the term of this Lease ("Option") for one (1) additional period of twenty (20) years ("Extended Term") by giving written notice to Landlord at least one hundred eighty (180) days but not more than three hundred sixty (360) days before expiration of the initial Term. Tenant shall have no other right to extend the term of this Lease beyond the Extended Term. If the Retail Improvements are sold, the purchaser of the Retail Improvements (or its assignee) may only extend the term of its lease if Tenant elects to exercise the Option.

3.3 Possession; Covenant of Quiet Enjoyment.

3.3.1 Sole possession of the Leased Premises shall be delivered to Tenant on the Commencement Date free and clear of any other tenancies or rights of occupancy or use, and Tenant shall take possession as of that date.

3.3.2 Landlord covenants that, subject to the limitations expressly set forth herein, Tenant, upon Tenant's timely payment of the Rent and performance of Tenant's covenants and obligations under this Lease, may quietly have, hold, and enjoy the Leased Premises during the Term of this Lease, without hindrance or interruption by Landlord or anyone claiming by or through Landlord, subject to Landlord's right to enter upon the Leased Premises as expressly provided herein.

ARTICLE 4 - RENT PAYMENTS

4.1 Rent.

The Rent payable for each Lease Year (the "**Rent**") shall be as set forth in Section 4.2 hereto. Except as provided at Section 4.2.1(ii), the Rent shall be paid in arrears for each calendar year (or portion of a calendar year for the first and last months of the Term) no later than April 30 of the following calendar year during the Term. The Rent shall be prorated on a per diem basis for the first and last partial years of the Term (assuming the Commencement Date is not January 1). The last payment of Rent shall be due within twenty (20) days following the termination of this Lease.

4.2 Rent Amounts.

4.2.1 Housing Parcel.

(i) In years one (1) through fifty-five (55) of the Lease, Rent shall be one dollar (\$1.00) per annum, except as provided in subsection (ii) below. Landlord hereby acknowledges receipt of fifty-five dollars (\$55.00) as prepaid rent for years one (1) through fifty-five (55). Commencing on the 56th anniversary of the Commencement Date, Tenant shall pay Rent in the amount of ten percent (10%) of the Effective Gross Income annually until the end of the Term; provided, however, that the annual Rent for any year shall not be less than the prior year's Rent.

(ii) The Project has been awarded a long term operating subsidy pursuant to the Mental Health Services Act ("MHSA") to be used for services to be provided in connection with the supportive housing. This operating subsidy expires in year 21 of the Project. Tenant may establish and fund a transitional operating reserve (the "Transitional Operating Reserve") in amounts as approved by the permanent lender and HCD to provide operating revenue in year 21 and subsequent years.

In year fifty-five (55) of the Lease, if the MHP-SHP Loan is paid off in full, then the Landlord shall be entitled to receive up to 80% of the remaining balance of the Transitional Operating Reserve, including accrued interest. If HCD and the permanent lender authorize a release of any portion of the Transitional Operating Reserve prior to year fifty-five (55) of the Lease, the released amount, including accrued interest, shall be split 80% to the Landlord and 20% to the Tenant. That portion of the Transitional Operating Reserve to be paid to Landlord shall be due within thirty (30) days after such funds are released from the Transitional Operating Reserve.

4.2.2 Retail Parcels.

Tenant may either sublease the Retail Parcels or sell the Retail Improvements.

(i) Sublease. If Tenant subleases the Retail Parcels, then Tenant shall pay as Rent twelve and one-half percent (12 1/2%) of the Effective Gross Income from such sublease(s); provided, however, that the annual Rent for any year shall not be less than the prior year's Rent.

(ii) Sale. If Tenant sells the Retail Improvements on or before the second anniversary of the issuance of a temporary certificate of occupancy for the Retail Improvements, then at the close of such sale, Tenant shall pay to Landlord as prepaid rent for the entire Term and, if the Option is exercised, the Extended Term, the amount of three hundred eight thousand dollars (\$308,000) (the "Pre-Paid Rent"). If the Retail Improvements are sold after the second anniversary of the issuance of a temporary certificate of occupancy, the amount of the Prepaid Rent shall be increased by five percent (5%) per annum from the date of such second anniversary until the closing of the sale of the Retail Improvements. If the Retail Improvements are sold, then this Lease shall be amended to remove the Retail Parcel from the Legal Description of the Leased Premises, and Landlord shall enter into a separate ground lease with the purchaser of the Retail Improvements, on identical terms and conditions as set forth herein, except that all Rent has been prepaid, for the remainder of the Term and Extended Term. The Retail Parcels shall be subject to the Option to Purchase, as set forth at Article 17.

4.2.3 Effective Gross Income.

The term "Effective Gross Income" means the total gross income derived by Tenant from the rental of apartment units, retail space and parking spaces within the Leased Premises determined on a cash basis, including but not limited to monthly rent and, except as provided below, real property operating expenses of the Leased Premises paid by tenants pursuant to their rental agreements customarily paid by apartment owners and not by apartment renters as of the date of this Lease in first class apartment projects in the San Diego County area, either to Landlord as a reimbursement or to third party providers. Effective Gross Income shall not include amounts paid to Tenant as (i) late charges or interest, (ii) reimbursements for non-sufficient fund charges by banks on subtenants' checks, (iii) security and/or other deposits paid by subtenants until applied in payment of rents and/or other charges to be included in Effective Gross Income, (iv) condemnation proceeds, (v) financing proceeds, (vi) proceeds from the sale and/or rental of personal property including, without limitation, furniture and/or appliances, or from any assignment of the Leasehold under this Lease, (vii) vending machine income and/or rents paid by vending machine companies, (viii) settlements or payments in satisfaction of claims for damage to property, injury or death to persons, faulty construction or maintenance, and in the case of security, cleaning and/or similar deposits, the retention of same to pay for expenses incurred due to a subtenant's failure to surrender its premises in the condition required by its sublease, (ix) real and/or personal property tax refunds and other vendor rebates or adjustments, (x) judgment awards and settlement payments to the extent required to reimburse Tenant for its attorneys' fees and collection costs, (xi) insurance proceeds, (xii) water and other utility expense reimbursements to the extent of utility charges actually paid by Landlord or paid by subtenants to utility providers, and (xiii) consideration for providing access to the Leased Premises and/or subtenants by service providers including, without limitation, telephone and/or cable providers. Effective Gross Income shall also be reduced by any repayments or refunds by Tenant of amounts previously paid to Tenant and included in Effective Gross Income. At the time Tenant pays the Rent, Tenant shall deliver to Landlord an income statement itemizing the Effective Gross Income for the previous calendar year. The Effective Gross Income arising from the Retail Parcel, if any, shall be computed and stated separately from the Effective Gross Income arising from the Housing Parcel and the Garage Parcel.

4.3 Payment of Rent.

In years one (1) through fifty-five (55) of the Lease, the Rent attributable to the Housing Parcel is payable only from funds authorized to be released by HCD and the permanent lender from the Transitional Operating Reserve pursuant to Section 4.2.1 (ii), and if both of the Retail Parcels have not been sold, the Rent attributable to the Retail Parcel(s) is payable only from the Effective Gross Income from the Retail Parcels as provided above at Section 4.2.2(i). Commencing on the 56th anniversary of the Commencement Date, the Rent is payable only from the Effective Gross Income from the Improvements. Rent arising from the Effective Gross Income not paid because of insufficient funds shall accrue and be payable from the first available Effective Gross Income. At expiration of the Term or earlier termination of this Lease, all accrued and unpaid Rent shall be due and payable.

4.3.1 The annual audited financial statement of Revenue and Operating Expenses and balance sheet for the Improvements, prepared at the Tenant's expense pursuant to the Agency Note, by an independent certified public accountant reasonably acceptable to the Landlord, shall form the basis for determining the Effective Gross Income.

4.3.2 Upon payment in full of the Agency Note, Tenant shall continue to prepare and submit to Landlord an audited annual financial statement, in form similar to the Annual Financial Statement submitted pursuant to the Agency Note, for the preceding calendar year (or if necessary, portion thereof for the first year after termination of the Agency Note and last year of the Term), prepared by a certified public accountant reasonably acceptable to the Landlord, determining the amount of Effective Gross Income, if any, generated in that year, together with payment of the Rent. The Landlord shall review and approve such annual financial statement, or request revisions, within 30 days after receipt. In the event as the result of the Landlord's review of the statement, there is an increase in the amount of the Rent payment due and payable to Landlord, Borrower shall promptly pay to the Landlord the difference, with interest, from the date on which such payment was due, at the rate of five percent (5%) per annum.

4.3.3 At Lease expiration or sooner termination all Rent accrued but not paid shall be due and payable.

4.4 Miscellaneous.

All payments of Rent shall be made to Landlord as they become due in lawful money of the United States of America in cash or by corporate check drawn on sufficient available funds, at such place as is designated herein by Landlord for the receipt of notices or such other place as shall be designated to Tenant by Landlord in writing from time to time.

4.5 Accuracy of Statements

Acceptance by Landlord of any monies paid by Tenant as Rent as shown by any certified or audited statement shall not constitute an admission of the accuracy of such statement or of the amount of such Rent. Landlord shall not have the right to challenge such amount unless it delivers written notice thereof to Tenant within one hundred twenty (120) days of receipt of such monies whereupon Landlord shall have the right to audit Tenant's books and records pursuant to Section 4.6.

4.6 Records and Audit

At all times during the Term, Tenant shall keep and maintain complete, accurate and customary records and books of account relating to the Leased Premises and shall retain such materials for the two (2) most recent completed Lease Years. At all reasonable times during normal business hours, either on the Leasehold or such other office of Tenant at which said records and books of account may be kept, Landlord and its duly authorized agents, attorneys and accountants shall have the right to inspect, audit and make copies of any and all of such records and books of account, including copies of any information returns required by or furnished to any governmental authority, together with any and all other records and documents relating to the

Rent. If Tenant does not maintain such books and records at an office within fifty (50) miles of the Property, then Tenant shall prepare and deliver to Landlord certified duplicates of such books and records upon Landlord's request, provided that Landlord shall not make such requests more than once every twelve (12) months.

4.7 Results of Inspection

Landlord shall not be bound by the results of any inspection and/or audit conducted pursuant to Section 4.6. If, based upon such inspection, Landlord reasonably determines that Rent as previously reported for the period inspected were understated, then Tenant shall pay such amount to Landlord within fifteen (15) days after receipt of a Deficit Notice. If, based upon such inspection, Landlord reasonably determines that Tenant has made an overpayment, then Landlord shall promptly deliver written notice thereof to Tenant, together with a copy of the audit relating thereto, and Tenant shall receive a credit in such amount against any payment(s) due Landlord under this Lease, as selected by Tenant. Landlord shall bear all of its costs associated with the inspection unless (i) it discloses that the Tenant has failed to maintain the books of account and records required by Section 4.6, or (ii) it discloses that the amounts due Landlord for the period inspected were understated by more than four percent (4%). Tenant shall promptly reimburse Landlord for the actual, documented reasonable cost of such inspection if obligated to do so. Tenant shall have the right to challenge the determination of Landlord or its auditors by delivering written notice thereof to Landlord within fifteen (15) days after receipt of a Deficit Notice, whereupon the parties shall arbitrate this matter in accordance with the rules then pertaining of the American Arbitration Association, or its successor, together with the right to take depositions.

4.8 Triple Net Lease; No Counterclaim, Abatement, etc.

All Rent shall be paid absolutely net to Landlord, so that this Lease shall yield to Landlord the full amount of the installments of all Rent throughout the Term, and (unless otherwise expressly provided herein) shall be paid without assertion of any counterclaim, setoff, deduction or defense and, except as otherwise expressly provided herein, without abatement, suspension, deferment, diminution or reduction. Under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall Landlord be expected or required to make any payment of any kind whatsoever or be under any obligation or liability hereunder, except as herein expressly set forth. Landlord shall have no responsibility for any costs of repair, maintenance or replacement whatsoever. Except as otherwise expressly provided herein, this Lease shall continue in full force and effect, and the obligations of Tenant hereunder shall not be released, discharged or otherwise affected, by reason of: (a) any damage to or destruction of the Leased Premises or Improvements or any part thereof or any Taking of the Leased Premises or the Improvements or any part thereof; (b) any restriction or prevention of or interference with any use of the Leased Premises or the Improvements or any part thereof which materially interferes with Tenant's possession or use of the Leased Premises (other than a breach of Landlord's covenant of quiet enjoyment set forth at Section 3.3); (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other proceeding relating to Landlord, or any action taken with respect to this Lease, or by any court, in any proceeding; (d) any claim which Tenant has or might have against Landlord; (e) any failure on the part of Landlord to perform or comply with any of the terms hereof or of any other agreement with

Tenant; or (f) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, in each case, whether or not Tenant shall have notice or knowledge of any of the foregoing. Except as expressly provided in this Lease, the obligations of Tenant shall be separate and independent covenants and agreements.

ARTICLE 5 - USE OF THE LEASED PREMISES, MAINTENANCE AND HAZARDOUS MATERIALS

5.1 Use of the Leased Premises.

5.1.1 General.

Tenant covenants and agrees for itself, its successors and assigns, which covenants shall run with the land and bind every successor or assign in interest of Tenant, that during use of the Leased Premises pursuant to this Lease, neither the Leased Premises nor any portion thereof shall be improved, used or occupied in violation of any Governmental Restrictions.

5.1.2 Affordable Housing.

Tenant, its successors and assigns, shall use the Leased Premises only for the uses permitted in the DDA, the Agreement Affecting Real Property, the Regulatory Agreement and this Lease, specifically including the following:

(1) The Leased Premises shall be used for residential rental uses, consisting of 65 dwelling units, including 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units, with parking and amenities, and ground floor retail uses, all as described in the Scope of Development, in accordance with this Agreement.

(2) All of the residential units are reserved for households with Very Low and Extremely Low income (and as such shall be rented to shall be rented at an Affordable Rent to persons of Very Low and Extremely Low Income as defined in the Agreement Affecting Real Property). The number of Units by unit-types and the Affordable Rent applicable to the Units by unit-types, shall be as set forth in the Agreement Affecting Real Property and the Schedule of Affordable Rents attached thereto. Of the 65 units, 23 shall be set aside as supportive housing units targeted for the special needs population, subject to the provisions of paragraph 3b(3) of the Agreement Affecting Real Property.

(3) Following a foreclosure or deed or conveyance in lieu of foreclosure or the execution of a new lease pursuant to Section 8.5 hereof, the obligations of the Lender or its permitted successors and assigns with respect to the use of the Leased Premises shall be governed solely by the Agreement Affecting Real Property and governmental restrictions.

5.1.3 Unrestricted Housing.

From and after fifty-fifth (55th) anniversary of the Conversion Date, Owner and its successors, assigns, and each successor in interest to Owner's interest in the Property or any part

thereof, hereby may utilize the Housing Parcel as market-rate apartments with no restrictions on the amount of rent that can be charged for the residential units.

5.2 Management

Tenant shall be responsible for the operation of the Improvements either by direct management or by contracting its managerial functions to a third party Leased Premises manager reasonably acceptable to the Landlord which Leased Premises manager will be charged with managing the Improvements on behalf of the Tenant. The Landlord shall have the right to review and approve any such entity prior to its selection by the Tenant. Such approval shall not be unreasonably withheld. Tenant shall include in any such Leased Premises management agreement a provision providing for the termination of the agreement in the event that the Leased Premises manager violates any federal, state or local health and safety laws and regulations which are not cured within thirty (30) days following the giving of notice of such violations by the Landlord or any other governmental entity; provided, however, that in the case of a violation that cannot be cured within such thirty (30) day period, that such cure shall be commenced within thirty (30) days of notification and shall be diligently prosecuted to completion.

5.3 Maintenance

Tenant, its successors and assigns, shall maintain the Improvements on the Leased Premises in the same aesthetic and sound condition (or better) as the condition of the Leased Premises at the time Landlord issues a Release of Construction Covenants pursuant to the Agreement, reasonable wear and tear excepted. This standard for the quality of maintenance of the Leased Premises 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 Leased Premises, 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 Tenant, its successors or assigns fails to maintain the Improvements in accordance with the standard for the quality of maintenance, Landlord or its designee shall have the right but not the obligation to enter the Leased Premises upon reasonable notice to Tenant, correct any violation, and hold Tenant, or such successors or assigns responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Leased Premises.

5.4 No use of Hazardous Materials on the Leased Premises.

Tenant covenants and agrees that it shall not, and that any Lease shall provide that the Subtenant shall not, treat, use, store, dispose, release, handle or otherwise manage Hazardous Materials on the Leased Premises except in connection with any construction, operation,

maintenance or repair of the Improvements or in the ordinary course of its business, and that such conduct shall be done in compliance with all applicable federal, state and local laws, including all Environmental Laws. Tenant's violation of the foregoing prohibition shall constitute a breach hereunder and Tenant shall indemnify, hold harmless and defend the Landlord for such violation as provided below.

5.5 Notice and Remediation by Tenant.

Tenant shall promptly give the Landlord written notice of any reportable release of any Hazardous Materials, and/or any notices, demands, claims or orders received by Tenant from any governmental agency pertaining to Hazardous Materials which may affect the Leased Premises.

5.6 Environmental Indemnity.

Tenant agrees to indemnify, protect, defend, save and hold harmless Landlord and its successors and assigns, officers, members, directors, shareholders, and Representatives from and against any and all debts, duties, obligations (including any remediation obligations or clean up costs imposed by any Governmental Restrictions), liabilities, suits, claims, demands, penalties, fines, causes of action, damages, losses, costs and expenses, including, without limitation, attorneys' fees and expenses (and including any allocable costs of any of the foregoing parties' in-house counsel) arising on or accruing as a result of the presence, use, storage, handling, treatment, generation, release, discharge, refining, manufacturing, dumping or disposal of any Hazardous Materials or other kinds of contamination or pollutants of any kind into the air, soil, groundwater or surface water on, under, in or about the Leased Premises (whether legal or illegal, accidental or intentional), that is caused by Tenant, any subtenants, or its Representatives. The indemnity provided in this Section 5.6 shall survive the Termination of the Lease.

5.7 Termination; Subtenants.

The agreements and obligations of Tenant under this Article 5 with regard to indemnification of Landlord shall survive the scheduled termination or sooner expiration of the Term for any reason for five (5) years and all claims relating thereto must be delivered in writing to Tenant within such period. No action by any subtenant in violation of its lease shall constitute a cause to terminate this Lease provided that Tenant diligently pursues its available remedies against such subtenant.

5.8 Agreement Affecting Real Property, Reciprocal Easement Agreement, Covenants, Restrictions and Easements, Regulatory Agreement.

The Leased Premises are (or shall be) subject to that certain Agreement Affecting Real Property, Reciprocal Easement Agreement, Covenants, Restrictions and Easements and to that certain Regulatory Agreement. Tenant shall comply with all obligations of Owner under the Agreement Affecting Real Property, the REA, the Covenants, Restrictions and Easements and the Regulatory Agreement, each for the respective term of that agreement.

ARTICLE 6 – CONSTRUCTION AND OWNERSHIP OF IMPROVEMENTS

6.1 Demolition and Site Preparation.

Tenant shall have the sole responsibility for preparing the Leased Premises for constructing the Improvements, including, without limitation, demolishing any existing improvements on it.

6.2 Construction of Improvements.

Tenant shall develop and construct, or shall cause the development and construction of, the Improvements on the Property as set forth in the Scope of Development (attached to the DDA as Attachment No. 4 and incorporated herein by this reference), in substantial conformance with the approved plans and drawings and upon the schedule set forth in the Amended Schedule of Performance (attached to the DDA as Attachment No. 5 and incorporated herein by this reference), subject to events of force majeure and written extensions granted by Landlord. All Improvements, together with all off site improvements that may be constructed by reason of governmental requirements as a condition to the construction of Improvements upon the Leased Premises, shall be constructed in a good and workmanlike manner using materials of good quality and in substantial compliance with the Approved Plans and Drawings as modified pursuant to this Article 6, and shall comply with all applicable governmental permits, laws, ordinances and regulations. Landlord agrees to execute such grants of easement, or rights of way, as may be necessary to cause the installation of utility systems which Tenant reasonably considers necessary to the efficient development and operation of the Property in substantial compliance with the Approved Plans and Drawings. Notwithstanding anything to the contrary contained herein, the obligation of any Lender or permitted successor and assign to construct the Improvements and Landlord's rights in the event Lender or its permitted successors and assigns fail to construct the Improvements shall be governed solely by Sections 319, 320 and 321 of the DDA.

6.3 Construction Cost.

Tenant shall bear the sole cost of developing the Property and constructing the Improvements, including all fees and mitigation measures; provided, however, that as provided in the DDA the Agency shall pay for that portion of the Improvements to be constructed within the Agency Garage Parcel up to the amount of the "Agency Garage Purchase Price" as defined in the DDA.

6.4 Right of Access.

During normal construction hours, representatives of Landlord shall have the reasonable right of access to the Property without charges or fees for the purpose of inspecting the work being performed in constructing the Improvements; provided, however, that such representatives shall present and identify themselves at Tenant's construction office, be accompanied by a representative of Tenant while on the Property and obey Tenant's, or its contractor's safety rules and regulations. In addition, Landlord shall have the right to authorize the City and other public agencies to enter the Property upon the same terms after reasonable prior written notice to Tenant, and in a manner which minimizes the interference with Tenant's use thereof, for the purpose of

constructing, reconstructing, maintaining or repairing any public improvements or public facilities located on the Property. Landlord shall deliver written notice of the identity of its representatives to Tenant before such representatives enter the Property. Landlord hereby indemnifies and holds Tenant, and its contractors, subcontractors, agents, representatives and employees, and the Property, harmless from and against any loss, cost, damage or liability, including, without limitation, attorneys' fees, which results from the exercise by Landlord, or any party acting under Landlord's authority, of the rights granted by this Section 6.4.

6.5 Governmental Approvals.

If requested by Landlord in writing, Tenant covenants and agrees to deliver to Landlord conformed copies (and certified copies of all recorded instruments) of all governmental approvals and permits obtained by Tenant for the demolition, construction, alteration, razing or reconstruction of any Improvements upon the Leased Premises in accordance with the Approved Plans and Drawings. In no event shall Tenant commence construction of any Improvements pursuant to the provisions of this Article 6 until such time as Tenant shall have obtained all necessary governmental approvals and permits to so construct such Improvements.

6.6 Force Majeure.

All obligations of Tenant to promptly commence and thereafter diligently prosecute to completion construction of the Improvements shall be extended by such number of days as Tenant shall be delayed by reason of events of force majeure pursuant to Section 14.8.

6.7 Release of Construction Covenants.

Following completion of the Improvements on the Leased Premises, and Landlord's determination that the completed Improvements comply with the DDA, Landlord shall record a Release of Construction Covenants on the Leased Premises in accordance with Section 324 of the DDA. Following the recording of the Release of Construction Covenants, the covenants contained at Sections 6.1 and 6.2 shall terminate and be of no further force and effect with respect to the Leased Premises. Further, following the recording of a Release of Construction Covenants, any successor-in-interest to the Leased Premises or any portion thereof shall have no obligations pursuant to Sections 6.1 and 6.2.

6.8 Title to Improvements.

Notwithstanding anything that is or appears to be to the contrary herein, any and all Improvements erected on the Leased Premises (which after amendment of this Lease and recordation of Tenant's quitclaim deed pursuant to Section 2.3 hereof shall not include the Agency Garage Parcel) as permitted by this Lease, as well as any and all alterations or additions thereto or any other Improvements or fixtures on the Leased Premises, shall be owned by Tenant until the expiration of the Term or sooner termination of this Lease. Following the amendment of this Lease and recordation of Tenant's quitclaim deed pursuant to Section 2.3 hereof, that portion of the Improvements constructed within the Agency Garage Parcel, as well as any and all alterations or additions thereto or any other Improvements or fixtures within the Agency Garage Parcel, shall

be owned by Landlord. Upon the expiration or sooner termination of this Lease, all Improvements and all alterations, additions or improvements thereto that are made to or placed on the Leased Premises by Tenant or any other person shall be considered part of the real property of the Leased Premises and shall remain on the Leased Premises and become the property of Landlord; provided that Tenant (or its Subtenants, as the case may be) shall retain ownership of and shall be required to remove furniture, equipment, machinery, trade fixtures and removable personal property except as may be left on the Leased Premises with Landlord's prior written approval. Except as otherwise expressly provided in this Lease, any non-disturbance agreement approved by Landlord, any easement approved by Landlord, or any written instrument executed by Landlord which expressly states that Landlord is waiving its rights under this Section 6.8 to receive such Improvements free and clear of all other claims, said Improvements shall become Landlord's property free and clear of any and all rights to possession and all claims to or against them by Tenant or any third person or entity. Tenant hereby covenants and agrees to promptly execute and acknowledge a quitclaim deed or any other documentation reasonably required by Landlord to effectuate the provisions of this Section, which covenant shall survive termination of this Lease.

6.9 Notice of Non Responsibility.

After the recordation of the Release of Construction Covenants for the Improvements in the Official Records, Tenant shall provide Landlord with prior written notice of not less than fifteen (15) days before commencing construction of any structural alteration of the Improvements, or any non structural alteration which will cost more than Fifty Thousand Dollars (\$50,000.00), and shall permit Landlord to record and post appropriate notices of non responsibility on the Property. The foregoing Fifty Thousand Dollar (\$50,000.00) limitation shall be increased each calendar year by the corresponding increase in the Index.

6.10 Subsequent Alterations.

Following the initial construction of the Improvements in accordance with the Scope of Development, Tenant may from time to time, at its sole expense, make improvements and other alterations to the Property which Tenant reasonably determines to be beneficial. Tenant shall not make any alteration or improvement to the Property the cost of which exceeds one hundred thousand dollars (\$100,000) without Landlord's prior written consent, which shall not be unreasonably withheld or delayed. The foregoing dollar amount limitations shall be increased each calendar year by the corresponding increase in the Index. Landlord acknowledges that variations of the standards set forth in the Scope of Development with respect to materials, aesthetic styles and other matters, while appropriate in 2008 with respect to the initial Improvements, may become outdated or otherwise inappropriate over the Term, and Landlord agrees that it shall not be entitled to prevent Tenant from varying from such standards from time to time with respect to the Improvements to the extent that Tenant reasonably determines that alternative materials, designs, technologies and etc. are at least comparable (if not preferable) with respect to the image and operation of the Property at the time Tenant proposes to make any alterations. Tenant shall timely pay any obligation incurred by Tenant with respect to any such alterations or improvements that could become a lien against the Property and shall defend, indemnify and hold Landlord harmless in connection therewith.

ARTICLE 7 - REPAIRS AND MAINTENANCE; LIENS

7.1 Landlord's Nonresponsibility.

During the Term of this Lease, Landlord shall not be required to maintain or make any repairs or replacements of any nature or description whatsoever to the Leased Premises or the Improvements thereon, except as expressly provided elsewhere herein.

7.2 Tenant's Duty to Maintain Premises.

Except as expressly otherwise provided for herein, throughout the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, maintain or cause to be maintained the Leased Premises and the Improvements now or hereafter located on the Leased Premises in good and clean condition and repair, free of debris, and in compliance with (i) all Governmental Restrictions and (ii) all applicable rules, orders, and regulations of any insurance company insuring all or any part of the Leased Premises or the Improvements thereon or both, and Tenant shall make or cause to be made whatever repairs and replacements are required by such enactments or provisions or future enactments or provisions.

7.3 Damage or Destruction.

7.3.1 Subject to the requirements of the Senior Lender, in the event any of the Improvements are damaged by an insured casualty, Tenant promptly shall remove the debris resulting from such event, and within a reasonable time, not to exceed ninety (90) days from date of casualty, thereafter shall apply insurance proceeds to the repair or restoration of the Improvements so damaged to their condition immediately prior to such casualty, such repair or restoration to be performed in accordance with all provisions of this Lease.

7.3.2 In the event any of the Improvements are damaged by an uninsured casualty, Tenant promptly shall remove the debris resulting from such event, and within a reasonable time thereafter, not to exceed one hundred eighty (180) days from date of casualty, shall either (i) repair or restore the Improvements so damaged, to the extent economically feasible, such repair or restoration to be performed in accordance with all provisions of this Lease, or (ii) erect other Improvements in such location, provided all provisions of this Lease are complied with, or (iii) demolish the damaged portion of such Improvements, restore any remaining Improvements to an architectural whole, remove all rubbish, and pave or plant grass and otherwise restore the area to a neat, orderly, sanitary and attractive condition. Landlord shall have the option to choose among the aforesaid alternatives subject to rights of permitted Lenders secured by the Lease, but Tenant shall be obligated to perform one of such alternatives. Tenant shall give notice to Landlord within a reasonable time, not to exceed thirty (30) days from date of casualty, of which alternative it elects. Nothing contained in subsections 7.3.1 or 7.3.2 shall be construed as permitting the abatement or reduction of Rent, or the termination of this Lease.

7.3.3 Notwithstanding anything to the contrary contained in this Lease, and if permitted by the Lender in writing, if (i) there is damage to or destruction of the Improvements on the Leased Premises during the last five (5) years of the Term (including all exercised options) and

the cost of repairing said damage or destruction exceeds the cost of demolishing and removing the remaining Improvements on the Leased Premises, or (ii) there is damage to or destruction of the Improvements on the Leased Premises which (1) arises from a cause which is not required to be insured against under any provision of this Lease, or (2) arises from a cause which is in fact insured against in compliance with the terms of this Lease, but for which the recoverable proceeds of such insurance are less than 90% of the cost to repair said damage or destruction, and (3) the cost to Tenant (which is not covered by insurance proceeds) of repairing said damage or destruction exceeds the cost of demolishing and removing the remaining Improvements on the Leased Premises, or (iii) there is damage to or destruction of the Improvements on the Leased Premises and the Governmental Restrictions then in effect with respect to the Leased Premises prohibit the construction of economically viable replacement Improvements with respect to a use which Tenant either has the right to engage in under this Lease or which Tenant desires to engage in and Landlord will permit to be engaged in, then Tenant shall have the option to terminate this Lease, subject to Tenant's satisfaction of all of the following requirements: (A) Tenant shall, within ninety (90) days after the event giving rise to such right to terminate, give Landlord written notice of its election to terminate ("Notice of Election to Terminate"); and (B) Tenant shall, at the election of Landlord (which election shall be communicated in writing to Tenant ("Demolition Notice") within thirty (30) days of Landlord's receipt of the Notice of Election to Terminate), raze and remove the damaged or destroyed Improvements and any other Improvements on the Leased Premises that Landlord may designate in the Demolition Notice, and shall complete said demolition and removal and shall vacate the Improvements on the Leased Premises within ninety (90) days of Landlord's delivery of the Demolition Notice (which vacation date shall fix the termination date of this Lease); and (C) Tenant shall comply with all provisions of Article 15 of this Lease consistent with this Section 7.3 prior to or concurrent with Tenant's vacation of the Improvements on the Leased Premises. If Tenant fails to satisfy the requirements set forth in (B) or (C) above, the failure to meet such conditions shall not invalidate the termination of this Lease, although, in that event and notwithstanding anything else in this Lease that may be or appear to be to the contrary, Tenant shall remain liable to Landlord in damages for such breach. Any and all property damage insurance proceeds (exclusive of any proceeds applicable to Tenant's trade fixtures, equipment or personal property that would be retained by Tenant at the end of the Term) paid to Tenant as a result of the damage or destruction giving rise to the termination, shall be distributed to the Parties, and any Lender, as their interest are determined.

7.3.4 Except as expressly provided in this Lease, no deprivation, impairment, or limitation of use resulting from any damage or destruction or event or work contemplated by this Section shall entitle Tenant to any offset, abatement, or reduction in Rent, nor to any termination or extension of the Term hereof.

7.4 Liens.

Tenant covenants and agrees to keep the Property and each part thereof, free and clear of and from any and all mechanic's, materialmen's and other liens of record for work or labor done, services performed, materials, appliances or power contributed, used or furnished to be used in or about the Property for or in connection with any operations of Tenant, the construction of Improvements, any alterations, repairs or additions which Tenant may make, permit or cause to be made to the Improvements, or any work or construction by, for or permitted by Tenant on or about

the Property. Tenant shall at all times promptly and fully pay and discharge any and all lawful claims upon which any such liens may or could be based, and save and hold Landlord and the Property free and harmless of and from any and all such liens and claims of liens and suits or other proceedings pertaining thereto.

7.4.1 Contesting Liens. Tenant may contest any lien of the nature set forth in this Section in accordance with Section 10.4, and no default shall be deemed to have occurred under this Section.

7.4.2 Participation in Contest. If Tenant shall be involved in any dispute with respect to the payment of any claim as set forth in this Section in excess of Fifty Thousand Dollars (\$50,000), Landlord may, at its option, elect to observe or passively participate in any suit, arbitration, or other settlement procedure with respect thereto. Any such participation by Landlord shall be at Landlord's sole cost and expense, and Landlord shall have no right or power to control the conduct or outcome of such suit, arbitration or settlement.

ARTICLE 8 - LEASEHOLD FINANCING

8.1 Conditions To Obtaining Leasehold Mortgage.

8.1.1 Notwithstanding anything which is or appears to be to the contrary in this Lease, Tenant shall not encumber the estate created by this Lease, except as expressly provided in this Article 8. The following definitions apply in this Article:

(a) For purposes of this Article only, the term "mortgage" shall include whatever security instruments are used in the locale of the Leased Premises, such as, without limitation, deeds of trust security deeds, and conditional deeds. The term "mortgage" shall also include any instruments required in connection with a sale-leaseback transaction. The term "mortgagee" shall include the holder of the secured position under each of the foregoing types of instruments, including but not limited to the beneficiary under a deed of trust, the secured party under a security agreement and the lessor in a sale-leaseback transaction.

(b) For purposes of this Lease, the term "Leasehold Mortgage" means a conveyance of a security interest in this Lease and all of Tenant's interests in the Leased Premises (collectively referred to as "Tenant's Leasehold Interests") to a lender (a "Leasehold Mortgagee") to secure any loan (which shall include, among other things, bond financing) to finance any construction, improvement or alteration of the Leased Premises, or, to secure any refinancing of any such loan (or bond financing).

(c) For purposes of this Lease, the terms "Permitted Leasehold Mortgage" and "Permitted Leasehold Mortgagee" shall mean, respectively, a Leasehold Mortgage and a Leasehold Mortgagee satisfying all of the conditions set forth in Section 8.1.2, which immediately follows.

8.1.2 At any time and from time to time during the Term, Tenant shall have the

right to enter into a Leasehold Mortgage upon and subject to each and all of the following terms and conditions, subject to the reasonable consent of Landlord, which Landlord shall grant provided the proposed Leasehold Mortgage satisfies all of the following conditions:

(a) The Leasehold Mortgage shall cover all of Tenant's interest in the Lease, the Leased Premises, the Improvements and, without the prior express consent of Landlord, which Landlord shall not unreasonably withhold, condition or delay, shall cover no interest in any other real property.

(b) The Leasehold Mortgage shall be without subordination of the fee simple title of the Leased Premises. The term of any Leasehold Mortgage shall expire prior to the expiration of the term of this Lease.

(c) No such Leasehold Mortgage shall be binding upon Landlord in the enforcement of its rights and remedies herein, unless and until Tenant delivers or causes to be delivered to Landlord a certified copy of the fully executed original Leasehold Mortgage bearing the date and recording information and a certified copy of the original note secured by the Leasehold Mortgage, together with written notice of the address of the Leasehold Mortgagee to which notices may be sent; and in the event of an assignment of such Leasehold Mortgage, such assignment shall not be binding upon Landlord unless and until a certified copy thereof, bearing the date and recording information together with written notice of the address of the assignee thereof to which notices may be sent, have been delivered to Landlord.

(d) No Leasehold Mortgage permitted by this Lease shall cover more than one indebtedness; that is, there shall be no cross-collateralization permitted.

(e) Leasehold Mortgage is to be originated only by a Qualified Lender. For the purposes hereof, the term "Qualified Lender" shall consist of:

(1) The mortgagee of any purchase money financing of a Permitted Transfer or other Transfer approved by Landlord; or

(2) any one or a combination of the following lending institutions authorized under applicable California law to make mortgage loans and not under any order or judgment of any court or administrative agency restricting or impairing its operation as a lender, and having a net worth in the amount of not less than Twenty-Five Million Dollars (\$25,000,000), increased by the percentage increase, if any, in the Consumer Price Index from the Commencement Date of this Lease to the date of anniversary thereof most recently preceding the date of calculation, and is regularly engaged in business in the State of California: a commercial or savings bank; a trust company; an insurance company; a savings and loan association; a building and loan association;

(3) any company engaged in the ordinary course of business as a lender with a net worth of not less than Twenty-Five Million Dollars

(\$25,000,000), increased by the percentage increase, if any, in the Consumer Price Index from the Commencement Date of this Lease to the date of anniversary thereof most recently preceding the date of calculation, which is duly licensed or registered (if legally required) with any regulatory agency having jurisdiction over its operation, and is not under any order or judgment of any court or administrative agency restricting or impairing its operation as a lender, including, without limitation, the following: a real estate investment trust; a pension, retirement or welfare fund; an endowment fund or foundation authorized to make loans in the State of California; or

(4) any other person or company approved by the Landlord's Executive Director or designee, which approval may be granted or withheld in his or her sole discretion.

Landlord acknowledges that the identity and nature of lending institutions changes over time, and agrees that Landlord's approval of any proposed mortgage lender that is not a "Qualified Lender" as defined in this paragraph (e) shall not be unreasonably withheld, conditioned or delayed.

(f) All rights acquired by the Leasehold Mortgagee under the Leasehold Mortgage shall be subject to each and all of the covenants, conditions and restrictions set forth in this Lease, and to all rights of Landlord hereunder. Landlord shall not be deemed to waive any covenants, conditions and restrictions contained in this Lease by reason of Tenant's grant of a Leasehold Mortgage.

(g) No extension, modification, change or amendment to a Leasehold Mortgage shall be effective, or binding upon Landlord, unless and until approved by Landlord, which approval shall be granted so long as such extension, modification, change or amendment satisfies the applicable requirements of paragraphs (a) through (f), above.

(h) Landlord acknowledges receipt and hereby approves of the Leasehold Mortgage in favor of Citicorp USA, Inc., as a Qualified Lender.

8.2 Landlord's Right to Cure. In the event of a default or breach by Tenant of any Permitted Leasehold Mortgage, Landlord shall have the right to cure the default provided such cure is completed at least five (5) business days before the date of foreclosure. In such event, Landlord shall be entitled to reimbursement by Tenant of all costs and expenses incurred by Landlord in curing the default, with interest at the highest rate permitted by law, as Additional Rent (collectively, "Landlord's Cure Payments"), provided in the event of a subsequent foreclosure of a Permitted Leasehold Mortgage, the party acquiring Tenant's Leasehold interests shall not be obligated to pay Landlord any of Landlord's Cure Payments.

8.3 Rights of Permitted Leasehold Mortgagee. If Tenant and/or Tenant's successors and assigns (including, but not limited to, any sublessee of Tenant) shall mortgage its interest in this Lease and its leasehold estate in the Leased Premises, the following provisions shall apply:

(a) No Amendment. There shall be no amendment, cancellation, termination, surrender or modification of this Lease by joint action of Landlord and Tenant without the prior consent in writing of any Permitted Leasehold Mortgagee.

(b) Right to Notice of Default. Landlord shall, upon serving Tenant with any notice of default, simultaneously serve a copy of the notice of default upon any Permitted Leasehold Mortgagee.

(c) Right to Cure. Any Permitted Leasehold Mortgagee shall have the right, but not the obligation, at any time prior to termination of this Lease, to pay all of the rents due hereunder, to effect any insurance, to pay any taxes or assessments, to make any repairs or improvements, to do any other act or thing required of Tenant hereunder, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent termination of this Lease. Any Permitted Leasehold Mortgagee and its agents and contractors shall have full access to the Leased Premises for purposes of accomplishing any of the foregoing. Any of the foregoing done by any Permitted Leasehold Mortgagee shall be as effective to prevent a termination of this Lease as the same would have been if done by Tenant.

(d) Additional Cure Period. Anything contained in this Lease notwithstanding, if any default shall occur which, pursuant to any provision of this Lease, purportedly entitles Landlord to terminate this Lease, Landlord shall not be entitled to terminate this Lease as to any Permitted Leasehold Mortgagee, nor to disturb the right of possession of any subtenant of Tenant, and the notice shall be rendered void as to such parties, if the Permitted Leasehold Mortgagee, within sixty (60) days after expiration of the period within which Tenant was permitted to cure the default shall both:

(1) either (i) cure the default if the same can be cured by the expenditure of money, or (ii) if the default or breach is not so curable, commence, or cause any trustee under the mortgage to commence, and thereafter to diligently pursue to completion steps and proceedings to foreclose on the interests covered by the mortgage; and

(2) perform or cause the performance of all of the covenants and conditions of this Lease requiring the expenditure of money by Tenant including making all Rent payments to Landlord pursuant to this lease, until such time as the Leasehold shall be sold upon foreclosure pursuant to the mortgage, or shall be released or reconveyed thereunder, or shall be transferred upon judicial foreclosure or by deed or assignment in lieu of foreclosure.

(e) Condition of Termination. All right of Landlord to terminate this Lease as the result of the occurrence of any default shall be subject to, and conditioned upon, Landlord having first given to each Permitted Leasehold Mortgagee written notice of the default as required under section 8.3(d), above, and each Permitted Leasehold Mortgagee having failed to remedy such default or acquire Tenant's leasehold estate hereunder or commence foreclosure or other appropriate proceedings in the nature thereof

as set forth in section 8.3(d), above.

(f) Suspension of Cure Period. If any Permitted Leasehold Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court, or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant, the times specified in paragraph (d) above, for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition, so long as the Permitted Leasehold Mortgagee shall have fully cured any default in the payment of any monetary obligations of Tenant under this Lease and shall continue to pay currently those monetary obligations as and when the same fall due, subject to any applicable notice and grace periods.

(g) Loss Payable Endorsement. Landlord and Tenant agree that the name of the Permitted Leasehold Mortgagee shall, at its request, be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant under this Lease on condition that the insurance proceeds are to be applied in the manner specified in this Lease.

(h) No Consent to Foreclosure. Foreclosure of any leasehold mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the leasehold mortgage, or any conveyance of the leasehold estate hereunder from Tenant to any Leasehold Mortgagee or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Landlord or constitute a breach of any provision of or a default under this Lease, and upon such foreclosure, sale or conveyance, Landlord shall recognize in writing the purchaser or other transferee referred to in the preceding sentence in connection therewith as the Tenant hereunder, provided such purchaser or transferee has qualifications equal to or better than the original Tenant in all material respects, including, but not limited to its financial strength, experience in the successful development, operation and management of comparable developments. Further, following such foreclosure or conveyance, any assignment or subleasing by the purchaser or other transferee shall not require the consent of Landlord, despite any other provision of this Lease to the contrary.

(i) Proceeds of Insurance and Condemnation. The proceeds from any insurance policies or arising from a condemnation award to Tenant shall be paid to and held by the Permitted Leasehold Mortgagee of highest priority and distributed pursuant to the provisions of this Lease, except that the Permitted Leasehold Mortgagee may reserve the right to apply to the mortgagee debt (in the order of priority) all, or any part, of the proceeds not used to repair or restore the Leased Premises and the Improvements.

(j) Notice of Proceedings. The parties hereto shall give to any Permitted Leasehold Mortgagee notice of any arbitration proceedings or condemnation proceedings involving Tenant's interest in the Leased Premises, or of any pending adjustment of insurance claims, and any Permitted Leasehold Mortgagee shall have the right to intervene therein and shall be made a party to such proceedings. The parties hereto do hereby

consent to such intervention. In the event that any Permitted Leasehold Mortgagee shall not elect to intervene or become a party to the proceedings, that Permitted Leasehold Mortgagee shall receive notice and a copy of any award or decision made in connection therewith.

(k) Further Protections. Landlord and Tenant shall cooperate in including in this Lease, by suitable amendment from time to time, any provision which may be reasonably requested by any proposed Permitted Leasehold Mortgagee for the purpose of implementing the mortgagee-protection provisions contained in this Article 8 and allowing that Permitted Leasehold Mortgagee reasonable means to protect or preserve the lien of its leasehold mortgage upon the occurrence of a default under the terms of this Lease. Landlord and Tenant each agree to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effect any such amendment; provided, however, that no such amendment shall in any way affect the Term or Rent under this Lease, nor otherwise in any material respect adversely affect any rights of Landlord under this Lease.

(l) Additional Agreement. Landlord shall, upon request, execute, acknowledge and deliver to each Leasehold Mortgagee, an agreement prepared by a Permitted Leasehold Mortgagee and reviewed by Landlord at the sole cost and expense of Tenant, in form satisfactory to Permitted Leasehold Mortgagee, between Landlord, Tenant and the Permitted Leasehold Mortgagee, agreeing to all of the provisions of this Lease.

8.4 Notice. If Tenant and/or Tenant's successors and assigns shall mortgage its interest in this Lease or its leasehold estate in the Leased Premises, or any part or parts thereof, Tenant shall send to Landlord a true copy thereof, together with written notice specifying the name and address of the leasehold mortgagee(s) and the pertinent recording data with respect to such mortgage(s).

8.5 New Lease.

(a) Landlord agrees that in the event of termination of this Lease by reason of any default by Tenant, or by reason of the disaffirmance hereof by a receiver, liquidator or trustee for Tenant or its property, Landlord if requested by any Permitted Leasehold Mortgagee will enter into a new lease of the Leased Premises, with the Permitted Leasehold Mortgagee or its Affiliate requesting a new lease or its designee, for the remainder of the Term, effective as of the date of such termination, at the rent and additional rent and upon the terms, provisions, covenants and agreements as herein contained and subject to the rights, if any, of any parties then in possession of any part of the Leased Premises, provided:

(1) The Permitted Leasehold Mortgagee shall make written request upon Landlord for the new lease within one hundred twenty (120) days after the date of termination:

(2) Within thirty (30) days after receipt of the new lease from

Landlord complying with the terms of this section 8.5, the Permitted Leasehold Mortgagee or its Affiliate shall execute and deliver the new lease to Landlord and shall pay any and all sums which would, at the time of the execution and delivery thereof, be due and unpaid pursuant to this Lease but for its termination.

(3) The Permitted Leasehold Mortgagee shall perform and observe all covenants herein contained on Tenant's part to be performed, and shall further remedy any other conditions which Tenant under the terminated Lease was obligated to perform under its terms, in each instance as and to the extent the same are curable or may be performed by the Permitted Leasehold Mortgagee:

(4) The tenant under the new lease shall have the same right, title and interest in and to the buildings and improvements on the Leased Premises as Tenant had under the terminated Lease immediately prior to its termination; and

(5) Notwithstanding anything to the contrary expressed or implied elsewhere in this Lease, any new lease made pursuant to this section 8.5(a) shall enjoy the same priority in time as the Lease over any mortgage, deed of trust, or other lien, charge, or encumbrance on the Leased Premises.

(b) Any new lease made pursuant to section 8.5(a) shall be accompanied by a conveyance from Landlord to the new tenant of title to the Improvements (free of any mortgage, deed of trust, lien, charge, or encumbrance created by Landlord, except for Agency's Deed of Trust, unless there has been foreclosure, and any advances or amendments thereto and as may be further approved by the parties) for a term of years equal to the term of the new lease, subject to the reversion in favor of Landlord upon expiration or sooner termination of the new lease.

(c) Nothing herein contained shall require any Permitted Leasehold Mortgagee or its Affiliate to enter into a new lease pursuant to section 8.5(a), above, nor to cure any default of Tenant referred to above.

(d) If a Permitted Leasehold Mortgagee shall elect to demand a new lease, Landlord agrees, at the request of, on behalf of and at the expense of the Permitted Leasehold Mortgagee, to institute and pursue diligently to conclusion the appropriate legal remedy or remedies to oust or remove the original Tenant from the Leased Premises, but not any subtenants of Tenant actually occupying the Leased Premises, or any part thereof.

(e) Unless and until Landlord has received notice from any Permitted Leasehold Mortgagee that the Permitted Leasehold Mortgagee elects not to demand a new lease as provided in Section 8.5(a), or until the period therefore has expired, Landlord shall not cancel or agree to the termination or surrender of any existing subleases nor enter into any new subleases hereunder without the prior written consent of the Permitted Leasehold Mortgagee.

(f) Upon a Permitted Mortgagee or its Affiliate becoming a lessee with a

new lease pursuant to this section, subject to the terms and provisions set forth in this Section 8.5, such Permitted Leasehold Mortgagee or Affiliate shall have all the rights and privileges as if such Permitted Leasehold Mortgagee or Affiliate foreclosed on the Tenant's interests hereunder pursuant to its Leasehold Mortgage.

8.6 Lender's Liability. In the event any Permitted Leasehold Mortgagee or any designee of it becomes the Tenant under this Lease or under any new lease obtained pursuant to Section 8.5(a), above, the Permitted Leasehold Mortgagee or its designee shall be personally liable for the obligations of Tenant under this Lease or a new sublease only for the period of time that the Permitted Leasehold Mortgagee or its designee remains the actual holder of the leasehold estate hereunder.

8.7 Quiet Enjoyment. Absent an uncured default by Tenant, Landlord agrees not to disturb the possession, interest or quiet enjoyment of Tenant in the Leased Premises for any reason, or in a manner which would materially adversely affect any Permitted Leasehold Mortgage.

8.8 Approval of Modifications. Landlord (through its Executive Director or designee) shall approve reasonable modifications to the terms of this Lease which are reasonably requested by a proposed Leasehold Mortgagee as a condition of financing contemplated by this Lease, and which are limited to procedures, notice provisions or similar mechanical matters relating to lenders' remedies which the Executive Director or designee determines, in his sole discretion, will not adversely affect Landlord's rights.

8.9. THE PROVISIONS OF THIS LEASE DO NOT GIVE TO TENANT OR ANY PERSON WHATSOEVER OTHER THAN LANDLORD THE RIGHT TO MORTGAGE, HYPOTHECATE OR OTHERWISE TO ENCUMBER OR TO CAUSE ANY LIENS TO BE PLACED AGAINST THE FREEHOLD ESTATE OF LANDLORD, NOR SHALL SAID PROVISIONS BE CONSTRUED AS RESULTING IN A SUBORDINATION IN WHOLE OR IN PART OF THE FREEHOLD ESTATE OF LANDLORD OR LANDLORD'S RIGHT TO RECEIVE RENT TO ANY INDEBTEDNESS OF TENANT.

ARTICLE 9 - ASSIGNMENT AND TRANSFER

9.1 Transfer of the Lease, the Leased Premises or the Improvements Thereon.

9.1.1 (1) Tenant represents and agrees that its undertakings pursuant to this Lease are for the purpose of redeveloping the Leasehold and providing affordable rental housing for persons and families of Very Low and Extremely Low Income (as defined in the DDA), supportive housing and retail space, and not for speculation in land holding. Tenant further recognizes that the qualifications and identity of Tenant are of particular concern to the City of San Diego and the Landlord, in light of the following: (1) the importance of the development 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 Tenant or any other act or transaction involving or resulting in a significant change in ownership or control of Tenant, is for practical purposes a transfer or

disposition of the Leasehold then owned by Tenant. Tenant further recognizes that it is because of such qualifications and identity that the Landlord is entering into this Lease with Tenant. Therefore, no voluntary or involuntary successor in interest of Tenant shall acquire any rights or powers under this Lease except as expressly permitted herein.

(ii) Tenant shall not Transfer all or any part of its interest in or rights under this Lease and/or any part of its interest in or rights to the Leased Premises and/or any of the Improvements constructed thereon, without the prior written approval of Landlord or designee, except in the case of a Permitted Transfer; provided that a Permitted Transfer as described in clauses a., d., h., f., and g. shall be subject to the reasonable approval of documentation by the Landlord Executive Director or designee, and a Permitted Transfer as described in clauses b., c., d., e. and h., shall be subject to the assignor and the assignee executing and delivering to the Landlord Executive Director or designee an assignment and assumption agreement substantially conforming in form and substance to the Assignment and Assumption Agreement attached to the DDA (as amended by the First Amendment) as Attachment No. 28.

(iii) For the reasons cited above, Tenant represents and agrees for itself and any successor in interest that prior to the expiration of the Term, or any amendments thereto, without the prior written approval of the Landlord Executive Director or designee, there shall be no significant change in the ownership of Tenant or in the relative proportions thereof, or with respect to the identity of the parties in control of Tenant or the degree thereof, by any method or means, except Permitted Transfers.

(iv) Any assignment or transfer of this Lease or any interest herein or significant change in ownership of Tenant, other than certain Permitted Transfers, shall require the approval of the Landlord (acting through its Executive Director or designee), which approval shall not be unreasonably withheld. To the extent Landlord approval of an assignment or transfer is required by this Lease, in granting or withholding its approval, Landlord 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 Lease. In addition, Landlord shall not approve any assignment or transfer of this Lease or any interest herein or significant change in ownership of Tenant that results in payment of consideration to any Person prior to the expiration of the Term, or any amendments thereto, and that is not conditioned upon the expiration of the Term.

(v) At any time Tenant desires to effect a Transfer which requires Landlord's consent pursuant to this Section 9.1, Tenant shall request consent from Landlord in writing and shall submit to Landlord in connection with such request all proposed agreements and documents (collectively, the "Transfer Documents") memorializing, facilitating and/or evidencing such proposed Transfer, as well as all other information Tenant reasonably believes is necessary for Landlord to properly evaluate the proposed Transferee pursuant to the criteria set forth in Section 9.2(a)(iv). Landlord agrees to advise Tenant in writing of its decision on Tenant's request for consent to such Transfer, as promptly as possible, and, in any event, not later than sixty (60) days after Landlord receives all of the items required by the preceding sentence. If such request is denied, Landlord shall state the reasons for such denial in its notice of denial of Tenant's request. If Landlord fails to respond to Tenant's request within sixty (60) days after its receipt of all of the

items required above, Tenant's request shall be deemed disapproved. Upon a deemed disapproval, Tenant may deliver a notice to Landlord which states that there has been a deemed disapproval, requesting that Landlord consent to the proposed Transfer, stating that Landlord must consent to or deny the proposed Transfer within sixty (60) days after Landlord's receipt of this notice, and that failure by Landlord to either consent to or deny such Transfer within such 60 day period will result in deemed consent. If Landlord fails to consent to or deny the proposed Transfer within such second sixty (60) day period, the Transfer shall then be deemed approved by Landlord.

(vi) Tenant shall promptly notify the Landlord of any and all changes whatsoever in the identity of the parties in control of Tenant 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 Lease may be terminated by the Landlord if there is any significant change (voluntary or involuntary) in membership, management or control, of Tenant (other than such changes occasioned by the death or incapacity of any individual). In the event of the death or incapacity of any individual who controls Tenant or the managing member of Tenant, any resulting change in the management of the Improvements or the control of the day-to-day operations of the Leasehold and the Improvements shall be subject to the approval of the Landlord Executive Director or designee, which approval shall not be unreasonably withheld, conditioned or delayed.

(vii) Notwithstanding the foregoing, Cedar Squier ROEM, LLC and a to-be-identified 501(c)(3) nonprofit corporation shall be the general partners of Cedar Gateway, L.P. The limited partnership agreement shall provide that the day-to-day management of the limited partnership prior to completion of construction of the Improvements and authority to make all decisions affecting the construction of the Improvements shall be vested in Cedar Gateway, L.P.

9.2 Notwithstanding anything to the contrary in this Lease, and provided that Tenant is not requesting that it be released from its obligations hereunder, Landlord agrees to allow Permitted Transfers as set forth in Section 1.38 herein.

9.3 Transfer of Tenant's Interest in Lease and Tenant's Ownership.

The restrictions on Transfer contained in this Article 9 shall be binding on any successors, heirs or permitted Transferees of Tenant. The provisions of this Article 9 shall apply to each successive Transfer and Transferee in the same manner as initially applicable to Tenant under the terms set forth herein.

9.4 Leases.

Notwithstanding anything above which is or appears to be to the contrary, including any restrictions on Transfer contained in Section 9.2 of this Lease, but subject to the terms and conditions of this Section 9.4, Tenant shall be entitled to enter into leases of the Housing Improvements without Landlord's consent; provided that such leases are in conformity with the Regulatory Agreement and this Lease, and Tenant shall be entitled to enter into leases of the Retail Improvements without Landlord's consent; provided that such leases are in conformity with this Lease.

ARTICLE 10 - TAXES AND IMPOSITIONS

10.1 Tenant To Pay Impositions.

10.1.1 In addition to the Rent and other payments required to be paid under this Lease, Tenant shall pay or cause to be paid any and all taxes (including possessory interest taxes) and assessments (collectively, "Impositions") levied or assessed from the Commencement Date until the termination of this Lease, by any governmental agency or entity on or against the Leased Premises or any portion thereof, or on or against any interest in the Leased Premises (including the leasehold interest created by this Lease), or any Improvements or other property in or on the Leased Premises. The timely payment of the Impositions is a material term of this Lease, and, to the extent the above-referenced items are payable to Landlord or its successors or assigns, they shall constitute Additional Rent hereunder.

10.1.2 If, by law, any such Imposition is payable, or may, at the option of Tenant be paid, in installments, Tenant may pay the same, together with any accrued interest on the unpaid balance of such Imposition, in such installments as those installments respectively become due and before any fine, penalty, interest, or cost may be added thereto for the nonpayment of any such installment and interest.

10.2 Proration of Impositions.

All Impositions levied or assessed on or against the Leased Premises shall be prorated, based on a 365-day year, between Landlord and Tenant as of the Commencement Date of this Lease, and as of the expiration or earlier termination of this Lease. On service of written request by Landlord, Tenant shall promptly pay to Landlord, Tenant's share of such Impositions paid by Landlord on Tenant's behalf and, on service of written request by Tenant, Landlord shall promptly pay to Tenant, Landlord's share of such Impositions paid by Tenant on Landlord's behalf.

10.3 Payment Before Delinquency.

Subject to Tenant's right to contest under Section 10.4, any and all Impositions and installments of Impositions required to be paid by Tenant under this Lease shall be paid by Tenant prior to delinquency, and, upon Landlord's written request, copies of the official and original receipt for the payment of each such Imposition or installment thereof or other reasonably satisfactory evidence of payment shall promptly be given to Landlord.

10.4 Contest of Imposition.

Tenant shall have the right to contest, oppose, or object to the amount or validity of any Imposition levied on or assessed against the Leased Premises or any portion thereof and may in good faith diligently conduct any necessary proceeding to prevent or void or reduce the same; provided, however, that the contest, opposition, or objection must be filed before the Imposition at which it is directed becomes delinquent if such contest, opposition or objection is required to be made or filed prior to payment of the Imposition being challenged, and written notice of the contest, opposition, or objection must be given to Landlord at least thirty (30) days before the date the Imposition becomes delinquent. No such contest, opposition, or objection shall be continued or maintained after the date on which the Imposition at which it is directed becomes delinquent unless Tenant has met one of the following conditions: (i) Paid such Imposition under protest prior to its becoming delinquent; or (ii) Posted such bond or other security, reasonably satisfactory to Landlord, as is necessary to protect Landlord and the Leased Premises from any lien arising from such Imposition. Landlord shall not be required to join in any proceeding or contest brought by Tenant unless the provisions of any law require that the proceeding or contest be brought by or in the name of Landlord or any owner of the Leased Premises. In that case, Landlord shall join in the proceeding or contest or permit it to be brought in Landlord's name, but such action shall be without cost to Landlord and Tenant shall reimburse Landlord upon demand for any reasonable attorneys' fees and costs incurred therein.

10.5 Tax Returns And Statements.

Tenant shall, as between Landlord and Tenant, have the duty of attending to, preparing, making, and filing any statement, return, report, or other instrument required or permitted by law in connection with the determination, equalization, reduction, or payment of any Imposition that is or may be levied on or assessed against the Leased Premises, or any portion thereof, or any interest therein, or any Improvements or other property on the Leased Premises.

10.6 Possessory Interest Taxes.

Landlord is a public entity, and as such, Landlord's underlying fee in the Leased Premises is, or may be, exempt from property tax assessments. In accordance with California Revenue and Taxation Code Section 107.6(a), Landlord states that by entering into this Lease, a Possessory interest in Tenant subject to property taxes will be created. Tenant or any other party in whom the Possessory interest is vested may be subject to the payment of property taxes levied on such interest. In addition, pursuant to Health and Safety Code Section 33673, the Leased Premises shall be assessed and taxed in the same manner as privately owned property, and Tenant shall pay taxes upon the assessed value of the entire Leased Premises and not merely the assessed value of its leasehold interest; provided however, that Landlord recognizes that Tenant will apply for and may receive a welfare exemption for all or a portion of the Improvements.

ARTICLE 11 - UTILITY SERVICES

11.1 Tenant's Responsibility.

During the Term of this Lease, Tenant shall pay, or cause to be paid, and shall indemnify, defend and hold Landlord and the property of Landlord harmless from all charges for water, sewage, gas, heat, air conditioning, light, power, steam, telephone service and all other services and utilities used, rendered or supplied to, on or in the Leased Premises during the Term.

11.2 Landlord Has No Responsibility.

Landlord shall not be required to furnish to Tenant or any other occupant of the Leased Premises during the Term of this Lease, any water, sewage, gas, heat, air conditioning, light, power, steam, telephone, or any other utilities, equipment, labor, materials or services of any kind whatsoever.

ARTICLE 12 - INSURANCE

12.1 Fire and Extended Coverage Insurance.

Throughout the Term of this Lease, Tenant, at no cost or expense to Landlord, shall keep or cause to be kept, for the mutual benefit of Landlord and Tenant, a policy of standard fire insurance, with extended coverage and vandalism and malicious mischief endorsements, including earthquake insurance if such insurance is commercially available at commercially reasonable rates with commercially reasonable deductibles. The amount of insurance required hereunder shall in no event be less than one hundred percent (100%) of the full replacement cost of the Improvements on the Leased Premises (exclusive of foundations and footings), including tenant improvements or betterments. Tenant shall not be obligated to obtain flood insurance as part of the extended coverage required hereunder. Coverage shall be "property broad form" and shall include rent interruption insurance, which insurance shall also cover all real estate taxes and insurance costs for the purposes of continuing rental payments to the Landlord for the duration of the Lease. Coverage shall not include a coinsurance penalty provision.

12.2 All-Risk Policies. Commencing on the Commencement Date and continuing until Completion (as defined in the DDA as amended) Tenant shall maintain or cause to be maintained coverage of the type now known as All Risk insurance. Such insurance shall insure against direct physical loss or damage by fire, lightning, wind, storm, explosion, collapse, underground hazards, vandalism, malicious mischief, glass breakage and such other causes as are covered by such form of insurance. Such policy shall include (1) an endorsement for broad form property damage, breach of warranty, demolition costs and debris removal, (2) a "Replacement Cost Endorsement" in amount sufficient to prevent Tenant from becoming a co-insurer under the terms of the policy, but in any event in an amount not less than 100% of the then full replacement cost, to be determined at least once annually and subject to reasonable approval by Landlord, and (3) an endorsement to include coverage for budgeted soft costs. The replacement cost coverage shall be for work performed and equipment, supplies and materials furnished to the Property or any adjoining sidewalks, streets and passageways, or to any bonded warehouse for storage pending

incorporation into the work, without deduction for physical depreciation and with a deductible not exceeding \$25,000 per occurrence (except that earthquake coverage, if obtained at Tenant's sole discretion, shall carry a deductible not to exceed 25% of the policy amount, or such other deductible amount as Landlord may reasonably determine is acceptable, in light of the cost of the premium for such insurance). Nothing in this Section however, shall be construed to relieve the Tenant of full responsibility for loss of or damage to materials not yet incorporated in the work or the Tenant's tools and equipment used to perform the work, whether on the project site or elsewhere, or to relieve the Tenant of any other responsibility under this Lease. If the Landlord is damaged by the failure of the Tenant to purchase or maintain such insurance, the Tenant shall bear all losses attributable thereto and indemnify the Landlord therefrom.

12.3 Liability Insurance. Commencing on the Commencement Date and continuing throughout the Term hereof Tenant shall maintain or cause to be maintained general 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 Tenant on the Property, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Tenant, or any person acting for Trustor, 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 Trustor or its tenants, or any person acting for Trustor, or under its control or direction. Such property damage and personal injury insurance shall also provide for and protect Landlord 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 throughout the Term: commercial general liability in a general aggregate amount of not less than Four Million Dollars (\$4,000,000), \$4,000,000 Products and Completed Operations Aggregate, and \$4,000,000 Each Occurrence, which amounts shall be subject to increases equal to increases in the Consumer Price Index. Tenant agrees that provisions of this Section as to maintenance of insurance shall not be construed as limiting in any way the extent to which Tenant may be held responsible for the indemnification of Landlord or the payment of damages to persons or property resulting from Tenant's activities, activities of its tenants or the activities of any other person or persons for which Tenant is otherwise responsible.

12.4 Worker's Compensation Insurance. Commencing on the Commencement Date and continuing throughout the Term hereof Tenant 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 Tenant 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 Tenant. Notwithstanding the foregoing, Tenant 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 Tenant shall deliver to Landlord evidence that such self-insurance has been approved by the appropriate State authorities.

12.5 Business Automobile Liability Insurance. Commencing on the Commencement Date and continuing throughout the Term hereof Tenant shall maintain or cause to be maintained automobile insurance, maintained in full force and effect in an amount of not less than Three Million Dollars (\$3,000,000) per accident, which amount shall be subject to increases equal to increases in the Consumer Price Index .

12.6 Policy Form, Content And Insurer.

12.6.1 All insurance required by the provisions of this Lease shall be carried only with insurance companies licensed to do business in this state with Best's Financial Rating of A VII or better or otherwise acceptable to Landlord.

12.6.2 All such policies required by the provisions of this Lease shall be nonassessable and shall contain language to the effect that (i) the policies are primary and noncontributing with any insurance that may be carried by Landlord, (ii) the policies cannot be canceled or materially changed except after thirty (30) days notice by the insurer to Landlord and (iii) Landlord shall not be liable for any premiums or assessments. The insurer under the policy of property insurance for the Leased Premises shall also waive its rights of subrogation against Landlord and Landlord's Representatives.

12.6.3 All deductibles or self-insured retentions shall be commercially reasonable for companies of similar net worth as Tenant.

12.6.4 Upon Tenant's execution and delivery of this Lease, Tenant shall deliver to Landlord certificates of insurance evidencing the insurance coverages specified in this Article. Tenant shall thereafter deliver to Landlord original certificates and amendatory endorsements evidencing the insurance coverages required by this Article upon renewal of any insurance policy. Full copies of the policies shall be made available to Landlord upon request. Tenant may provide any insurance required under this Lease by blanket insurance covering the Leased Premises and any other location or locations, provided that the specific policy of blanket insurance proposed by Tenant provides the coverages required by this Agreement taking into account the other properties, persons and risks covered by such blanket policy. All policies shall name Landlord, City of San Diego, Centre City Development Corporation, and each Lender as an additional insured as their interests may appear, and shall contain the following special endorsements:

"The Redevelopment Agency of the City of San Diego, the City of San Diego, The Centre City Development Corporation and their respective officers, employee and agents are hereby declared to be additional insureds under the terms of this policy as to the activities of Landlord and its agents and representatives, Tenant and its sublessees, if any.

"This insurance policy will not be canceled without 30 days prior written notice to the Landlord and Centre City Development Corporation. The Redevelopment Agency of the City of San Diego is not liable for the payment of premiums or assessments on this policy."

12.6.5 For any claims related to this project, the Tenant's insurance coverage shall be primary insurance as respects the Landlord. Any insurance or self-insurance maintained by the Landlord shall be excess of the Tenant's insurance and shall not contribute with it.

12.6.6 Tenant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all requirements stated herein.

12.6.7 If Tenant fails or refuses to procure or maintain insurance as required by this Lease, Landlord shall have the right, but not the obligation, at Landlord's election, and upon ten (10) days prior notice to Tenant, to procure and maintain such insurance. The premiums paid by Landlord shall be treated as a loan, due from Tenant, to be paid on the first day of the month following the date on which the premiums were paid. Landlord shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

12.7 Waiver of Subrogation.

Without limiting Section 7.3 herein, Landlord and Tenant hereby release the other and its Representatives from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any insured loss or damage to the Leased Premises, any Improvements thereon, or any of Landlord's or Tenant's property thereon caused by or arising from a fire or any other event even if such fire or other casualty shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

12.8 Indemnification.

12.8.1 Tenant shall indemnify, defend and hold harmless Landlord and its Representatives, and the property of Landlord, including the Leased Premises, from and against any and all Losses and Liabilities of every nature arising out of or in connection with the use, occupancy or enjoyment of the Leased Premises by Tenant or any person thereon or holding under Tenant arising from any action, inaction, events or facts occurring during the Term from any cause; provided, that nothing in this Section 12.8.1 or this Lease shall be construed to require Tenant to rebuild the Improvements or to pay charges to Landlord in connection therewith as a result of damage to or destruction of the Improvements or any Taking of the Improvements except to the extent expressly provided in the other Sections of this Lease. The above indemnification includes, without limitation, any Losses and Liabilities arising by reason of:

(1) The death or injury of any person, including Tenant or any person who is an employee or agent of Tenant, or damage to or destruction of any property, including property owned by Tenant or by any person who is an employee or agent of Tenant, from any cause whatever while such person or property is in or on the Leased Premises;

(2) The death or injury of any person, including Tenant or any person who is an employee or agent of Tenant, or damage to or destruction of any

property, including property owned by Tenant or any person who is an employee or agent of Tenant, caused or allegedly caused by either (A) the condition of the Leased Premises or some Improvements on said premises, or (B) some act or omission on the Leased Premises by Tenant or any person in, on, or about the Leased Premises with the permission and consent of Tenant;

(3) Any work performed on the Leased Premises or materials furnished to said premises at the insistence or request of Tenant or any person or entity acting for or on behalf of Tenant; or

(4) Tenant's failure to perform any provision of this Lease or to comply with any Governmental Restriction.

However, the foregoing indemnification shall not extend to any Loss or Liability to the extent (5) it arises out of the gross negligence or intentional or willful misconduct of Landlord or its Representatives; or (6) it arises from a claim for personal injury or property damage asserted by the owners of any properties adjacent or proximate to the Leased Premises, or their guests, invitees, employees, tenants or other like person or entity claiming through them, which are based upon the migration of any Hazardous Materials deposited on the Leased Premises except during time Developer is constructing the Project, prior to the Commencement Date of this Lease, except during the time Tenant is constructing this project, onto such properties adjacent or proximate to the Leased Premises.

ARTICLE 13 - CONDEMNATION

13.1 General.

If any portion of or interest in the Leased Premises shall be condemned (including, without limitation, inverse condemnation) or taken by any public authority or by any other person or entity with the power of condemnation, by eminent domain or by purchase in lieu thereof (a "Taking"), and such Taking renders the Leased Premises unsuitable in the commercially reasonable judgment of Tenant for Tenant's business operations, Tenant may terminate this Lease with Lender's prior written consent, by giving notice to Landlord, such termination to be effective as of the date specified in such notice. If this Lease is not terminated, subject to the rights of any Lender under its loan documents, Tenant's condemnation award shall be used for the purpose of repairing or restoring the Improvements in accordance with Section 7.3.

13.2 Award.

Whether or not this Lease is terminated as a result of any Taking, Landlord and Tenant shall together make one claim for an award for their combined interests in the Leased Premises including an award for severance damages if less than the whole shall be so taken. The condemnation proceeds shall be distributed to Landlord and Tenant as their respective interests appear, subject to the rights of any Lender under its loan documents. In the event the terms of the Leasehold Mortgage require distribution of the Tenant proceeds, the Landlord and Tenant must

seek separate condemnation awards for their respective interests in the Lease and the condemnation award of Tenant shall be paid and held by the Lender. Both parties shall have the right to appear in and defend against such action as they deem proper in accordance with their own interests at their own expense. To the extent possible, the parties shall cooperate to maximize the condemnation proceeds payable by reason of the condemnation. Issues between Landlord and Tenant required to be resolved pursuant to this Article shall be joined in any such condemnation proceeding to the extent permissible under then applicable procedural rules of such court of law or equity for the purpose of avoiding multiplicity of actions and minimizing the expenses of the parties. If this Lease is not terminated pursuant to this Article, it shall continue, except that commencing with the date on which Tenant is deprived of the use of any portion of the Leased Premises or of any rights under this Lease, Rent shall be abated or reduced according to the extent to which Tenant is deprived of the use or benefit of the Leased Premises or of any rights under this Lease. If the Taking occurs in the last five (5) years of the Term, Landlord, by written notice to the Tenant, may terminate this Lease, or Tenant, with the written consent of Lender, may also terminate by giving written notice to the Landlord. Such termination shall be effective as of the date condemnor acquires title to all or part of the Leased Premises on the date of entry of the final order of condemnation.

13.3 Taking for Temporary Use.

If there is a Taking of the Leased Premises for temporary use for a period equal to or less than eight (8) months, this Lease shall continue in full force and effect, Tenant shall continue to comply with Tenant's obligations under this Lease not rendered physically impossible by such Taking, neither the Term nor the Rent shall be reduced or affected in any way, but the Rent shall continue at the level of the last Rent paid prior to the Taking (including any subsequent increases in such Rent provided for under this Lease), and Tenant shall be entitled to any and all Awards for the use or estate taken subject to the rights of any Lender. If any such Taking is for a period extending beyond such eight (8) month period, the Takings shall be treated as a total, substantial or partial taking, as appropriate, with the written consent of the Lender.

ARTICLE 14 - DEFAULT

14.1 Default.

The occurrence of any one or more of the following events shall, after the giving of the Notice of Default required by Section 14.2 or 14.4 (nonpayment of Rent does not require a Notice of Default), constitute a default ("Default(s)") under this Lease by Tenant or Landlord, as applicable:

14.1.1 If, prior to the issuance of the Release of Construction Covenants, Tenant shall:

(1) Fail to commence construction of the improvements as required by the DDA and this Lease for a period of ninety (90) days after written notice from the Landlord pursuant to Section 601;

(2) Abandon or substantially suspend construction of the Improvements for a period of ninety (90) days after written notice of the abandonment or suspension from the Landlord;

(3) Transfer, or suffer any involuntary transfer of, the Leasehold, or any part of it, in violation of this Lease, and the violation will not be cured within ninety (90) days after written demand by Landlord to Tenant; or

14.1.2 Any failure by Tenant to pay the Rent or make any other payment required to be made by Tenant hereunder, on the date the payment is due; or

14.1.3 Any failure by Tenant to pay any amount due under the Permanent Loan or the Agency Loan and the failure to cure such default under the terms of such loans; or

14.1.4 Any breach by Tenant of its obligations under the Agreement Affecting Real Property and the failure to cure such default under the terms of such documents; or

14.1.5 Any breach by Tenant of its obligations under the Regulatory Agreement and the failure to cure such breach under the terms of the Regulatory Agreement; or

14.1.6 Any breach by Tenant of its obligations under the Covenants, Restrictions and Easements and the failure to cure such breach under the terms of the Covenants, Restrictions and Easements; or

14.1.7 Any breach by Tenant of its obligations under the Reciprocal Easement Agreement and the failure to cure such breach under the terms of the Reciprocal Easement Agreement; or

14.1.8 A failure by Tenant or Landlord to observe and perform any other condition, restriction, covenant, obligation or provision of this Lease to be observed or performed by Tenant or Landlord, as applicable.

14.1.9 Any uncured default of Tenant under any Permitted Mortgage.

14.2 Notice of Default; Tenant's Right to Cure.

14.2.1 If Tenant has committed or permitted to exist a breach of any provision of this Lease (other than nonpayment of Rent) or has committed or permitted any other breach described above in Section 14.1, Landlord shall give notice of said breach ("Notice of Default") to Tenant.

14.2.2 Tenant shall be in default hereunder without notice from Landlord if Rent is not paid by the twentieth (20th) day of May of each calendar year (or if the twentieth day falls on a Saturday or Sunday, the first Monday following the twentieth (20th) day of May) or, with respect to Rent attributable to the reduction or elimination of the Transitional Operating Reserve, within thirty (30) days after such reduction or elimination.

14.2.3 If the alleged Default is nonpayment of Additional Rent, Impositions or other sums to be paid by Tenant as provided in this Lease, Tenant shall have thirty (30) days after the Notice of Default is given to cure the Default. For any other Default other than a default under Section 14.1.1, Tenant shall, after the Notice of Default, promptly and diligently commence curing the Default and shall have ninety (90) days after the Notice of Default to complete the cure of said Default; provided, however, that if the nature of said Default is such that the same cannot reasonably be cured within said ninety (90) day period, Tenant shall have such additional time as is reasonably necessary to cure such Default, provided that at all times prior to the expiration of said ninety (90) day period and for the period thereafter that the Default remains uncured, Tenant is exercising reasonable diligence in its efforts to cure such Default, but in no event greater than one hundred and twenty (120) days after the Notice of Default.

14.2.4 If the alleged Default is an event of nonperformance under Section 14.1.1, failure to timely commence and complete construction of the Improvements, Landlord shall provide Tenant with written notice specifying in detail (i) that an event of nonperformance has occurred, (ii) the nature of such event of nonperformance, (iii) the actions required to be taken by Tenant to remedy or cure the event of nonperformance, (iv) the date on which the event of nonperformance will become an Event of Default if not sooner cured or remedied, and (v) that failure to cure or remedy the event of nonperformance prior to such date may result in termination of this Lease, or at Landlord's election, injunctive or other monetary relief for Landlord. In the event Tenant has not remedied or cured such event of nonperformance within sixty (60) days after Tenant's receipt of such written notice (or, if it is not practicable to remedy or cure such event of nonperformance within such period, in the event Tenant has not commenced to remedy or cure such event of nonperformance within such period), the same shall constitute an Event of Default. In no event shall an Event of Default exist with respect to any event of nonperformance for which it is not practicable to remedy or cure within the period set forth in the immediately preceding sentence, provided Tenant has commenced the remedy or cure of such event of nonperformance prior to the lapse of such period and diligently prosecutes such remedy or cure to completion, but in no event later than one hundred and twenty (120) days after Tenant's receipt of written notice.

14.2.5 As used in this Lease, the term "Uncured Default" shall mean any Default by Tenant which continues uncured, following the giving of a Notice of Default as required by this Lease, for the cure period applicable to that Default under the provisions of this Lease.

14.2.6 Copies of all notices hereunder shall be sent to the limited partner of Tenant pursuant to Section 18.6. Cures offered on behalf of Tenant by the limited partner of Tenant shall be received by Landlord as if offered by Tenant itself hereunder.

14.3 Good Faith Dispute.

Notwithstanding the foregoing, in the event that Tenant or Tenant's Lienholder disputes Landlord's determination that an Event of Default has occurred and delivers notice of such dispute to Landlord within thirty (30) days after the occurrence of an Event of Default (or with respect to Tenant's Lienholder, within its time period to cure an Event of Default) pertaining to such event of nonperformance, and if such dispute is made in good faith, then no such termination of this Lease by Landlord shall be permitted during the pendency of any action or proceeding to

determine such dispute; provided, however, that if such action or proceeding results in a final determination unfavorable to Tenant, Tenant must cure such event of nonperformance within thirty (30) days following such determination or, if it is not practicable to cure or remedy such event of nonperformance within such thirty (30) day period, then Tenant must commence the curing or remedying of such Event of Nonperformance within said thirty (30) day period and diligently prosecute such cure or remedy to completion but in no event later than sixty (60) days). Failure of Tenant or Tenant's Lienholder to cure such event of nonperformance within the aforesaid period shall entitle Landlord to terminate this Lease and any such determination in such action or proceeding may provide for the termination of this Lease conditioned upon permitting Tenant to cure such event of nonperformance as herein provided.

14.4 Landlord's Right to Cure Tenant's Defaults.

After expiration of the applicable time granted to Tenant for curing a particular Default and upon not less than five (5) business days' notice (unless a longer period of time is otherwise expressly provided by this Lease, in which case such longer period shall apply), Landlord may, at Landlord's election, make any payment (other than Rent payable to Landlord) required of Tenant under this Lease or perform or comply with any covenant or condition imposed on Tenant under this Lease, and the amount so paid, plus the reasonable cost of any such performance or compliance, plus interest on such sum at the Agreed Rate, from the date of payment, performance, or compliance until the date of repayment by Tenant, shall be due and payable by Tenant on the first day of the next calendar month following any such payment, performance or compliance by Landlord as Additional Rent hereunder. No such act shall constitute a waiver of any Default or of any remedy for Default or render Landlord liable for any loss or damage resulting from any such act (except to the extent such loss or damage arises from Landlord's or Landlord's Representatives' gross negligence or intentional or willful misconduct).

14.5 Notice of Landlord's Default; Tenant Waiver.

14.5.1 If Landlord has committed a breach under this Lease, as described in Section 14.1, Tenant shall deliver a Notice of Default to Landlord. Each Notice of Default shall specify the alleged Default.

14.5.2 Landlord shall, after notice, promptly and diligently commence curing the Default and shall have sixty (60) days after notice is given to complete the cure of said Default; provided, however, that if (i) the nature of said Default is such that the same cannot reasonably be cured within said sixty (60) day period, and (ii) Landlord shall have in good faith commenced and diligently and continuously pursued such cure, then Landlord shall have such time as is reasonably necessary to complete the cure of said Default. If it is determined that Landlord is liable to Tenant for damages pursuant to this Lease, Landlord shall pay such damages to Tenant in accordance with such judgment within 30 days after such determination. Tenant shall have no right to offset any amount of damages owed by Landlord to Tenant against the Rent owed by Tenant to Landlord under this Lease. If any amount owed to the Tenant by Landlord is not paid when due, interest shall accrue on such amount at the Agreed Rate from the date due until the date that such amount is paid. After expiration of the applicable time for Landlord to cure a particular Default and upon not less than five (5) business days' notice (unless a longer period of time is otherwise expressly

provided by this Lease, in which case such longer period shall apply), Tenant may, at Tenant's election, make any payment required of Landlord under this Lease or perform or comply with any covenant or condition imposed on Landlord under this Lease, and the amount so paid, plus the reasonable cost of any such performance or compliance, plus interest on such sum at the Agreed Rate, from the date of payment, performance, or compliance until the date of repayment by Landlord, shall be due and payable by Landlord on the first day of the next calendar month following any such payment, performance or compliance by Tenant. No such act shall constitute a waiver of any Default or of any remedy for Default or render Tenant liable for any loss or damage resulting from any such act (except to the extent such loss or damage arises from Tenant's or Tenant's Representatives' negligence or intentional or willful misconduct).

14.6 Landlord's Remedies

14.6.1 Right of Termination.

Upon the occurrence of any Event of Default under Section 14.1.1, 14.1.4, 14.1.6 or failure to pay Rent for two (2) or more consecutive years, Landlord may, at its option and in addition to any other remedy provided for in this Lease, but subject to the rights of Lienholders, and provided Landlord has given Tenant at least thirty (30) days' additional notice of its intent to do so and Tenant has failed to cure the Event of Default within such period, reenter and repossess the Improvements, terminate the Lease and revest in Landlord the leasehold interest theretofore transferred to Tenant, by written notice to Tenant of its intention to do so. Such notice by Landlord shall expressly state that an Event of Default has occurred and that Landlord's remedies include the right to terminate this Lease. The right to reenter, repossess, terminate and revest will be subject to and be limited by and will not defeat, render invalid, or limit:

- (1) Any mortgage, deed of trust or other financing interest permitted by this Lease;
- (2) Any rights or interests provided in this Lease for the protection of the holders of mortgages, deeds of trust or other financing interests.

14.6.2 Revesting Prior to Issuance of Release of Construction Covenants. Prior to the issuance of a Release of Construction Covenants in accordance with Section 324 of the DDA for the Improvements to be constructed on the Premises, upon the revesting in Landlord of the leasehold estate in the Leased Premises, Landlord shall use its best efforts to re-lease or sell the Leased Premises as soon as possible and in such manner as Landlord shall find feasible to a qualified and responsible party or parties (as reasonably determined by Landlord) as shall be reasonably satisfactory to Landlord, who will assume the obligation of making or completing the Improvements, or such other improvements in their stead, or operate and maintain the Improvements on the Leased Premises, or otherwise use the Premises and in accordance with the uses specified for the Leased Premises. Tenant shall have the right to secure prospective purchasers meeting the qualifications set forth in this section and Landlord agrees that it will not unreasonably withhold its consent to the sale or lease of the Leased Premises to any prospective purchaser/lessee secured by Tenant who qualifies as a "permitted assignee" under Section 9.1. Upon such re-leasing or sale of the Leased Premises, the proceeds thereof shall be applied:

(a) First, to reimburse Landlord on its own behalf for all reasonable costs and expenses of Landlord incident to such re-lease or sale and/or conveyance; all taxes, assessments, and water and sewer charges with respect thereto; 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 Tenant, its successors or transferees, any expenditures made or obligations incurred by Landlord with respect to the making or completion of the Improvements or any part thereof on the Leased Premises; and any amounts otherwise owing Landlord by Tenant or by its successor or transferee to the date of termination of this Lease.

(b) Second, to reimburse the Tenant, its successor or transferee, the costs incurred for the development of the Property and the Improvements existing thereon at the time of reentry and repossession including the Costs, less any gains or income withdrawn or made by, the Tenant therefrom or from the Improvements thereon after all operating expenses, debt service and annual Rent has been paid.

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

The rights established in this section are to be interpreted in light of the fact that Landlord will convey the Leased Premises to Tenant for development and not for speculation in undeveloped land.

14.6.3 Termination of Lease.

No ejectment, reentry or other act by or on behalf of Landlord shall constitute a termination unless Landlord gives Tenant notice of termination in writing. Such termination shall not relieve or release Tenant from any obligation incurred pursuant to this Lease with respect to the period prior to the date of such termination.

14.6.4 Late Payment Charge.

Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by the terms of any mortgage, deed of trust, or bonded indebtedness. Accordingly, if any installment of Rent shall not be received by Landlord or its designee within ten (10) days after Rent is due, or if any Additional Rent or Impositions shall not be received by Landlord within twenty (20) days after the Notice of Default is given, then without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge to Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected,

for three (3) consecutive installments of Rent, then Rent shall automatically become due and payable quarterly in advance, rather than monthly, notwithstanding Article 4 or any other provision of this Lease to the contrary.

14.6.5 Availability of Remedies.

In the event Tenant fails to pay Rent to Landlord, Landlord shall have the right to pursue all of its legal and equitable remedies against Tenant for collection of such amounts, including without limitation the remedy described in California Civil Code Section 1951.4 which provides that a lessor may continue a lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if the lessee has the right to sublet or assign, subject only to reasonable limitations.

14.6.6 Landlord Remedies Cumulative

Except as expressly provided elsewhere in this Lease the following provisions shall apply. Termination of the Lease (pursuant to Sections 14.1.1, 14.1.3 or 14.1.4), under this Section 14.5 shall not relieve Tenant from the obligation to pay any sum due to Landlord or from any claim for damages against Tenant. Landlord may, at its option, enforce all of its rights and remedies under this Lease, including the right to recover any rent and all other sums payable hereunder as the same become due hereunder. Additionally, Landlord shall be entitled to recover from Tenant all costs of maintenance and preservation of the Leased Premises, and all costs, including attorneys' and receiver's fees, incurred in connection with the appointment of and performance by a receiver to protect the Leased Premises and Landlord's interest under this Lease (only in the case of an Event of Default under Sections 14.1.1, 14.1.3 or 14.1.4). The right of termination provided by this Section 14.5 is not exclusive and shall be cumulative to all other rights and remedies possessed by Landlord, and nothing contained herein shall be construed so as to defeat any other rights or remedies to which Landlord may be entitled, provided such rights or remedies are contained in this Lease and any other remedy available to it at law and equity

14.7 Tenant Remedies; Remedies Cumulative.

Except as otherwise expressly provided in this Lease, Tenant shall have all rights and remedies at law or equity upon the occurrence of an Uncured Default by Landlord hereunder including, but not limited to, the remedies provided under California Civil Code Sections 1951.2 (pursuant to California Civil Code Section 1951.2, the damages Landlord may recover against Tenant include, but are not limited to, the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award, exceeds the amount of such rental loss for the same period that the Tenant proves could be reasonably avoided). Each right and remedy of Landlord and Tenant provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease except as otherwise limited by this Lease, and the exercise or the beginning of the exercise by Landlord or Tenant of any one or more of the rights or remedies provided for in this Lease, except as otherwise limited by this Lease, shall not preclude the simultaneous or later exercise by Landlord or Tenant of any or all other rights or remedies provided for in this Lease, except as otherwise limited by this Lease.

14.8 No Waiver.

Landlord's or Tenant's failure to enforce any provision of this Lease with respect to a Default hereunder shall not constitute a waiver of Landlord's or Tenant's right to enforce such provision or any other provision with respect to any future Default. The acceptance of Rent by Landlord shall not be deemed a waiver of Landlord's right to enforce any term or provision hereof. The waiver of any term or condition of this Lease shall not be deemed to be a waiver of any other term or condition hereof or of any subsequent failure of any term or condition hereof.

14.9 Delays in Performance.

The time within which the Parties hereto shall be required to perform any obligation under this Lease shall be extended by a period of time equal to the number of days during which performance of such act is delayed due to an act of God, strikes, lockouts, fire, earthquake, flood, explosion, war, invasion, insurrection, riot, mob violence, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, unusually severe weather, application of governmental restrictions, regulations or controls not contemplated by this Lease or otherwise reasonably foreseeable, court order, delays or inaction of independent contractors, remediation of Hazardous Materials located upon the Leased Premises, litigation brought against the Leased Premises or a Party without that Party's consent, or other like events which are completely and strictly beyond a Party's control (the "Force Majeure Events"). The additional grace period or extension of time provided above shall be equal to the period of delay caused by the above-described event, which period shall commence to run from the time of the commencement of the cause for delay and shall terminate upon termination of that cause. A Party wishing to invoke this Section must notify in writing the other Party to this Lease of that intention within sixty (60) days of the commencement of any such cause for delay and shall, at that time, specify the reasons therefor, the specific provision of this Lease which will be delayed as a result, and the period of such extension, if known, or if not known, a reasonable estimate thereof.

ARTICLE 15 - EXPIRATION; TERMINATION

15.1 Rights at Termination.

At the expiration or earlier termination of this Lease, Tenant shall surrender to Landlord possession of the Leased Premises and all Improvements, free and clear of all liens, encumbrances and Mortgages other than those, if any, created by Landlord, those which both extend beyond the Term of this Lease and were expressly approved in writing by Landlord, or those which encumbered the Leased Premises prior to the Commencement Date of this Lease. Tenant shall leave the Leased Premises and any other property surrendered in its then existing "as is" condition. As provided above at Section 6.8, all property that Tenant is required to surrender shall become Landlord's property at termination or expiration of this Lease. In addition, Tenant shall surrender to Landlord all residential leases, and all records related to the residential leases and compliance with the Agreement Affecting Real Property and the Regulatory Agreement. All property that Tenant is not required to surrender but that Tenant does abandon by failure to remove said property within sixty (60) days after the expiration or earlier termination of this Lease shall, at Landlord's election, become Landlord's property. At Landlord's request, Tenant shall execute and

deliver to Landlord assignments of leases and a quitclaim deed, both in commercially reasonable form and as prepared by Landlord. By the quitclaim deed, Tenant shall quitclaim any right, title or interest which Tenant may have or claim to have in the Improvements.

15.2 Rights of Lender.

Landlord shall not accept any voluntary termination or surrender of this Lease by Tenant at any time Tenant's leasehold estate is encumbered by a mortgage loan permitted under Article 8 without the prior written consent of a Permitted Leasehold Mortgagee.

ARTICLE 16 – NO DISCRIMINATION

16.1 Tenant herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through them, and this Lease is made and accepted upon and subject to the following conditions: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

16.2 Tenant, 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 Lease shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

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

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

(3) In contracts: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

ARTICLE 17 – OPTION AND RIGHT OF FIRST REFUSAL

Landlord and Tenant have entered into that certain Option to Purchase Agreement (Housing) in form as attached to the DDA as Attachment No. 20, and that certain Right of First Refusal (Retail) in form as attached to the DDA as Attachment No. 21, and memoranda thereof, concurrently with delivery of this Lease. The terms of these agreements are summarized below for convenience. In the event of a conflict between these summaries, on the one hand, and the Option to Purchase Agreement (Housing) and the Right of First Refusal (Retail), on the other, the terms of the Option to Purchase Agreement (Housing) and the Right of First Refusal (Retail) shall control.

17.1 Option to Purchase and Right of First Refusal (Housing)

The Option to Purchase Agreement (Housing) grants to Landlord an option to purchase and a right of first refusal to purchase the Leasehold (other than the Retail Parcels) and all Improvements therein at any time after the 55th anniversary of Conversion.

17.1.1 The option granted to Landlord pursuant to the Option to Purchase Agreement (Housing), provides that upon written notice by Landlord to Tenant at any time after the 55th anniversary of Conversion, Landlord shall have the right to exercise its option to acquire the Leasehold (other than the Retail Parcels) and all Improvements therein for a price equal to the greater of (a) the fair market value of the Leasehold and all Improvements therein taking into consideration the remaining term of the Ground Lease, determined in accordance with the procedures set forth in the Option to Purchase Agreement (Housing), or (b) the sum of the

remaining unpaid principal and all accrued but unpaid interest on loans secured by an encumbrance on said Leasehold outstanding, other than amounts owing on the Agency Loan, and taxes, as of the date Landlord will close the purchase of the Leasehold and all improvements therein.

17.1.2 The right of first refusal granted to Landlord pursuant to the Option to Purchase Agreement (Housing), provides that at any time after the 55th anniversary of Conversion, Landlord shall have the right of first refusal to acquire the Leasehold and all Improvements therein for a price equal to the outstanding amount of debt on the Housing Parcel plus the amount of income taxes that would be incurred by the partners of Tenant upon a sale of the Leasehold (other than the Retail Parcels) and all Improvements therein. Landlord shall have the right to take steps to minimize the amount of said tax liability so long as there is no material adverse financial impact on the Tenant or its partners and so long as such steps do not materially affect the Landlord's ability to operate the Housing Improvements in accordance with the terms of this Lease.

17.2 Right of First Refusal (Retail)

The Right of First Refusal (Retail) grants to Landlord a right of first refusal to purchase the Retail Parcels and the Retail Improvements at any time after the 55th anniversary of Conversion on the same terms and conditions as contained in a bona fide offer.

ARTICLE 18 – MISCELLANEOUS

18.1 Landlord's Representations and Warranties.

Landlord covenants, represents and warrants to Tenant as of the date of execution of this Lease, as follows:

18.1.1 Landlord is a public body corporate and politic under the laws of the State of California, has full legal right, power, and authority to enter into this Lease and to carry out and consummate all transactions contemplated by this Lease, and by appropriate corporate action has duly authorized the execution and delivery of this Lease. Further, Landlord will take those actions required to remain in good standing under the laws of the state of California during the term of this Lease.

18.1.2 To Landlord's actual knowledge, the execution, delivery and performance of this Lease by Landlord does not result in a material violation of, or constitute a material default under, any provision of any existing agreement, judgment or court order.

18.1.3 Except as revealed in writing by Landlord to Tenant, Landlord has not been served with any pending, and knows of no threatened, litigation or claims against the Leased Premises or against Landlord in connection with the Leased Premises which would have an adverse effect on the transactions contemplated herein.

18.1.4 Copies of all documents heretofore delivered by Landlord to Tenant are

true, correct and complete copies of such documents in all material respects.

18.1.5 Landlord makes no representation or warranty as to the condition of the title to the Leased Premises except that Landlord is vested with the fee simple title thereto, subject to all recorded and unrecorded encumbrances, liens, encroachments, rights of way, easements and other possible claims of interest that may be discovered by examination of the public records and by survey and inspection.

18.1.6 As of the date of execution of this Lease, Landlord has not encumbered its fee interest in the Leased Premises with any mortgage or deed of trust or other lien and shall not do so in the future unless such mortgagee or beneficiary enters into a Subordination and Non-Disturbance Agreement in a form reasonably acceptable to a Permitted Leasehold Mortgage, agreeing to recognize this Lease and the Permitted Leasehold Mortgage upon any foreclosure.

18.2 Tenant's Representations and Warranties.

Tenant covenants, represents and warrants to Landlord, as of the date of execution of this Lease, as follows:

18.2.1 Tenant is a limited partnership or corporation duly formed and in good standing under the laws of the State of California, has full legal right, power, and authority to enter into this Lease and to carry out and consummate all transactions contemplated by this Lease, and by appropriate action has duly authorized the execution and delivery of this Lease. Further, Tenant will take those actions required to remain in good standing under the laws of the state of California during the term of this Lease.

18.2.2 The Representatives of Tenant executing this Lease are fully authorized to execute the same.

18.2.3 This Lease has been duly authorized, executed, and delivered by Tenant, and will constitute a legal, valid, and binding agreement of Tenant, enforceable against Tenant in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles if equitable remedies are sought.

18.2.4 Except as shall be revealed in writing by Tenant to Landlord, Tenant has not been served with any pending, and knows of no threatened, litigation or claims against Tenant which would have an adverse effect on the transactions contemplated herein.

18.2.5 Copies of all documents heretofore delivered by Tenant to Landlord are true, correct and complete copies of such documents in all material respects;

18.2.6 Tenant acknowledges that it owned the Property immediately prior to Landlord and sold Landlord the Property and Tenant states that it has examined the Leased Premises and hereby accepts possession of the Leased Premises in its "as is" condition, with all faults and defects subject to the terms of this Lease.

18.3 Survival of Representations, Warranties and Covenants.

The respective representations, warranties and covenants contained herein shall survive the Commencement Date and continue throughout the Term.

18.4 Further Assurances

Each party hereto will promptly execute and deliver without further consideration such additional agreement, assignments, endorsements and other documents as the other party hereto may reasonably request to carry out the purposes of this Lease.

18.5 Estoppel Certificate.

Within thirty (30) days after request by Landlord or Tenant (which request may be from time to time as often as reasonably required by Landlord or Tenant) Landlord or Tenant shall execute and deliver to the other, without charge, a statement (the "Estoppel Certificate") in the form of Exhibit D attached hereto or in such other similar form as Landlord or Tenant may reasonably request. Any such statement may be conclusively relied upon by any Lender, Subtenant or prospective purchaser of the Leased Premises.

18.6 Notices.

All notices, requests, demands and other communications under this Lease shall be in writing and shall be deemed to have been given on (a) the date of service if served personally on the Party to whom notice is to be given, (b) the date of actual or attempted delivery provided such attempted delivery is made on a business day, if served by Federal Express, Express Mail or another like overnight delivery service, (c) the date of actual delivery as shown by the addressee's registry or certification of receipt or the fourth business day after the date of mailing, whichever is earlier, if mailed to the person to whom notice is to be given, by first class U.S. mail, registered or certified, postage prepaid, return receipt requested and properly addressed as follows (or to such other address as either Party may from time to time direct by written notice given in the manner herein prescribed), or (d) one day after receipt of a confirmed facsimile transmission provided any such communication is concurrently given by one of the above methods:

If to Landlord: The Redevelopment Agency of the City Of San Diego
 c/o Centre City Development Corporation
 Attn: Affordable Housing Manager
 401 B Street, Suite 400
 San Diego, CA 92101
 Tel: 619-533-7100
 Fax: 619-236-9148

With a copy to: Kane, Ballmer & Berkman
Attention: Murray O. Kane
515 S. Figueroa Street
Suite 1850
Los Angeles, California 90071
Tel: 213-617-0480
Fax: 213-625-0931

And

City of San Diego
Office of the City Attorney
Attn: General Counsel, Redevelopment Agency
1200 Third Ave., Suite 1620
San Diego, CA 92101
Phone: (619) 236-6220
Fax: (619) 236-7215

and, if to Tenant: Cedar Gateway, L.P.
c/o ROEM Development Corporation
1650 Lafayette Street
Santa Clara, California 95050
Attn: Robert Emami
Tel: (408) 984-5600
Fax: (408) 984-311

With a copy to: Squier Properties
3129 6th Street
Santa Monica, California 90405
Attn: Gary Squier
Tel: (310) 850-9043
Fax: 310-392-5831

18.7 Attorneys' Fees.

In the event that either Party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Lease or as a consequence of any breach by the other party of its obligations under this Lease, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees (including allocable costs for any in-house counsel) and out-of-pocket expenditures paid by the losing Party. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit on this Lease shall be entitled to its attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Lease into any judgment on this Lease.

18.8 Headings

The headings used in this Lease are inserted for reference purposes only and do not affect the interpretation of the terms and conditions hereof.

18.9 Rights of Successors.

All of the rights and obligations of the Parties under this Lease shall bind and inure to the benefit of their respective heirs, successors and assigns; provided, however, that nothing in this Section 18.9 shall be construed to limit or waive the provisions concerning restrictions on Transfer set forth in Article 9 hereof.

18.10 Amendments in Writing.

This Lease cannot be orally amended or modified. Any modification or amendment hereof must be in writing and signed by both parties, with the prior written consent of the Lender. There shall be no amendment, cancellation, termination, surrender or modification of this Lease by Tenant without the prior written consent in writing by Lender.

18.11 No Brokers.

Each Party shall defend, indemnify, and hold the other harmless from all costs and expenses, including attorneys' fees, arising out of any and all claims for broker's agent's or finder's fees or commissions in connection with the negotiation, execution or consummation of this transaction incurred as a result of any statement, representation or agreement alleged to have been made or entered into by the indemnifying Party. Neither Tenant nor Landlord is entitled to receive any brokerage commission as a consequence of this transaction.

18.12 Negation of Partnership.

Nothing in this Lease shall be construed to render Landlord, a partner, joint venturer, or associate in any relationship or for any purpose with Tenant, other than that of Landlord and Tenant, nor shall this Lease be construed to authorize either to act as agent for the other.

18.13 Time of Essence.

Time is of the essence of each provision in this Lease, subject to delays caused by any of the force majeure events set forth in Section 14.8.

18.14 Interpretation.

When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The term "Person" as used in this Lease means a natural person, corporation, limited liability company, association, partnership, organization, business, trust, individual, or a

governmental authority, agency, instrumentality or political subdivision, and whenever the word “day” or “days” is used herein, such shall refer to calendar day or days, unless otherwise specifically provided herein. Whenever a reference is made herein to a particular Section of this Lease, it shall mean and include all subsections and subparts thereof. The word “include” or “including” shall describe examples of the antecedent clause, and shall not be construed to limit the scope of such clause.

18.15 Applicable Law; Severability.

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

18.16 Exhibits.

All exhibits referred to in this Lease are attached hereto and incorporated herein by reference.

18.17 Short Form of Lease.

Concurrently with the execution of this Ground Lease, the Parties shall execute and thereafter record with the County Recorder of San Diego County a Memorandum of Lease, in form as attached hereto as Exhibit C, giving notice of the existence of this Ground Lease and the Term hereof. The date the Memorandum of Lease is recorded in the Official Records is the Commencement Date of this Lease.

18.18 Landlord's Rights of Inspection.

Landlord and its authorized Representatives shall have the right during business hours, upon not less than twenty-four (24) hours' oral or written notice to Tenant (except that in the case of an emergency, the existence of which shall be determined by Landlord in its reasonable discretion, no advance notice shall be required) to enter upon the Leased Premises for purposes of inspecting the same and exercising its rights under this Lease, provided that such inspections shall not unreasonably interfere with Tenant's or its subtenant's construction or business activities.

18.19 Nonmerger of Fee and Leasehold Estates.

If both Landlord's and Tenant's estates in the Leased Premises become vested in the same owner (other than by termination of this Lease following an Uncured Default hereunder, subject to the rights, if any, of a Lender pursuant to Article 8 above), this Lease shall not be terminated by application of the doctrine of merger except at the express election of Landlord and with the consent of any Lender(s) of a Leasehold Mortgage.

18.20 Counterparts.

This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

18.21 Interest On Past Due Obligations.

Except where another rate of interest is specifically provided for in this Lease, any amount due from either Party to the other under this Lease which is not paid within ten (10) days after receipt of written notice that such amount is due (or in the case of Rent, within three (3) days after such Rent is due), shall bear interest at the Agreed Rate from the date such amount was originally due to and including the date of payment.

18.22 Holding Over.

Any holding over by Tenant after the expiration of the Term shall be construed as a tenancy from month to month and shall be subject to all of the terms and conditions which are provided for in this Lease except that the Rent shall be in an amount equal to 150% of the Rent in effect immediately prior to the expiration of the Term.

18.23 Lease Rider

Subsequent to the execution of the Memorandum of Lease, the Parties shall execute and thereafter record with the County Recorder of San Diego County (i) a lease rider for the benefit of the California Finance Housing Agency relating to this Ground Lease substantially conforming in form and substance to the Lease Rider Agreement (Ground Lease) attached hereto as Exhibit F and incorporated herein by this reference, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel (the "CalHFA Lease Rider"); and (ii) a lease rider for the benefit of the Department of Housing and Community Development relating to this Ground Lease substantially conforming in form and substance to the Lease Rider and Estoppel Agreement (Ground Lease) attached hereto as Exhibit G and incorporated herein by this reference, with non-substantive modifications as may be agreed to by the Agency Executive Director or designee and Agency General Counsel (the "HCD Lease Rider"). Any and all substantive modifications prior to recordation to either the CalHFA Lease Rider or the HCD Lease Rider that do not substantially conform with Exhibits F and G respectively, shall be submitted to the Agency Board for approval.

[Signatures on Following Page]

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

TENANT:

Cedar Gateway, L.P.,
a California limited partnership

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

[Signatures Continued on Following Page]

LANDLORD:

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO

Date: _____

By: _____

Janice Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY

Jan I. Goldsmith
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

Murray O. Kane

EXHIBIT A

Legal Description of the Leased Premises

[to be inserted]

EXHIBIT B

Site Plan

[to be inserted]

EXHIBIT C

Memorandum of Lease

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Cedar Gateway, L.P.
c/o ROEM Development Corporation
1650 Lafayette Street
Santa Clara, California 95050
Attn: Robert Emami

MEMORANDUM OF LEASE

1. Parties. This Memorandum of Lease is entered into by REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ("Landlord"), and CEDAR GATEWAY, L.P. ("Tenant"). The Lease (as defined below) was executed by Landlord on _____. The "Commencement Date" of the Lease is the date this Memorandum of Lease is recorded in the official records.

2. Grant of Lease: Term. For good and valuable consideration received, Landlord leases to Tenant, and Tenant leases from Landlord, that certain real property (the "Property") located in the County of San Diego, State of California, described in Exhibit A attached hereto and incorporated herein by this reference, for a term ("Term") commencing on the Commencement Date and ending on the seventieth (70th) anniversary of the Commencement Date. Tenant has one option to extend the Term for an additional twenty (20) years. All of the terms, provisions and covenants of the Lease are incorporated in this Memorandum of Lease by reference as though written out at length herein, and the Lease and this Memorandum of Lease shall be deemed to constitute a single instrument or document.

3. Purpose of Memorandum of Lease. This Memorandum of Lease is prepared for recordation purposes only, and it in no way modifies the terms, conditions, provisions and covenants of the Lease. In the event of any inconsistency between the terms, conditions, provisions and covenants of this Memorandum of Lease and the Lease, the terms, conditions and covenants of the Lease shall prevail.

The parties hereto have executed this Memorandum of Lease on the dates specified immediately below their respective signatures.

Dated: _____

"Landlord"
REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

By: _____
Janice Weinrick,
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY

Jan I. Goldsmith
Agency General Counsel

By: _____
Agency Deputy General Counsel

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____
Murray O. Kane

[signatures continued on following page]

"Tenant"

CEDAR GATEWAY, L.P.,
a California limited partnership

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

State of California
County of San Diego

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California
County of San Diego

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT D

Estoppel Certificate

The undersigned, as Tenant [Landlord] under that lease dated _____ (the "Lease") made between REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ("Landlord"), and CEDAR GATEWAY, L.P., a California limited partnership ("Tenant"), hereby certifies as follows:

(1) That Tenant has entered into occupancy of the premises described in said lease (the "Leased Premises");

(2) That the Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way, except as follows: _____;

(3) That the Commencement Date of the Lease is _____;

(4) That there is an unexpired term thereunder of _____ years;

(5) That to the knowledge of the undersigned there are no defaults by either Tenant or Landlord thereunder, except as follows: _____;

(6) That no rents have been prepaid, other than as provided in the Lease.

EXECUTED THIS _____ day of _____, ____.

[Tenant] [Landlord]
By: _____
Print Name: _____
Its: _____

By: _____
Print Name: _____
Its: _____

EXHIBIT E
REGULATORY AGREEMENT

[behind this page]

EXHIBIT F
CALHFA LEASE RIDER

[behind this page]

FREE RECORDING REQUESTED
PURSUANT TO GOVERNMENT CODE
SECTIONS 6103 AND 27383

Recording requested by
and when recorded mail to:

CALIFORNIA HOUSING FINANCE AGENCY
Office of General Counsel
P.O. Box 4034
Sacramento, CA 95812-4034

LEASE RIDER AGREEMENT

(Ground Lease)

This LEASE RIDER AGREEMENT (the “*Agreement*”) effective as of _____, 2009 (the “*Effective Date*”), is made and entered into by and among The Redevelopment Agency of the City of San Diego, a public body, corporate and politic (“*Landlord*”), Cedar Gateway L.P., a California limited partnership (“*Tenant*”), and the California Housing Finance Agency (the “*Agency*”), a public instrumentality and political subdivision of the State of California created by the Zenovich Moscone Chacon Housing and Home Finance Act (the “*Act*”), Division 31 of the California Health and Safety Code, in consideration of the following facts and circumstances:

RECITALS

A. Landlord is the fee simple owner of that certain real property described in **Exhibit A** attached hereto and incorporated herein (the “*Property*”);

B. Tenant is the owner of the leasehold interest in the Property, pursuant to that certain Ground Lease dated _____, as referred to in the memorandum of lease (“*Memorandum of Lease*”) to be recorded in the official records of the of the County of San Diego (the “*Official Records*”), and entered into by Landlord and Tenant, as may be amended from time to time (the “*Lease*”). The Lease is also described in **Exhibit A**;

C. Pursuant to the Lease and that certain Development and Disposition Agreement, dated May 22, 2008, as amended by that certain First Amendment to the Disposition and Development Agreement dated _____ by and between Tenant and Landlord (collectively the “*DDA*”), Tenant is the owner of the fee interest in all of those certain **buildings, improvements and fixtures now or hereafter erected thereon, and all appurtenances, easements, and articles of property now or hereafter affixed to, placed upon or used in connection with such real property and owned by Tenant or in which Tenant has an interest, together with all additions to, substitutions for, changes in or replacements of the whole or any part of said articles of property, except for the Landlord’s Garage Parcel (as defined in the DDA)** (collectively, the “*Improvements*”). Collectively, Tenant’s interest in the

Property and the Improvements are hereinafter sometimes referred to as the "**Development**"). Tenant maintains a leasehold interest in the Development;

D. Tenant has agreed to develop, own and operate a rental housing development on the Development consisting of not less than sixty-five (65) residential rental units and related improvements, twenty-three (23) of which are Mental Health Services Act ("**MHSA**") Housing Units ("**MHSA Housing Units**");

E. Tenant has applied to the Agency for a loan in the amount of Two Million Seven Hundred Fifty-Two Thousand and No/100 Dollars (\$2,752,000.00) (the "**MHSA Permanent Loan**") to finance the Development;

F. Tenant and Landlord have requested that the Agency accept the Leasehold (as defined below) as security for the MHSA Permanent Loan;

G. The MHSA Permanent Loan is subject to numerous terms and conditions and will be evidenced by that certain promissory note entitled "California Housing Finance Agency, MHSA Promissory Note, CalHFA Development No. 08-022-C/S (Permanent Financing/Residual Receipts)" (the "**MHSA Promissory Note**"), and secured by that certain deed of trust entitled "California Housing Finance Agency, MHSA Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing, CalHFA Development No. 08-022-C/S"(the "**MHSA Deed of Trust**") covering all of Tenant's interests in the Lease and the Development;

H. The Development will be financed in part by the MHSA Permanent Loan, and Landlord's Property will directly benefit from the MHSA Permanent Loan;

I. As an inducement to the Agency to make the MHSA Permanent Loan, Landlord and Tenant have consented to have the Development regulated and restricted by the Agency as provided in that certain document "California Housing Finance Agency, MHSA Regulatory Agreement (Mental Health Services Act Housing Program), CalHFA Development No. 08-022-C/S" (the "**MHSA Regulatory Agreement**"), (collectively, the MHSA Regulatory Agreement, the MHSA Promissory Note and the MHSA Deed of Trust are sometimes hereinafter referred to as the "**MHSA Permanent Loan Documents**"); and

J. In order to induce the Agency to make the MHSA Permanent Loan, Landlord and Tenant have agreed to enter into and record this Agreement in the Official Records for the benefit of Agency, its successors, and assigns.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants hereinafter contained, Agency, Tenant and Landlord hereby agree as follows:

1. Leasehold. As used herein, "**Leasehold**" means all of Tenant's interest in the Development and all options contained in the Lease or granted in connection with the Lease, and all other rights of Tenant under the Lease, and all subleases entered into in connection with the Lease (the "**Subleases**").

2. Landlord Loan. Agency acknowledges: (i) that certain loan in the amount of Three Million Six Hundred Sixty One Thousand Dollars (\$3,661,000) made by Landlord to Tenant pursuant to the DDA (the "**Landlord Loan**"), (ii) that certain promissory note evidencing the Landlord Loan (the "**Landlord Note**") and (iii) that certain deed of trust securing the Landlord Note (the "**Landlord Deed of Trust**").

3. Representations and Warranties of Landlord. Landlord hereby represents and warrants to the Agency that as of the Effective Date:

(a) Free and Clear. The Property is free and clear of all mortgage liens other than those expressly agreed to in accordance with this Agreement.

(b) Priority. The Lease is superior to any and all mortgage liens on the Property.

(c) No Transfer by Landlord. Landlord has not assigned, mortgaged, or otherwise hypothecated or transferred its interest in the Development, in whole or in part.

(d) Status of Lease.

(i) Landlord is the current landlord under the Lease.

(ii) The Lease is in full force and effect.

(iii) The Lease is not void or voidable at the option of any party thereto or of any other person or entity claiming an interest in or to such Lease or the Development.

(iv) There has been no default under the Lease by Tenant, and Landlord has no knowledge of any fact or circumstance that places, or with the passage of time would place, the Tenant in default under the Lease.

(v) There exist no defenses or offsets to enforcement of the Lease by Tenant.

(vi) Any consent or approval by any third party (including any lender), if required to deliver this Agreement, has been obtained.

(vii) No alterations, improvements or additions now exist on the Property that have not been approved by the Landlord.

(e) Other Agreements.

(i) All terms and conditions of the Lease are set forth in the Lease, and there have been no further agreements, supplements, amendments, modifications or extensions thereof, except as previously submitted to and approved in writing by the Agency.

(ii) Pursuant to the requirements of the Agency, Landlord, Tenant and Agency have entered into the MHSA Regulatory Agreement governing the use, occupancy, operation, management and ownership of the Development.

(iii) In the event of a conflict between any provisions in the Lease that conflicts with the MHSA Permanent Loan Documents, Landlord and Tenant agree that the terms of the MHSA Permanent Loan Documents shall prevail, but only to the extent necessary where compliance or performance of such Lease provision would cause a violation or breach of the MHSA Permanent Loan Documents.

(f) Lease Term. The date of the commencement of the Lease term is _____, and the term will end on the seventieth (70th) anniversary of the recording of the Lease. All conditions precedent to the effectiveness of the Lease or the exercise of any of Tenant's rights thereunder have been fully satisfied.

(g) Development. The Development complies with all requirements affecting the design, use or characteristics of such Development imposed by Landlord under the Lease or otherwise, and to the Landlord's knowledge with any and all applicable provisions of federal, state and local laws, and all agreements with any public entities concerning the Development, as amended from time to time.

4. Termination; Transfer of Interest.

(a) No Modification or Termination without Agency Consent. Except for termination as a result of a default subject to the notice and cure provisions in Section 6 below and elsewhere in the Lease, and subject to the provisions of that certain Lease Rider and Subordination Agreement to be entered into between the California Department of Housing and Community Development ("HCD"), Tenant and Borrower, Landlord agrees that so long as the Agency, its successors or assign holds the MHSA Deed of Trust and MHSA Regulatory Agreement encumbering the Leasehold, the Lease shall not be modified, terminated, subordinated, cancelled or surrendered in any manner other than by an agreement in writing signed by all of the parties to the Lease or their respective successors-in-interest, and no such modification, termination, subordination, cancellation or surrender shall be valid or effective without the prior written consent of the Agency, which consent shall not be unreasonably withheld or delayed, and may be conditioned upon the satisfaction of such reasonable terms and conditions as the Agency may prescribe.

(b) No Transfer or Encumbrance without Agency Consent. Landlord agrees so long as the Agency, its successors or assign holds the MHSA Deed of Trust and MHSA Regulatory Agreement encumbering the Leasehold, that it shall not transfer, convey, sell, hypothecate, assign, mortgage, pledge, encumber, or permit any liens against its interest, or any portion thereof, in the Development without the prior written approval of the Agency, which consent shall not be unreasonably withheld or delayed and may be conditioned upon the satisfaction of such reasonable terms and conditions as the Agency may prescribe. Notwithstanding the foregoing, if Landlord transfers, conveys, sells, hypothecates, assigns or otherwise encumbers its interest, or any portion thereof, in the Development, Landlord will require that any purchaser, assignee or transferee expressly assume all of the obligations of Landlord under the Lease and this Agreement by a written instrument recordable in the Official Records. Landlord will not renew, modify, consolidate, replace or extend any document securing or creating any such transfer, conveyance, sale, assignment, or other encumbrance without the prior written approval of the Agency, which approval shall not be unreasonably withheld or delayed, and may be conditioned upon the satisfaction of such reasonable terms and

conditions as the Agency may prescribe. Approval of the Agency shall not be required in the event the Landlord cures a Tenant default or cures a default under a mortgage loan for the Development, and executes and records a new Landlord deed of trust in relation thereto or adds the cure amount to an existing Landlord deed of trust so long as the new Landlord deed of trust or the added cure amount in no way effects the lien priority or rights of the MHSA Permanent Loan.

(c) No Merger. There shall be no merger of the Lease or any interest in the Lease, nor of the Leasehold interest, with the fee estate in the Property if the Lease or such interest therein, or such Leasehold estate may be directly or indirectly held by or for the account of any person who shall hold the fee estate in the Property, or any interest in such fee estate, nor shall there be such a merger by reason of the fact that all or any part of the Leasehold estate created thereby may be conveyed or mortgaged in a leasehold mortgage, deed of trust, or other security instrument to a leasehold mortgagee that shall hold the fee estate in the Development or any interest of the Landlord under the Lease.

5. Possession and Transfer of Lease.

(a) Landlord's Consent and Approval. Landlord hereby consents to and approves the following to the extent such consents or approvals are required under the Lease:

(i) Tenant encumbering the Development with the MHSA Deed of Trust and the MHSA Regulatory Agreement;

(ii) Possession of the Lease and the Development by the Agency, its designee, or by a receiver under the MHSA Deed of Trust upon a foreclosure or deed in lieu of foreclosure;

(iii) Assignment to the Agency or its designee of any Sublease and any and all rents from such Sublease upon a foreclosure or deed in lieu of foreclosure; and; and

(iv) Sale or assignment of all or any portion of the Leasehold to a purchaser or assignee pursuant to a foreclosure sale under the MHSA Deed of Trust or to any transferee of a deed in lieu of foreclosure (any such purchaser or transferee, including the Agency, is collectively referred to as a "**Transferee**"), and to any subsequent transfer without restriction (all such assignments, transfers, and subsequent transfers referred to in this Agreement as a "**Transfer**") provided such Transferee has qualifications equal to or better than the original Lessee, including, but not limited to its reputation, financial strength, experience in the successful development, operation and management of comparable developments. Any Transferee, upon the Transfer of all of its interest in the Leasehold, shall be relieved of all liability under the Lease accruing after the date of such Transfer. Nothing in this subparagraph 5(a)(iv) shall have the effect of relieving Tenant of its obligations under the Lease.

6. Notice of Defaults; Termination Notice.

(a) Notice and Cure. As a precondition to pursuing any remedy for an alleged default by Tenant under the Lease, Landlord shall give the Agency written notice of any and all defaults or potential defaults by Tenant under the Lease (whether or not notice thereof is required under the Lease), and shall provide simultaneously to the Agency a written copy of all notices

and demands which Landlord gives to Tenant. Landlord acknowledges and agrees that no notice or demand under the Lease shall be effective against the Agency unless and until notice is given to the Agency. Any notice of default given under the Lease or this Agreement shall describe the nature of the default(s) in reasonable detail. The Agency shall have the right, but not the obligation, to cure any such default; provided that, if such notice to the Agency is not given or is delayed for any reason, the period of time within which the Agency may cure any such breach or default shall commence upon receipt by the Agency of such notice. Landlord and Tenant authorize the Agency to enter the Development for the purpose of preventing defaults or exercising its right to cure and any other powers given the Agency under the MHSA Permanent Loan Documents, this Agreement, or the Lease.

(b) Notice and Cure by Landlord. The Agency shall use its best efforts to give Landlord written notice of any defaults or potential defaults by Tenant under the MHSA Permanent Loan Documents. Landlord shall have the right, but not the obligation, to cure any such default.

The provisions of this Section 6 (b) are intended to supplement, and not to limit, waive, modify or replace, those provisions of law pertaining to notice and cure rights of junior lenders including, without limitation, those set forth in California Civil Code sections 2924.

(c) Termination Notice. After the expiration of any applicable grace period given Tenant under the Lease to cure a default, Landlord shall not terminate the Lease but shall give the Agency a written notice (a "**Termination Notice**") that Tenant has failed to cure the default within the grace period and that, on account thereof, Landlord intends to terminate the Lease, which Termination Notice shall set a termination date not earlier than ninety (90) days after the Agency's receipt of the Termination Notice; provided that Landlord agrees to extend such termination date if the Agency reasonably requires additional time to accommodate the Agency's taking possession of the Development where possession is necessary to cure Tenant's default but in no event shall such extension exceed one hundred twenty (120) days. If after notice and opportunity to cure, Tenant has failed to cure during the grace period provided under the Lease, the additional cure period granted to the Agency herein is personal to the Agency and such rights do not inure to the benefit of the Tenant or any other mortgagee. No Termination Notice shall be effective to terminate the Lease if:

(i) Except as provided in Section 6(c), within ninety (90) days after receipt of the Termination Notice, the Agency cures any default which can be cured by payment or expenditure of money without possession of the Development, or provides reasonable assurance and undertakings for the cure of such default. To effect a cure of Tenant's default, the Agency may make any repair or improvement, do any other act or thing required of Tenant under the Lease, or do any act or thing which may be necessary or proper to prevent termination of the Lease. The Agency and its agents and contractors will have full access to the Development for purposes of accomplishing the curing of defaults under the Lease. Any of the foregoing done by the Agency shall be as effective to prevent a termination of the Lease as the same would have been if done by Tenant; or

(ii) The Agency commences and diligently pursues to completion proceedings for judicial or non-judicial foreclosure and sale under the MHSA Deed of Trust or assignment, transfer or deed in lieu of foreclosure (collectively, a "**deed in lieu of foreclosure**").

(d) Defaults Not Capable of Cure by the Agency. The Agency shall not be required to perform any act which, by its nature, is not capable of being performed.

(e) Landlord's Payment of MHSA Permanent Loan Payments. Landlord agrees that if Landlord cures Tenant's failure to make any payment due under the MHSA Permanent Loan, it shall seek reimbursement of amounts so paid solely from Tenant, and the Agency shall have no obligation to pay such amounts to Landlord if the Agency exercises its rights hereunder or under the Lease to cure Tenant's default of the Lease, except that Landlord shall have the sole discretion without Agency approval to add said amounts to its Landlord loan secured by the Landlord deed of trust encumbering the Development or execute and record a new Landlord deed of trust in relation thereto so long as said deed of trusts are subordinate to the MHSA Permanent Loan Documents and Landlord uses its best efforts to notify Agency of its efforts to cure said default.

(f) Waiver of Breach or Default. On Transfer of the Leasehold at any foreclosure sale under the MHSA Deed of Trust or by acceptance of a deed in lieu of foreclosure, all monetary violations, monetary defaults and monetary breaches by Tenant under the Lease, including, without limitation, nonpayment of rent or other amounts payable under the Lease, shall be deemed cured, and the Agency or other Transferee shall be entitled to the New Lease (defined below) and/or the New Regulatory Agreement (defined below), as both are described in Section 7 below, without incurring or assuming any liability or obligation of, or claim for, monetary defaults against Tenant under the Lease. Nothing in this Section shall be deemed a waiver of any claim by Landlord against Tenant under the Lease.

(g) Enforcement Not a Breach. No action taken by the Agency to enforce its rights under any of the MHSA Permanent Loan Documents against either the Landlord or the Tenant, or both, including, without limitation, any actions taken to collect any amounts due and owing to the Agency or any action to appoint a receiver for the Development, to foreclose on the Agency's security or to otherwise protect the security of the MHSA Permanent Loan, shall constitute or result in a breach or violation of the Lease.

(h) Status Quo Ante. Any default by Tenant shall not prejudice the Agency if the Agency chooses to cure such default within the applicable grace period, and Landlord acknowledges and agrees that upon the Agency's cure of any such default, the Lease shall be restored status *quo ante*.

7. New Lease.

(a) Conditions. Section 6 hereof notwithstanding, Landlord agrees to comply with the requirements of Section 7(b) if the following conditions apply:

(i) The Lease is terminated for any reason whatsoever or if the Agency acquires the Leasehold by judicial or non-judicial foreclosure under the MHSA Deed of Trust or deed in lieu of foreclosure; and

(ii) The Agency, or other Transferee, requests in writing that Landlord enter into a New Lease within ninety (90) days after: (1) the Agency completes a foreclosure under the MHSA Deed of Trust; or (2) the Agency accepts a deed in lieu of foreclosure; or (3) the end of the cure period provided to the Agency in the Termination Notice.

(b) Obligations. If the conditions specified in Section 7(a) have been satisfied, Landlord shall:

(i) Upon receipt of the request for a new lease described in subsection 7(a)(ii) above, Landlord shall enter into a new lease (the "***New Lease***") of the Property with the Agency, its nominee, or its successor-in-interest, or other Transferee, for the remainder of the term of the terminated or foreclosed Lease, effective as of the date of the termination or conveyance pursuant to a foreclosure sale or a deed in lieu of foreclosure. The New Lease shall be at the rent of, and consistent with the terms, provisions, covenants, options and agreements contained in the terminated or foreclosed Lease, or granted by the Landlord in connection with the Lease, all as modified or supplemented by this Agreement, and subject to the rights, if any, of any parties then in possession of any part of the Development.

(ii) Within thirty (30) days after receipt of the New Lease from Landlord complying with the terms of this Section 7, the Agency or its successor-in-interest shall execute and deliver the New Lease to Landlord.

(c) Priority. The New Lease granted to the Agency, its nominee or its successor-in-interest, under this Section 7 shall be prior to any mortgage or other lien, charge or encumbrance on the Development or on the fee interest of Landlord, except for that certain Agreement Affecting Real Property executed by Landlord and Tenant and recorded against the Property concurrently herewith and as previously approved in writing by the Agency.

8. Successors to the Agency. Subject to Section 5 hereof, if the Leasehold is transferred by a foreclosure sale under the MHSA Deed of Trust or by a deed in lieu of foreclosure, Landlord shall recognize the Transferee as the tenant under the Lease. Anything in the Lease notwithstanding, the rights and benefits of Agency under this Agreement shall benefit and may be exercised by any Transferee or by the holder of any mortgage or deed of trust which may be given to secure a portion of the purchase price in any sale by the Agency or its successor(s) after the Agency acquires the Leasehold or enters into a New Lease and/or New MHSA Regulatory Agreement under this Agreement.

9. Diligence of Agency. So long as the Agency is prevented by any process or injunction issued by any court or by any statutory stay, or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Landlord or Tenant,

from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the Agency shall not be deemed for that reason to have failed to commence such proceedings or to have failed to prosecute diligently such proceedings, provided, however that the Agency shall use reasonable efforts to contest and appeal the issuance or continuance of any such process, stay or injunction.

10. Condemnation and Insurance Proceeds.

(a) Anything in the Lease notwithstanding, at the written request of the Agency, all fire and other hazard or casualty insurance proceeds shall be paid to the Agency to the extent required by the MHSA Permanent Loan Documents, and subject to the rights of senior mortgage holders. In the event of any condemnation or partial condemnation, all condemnation award proceeds payable on account of such condemnation or partial condemnation of the Leasehold, at the written request of the Agency shall be paid to the Agency to the extent required by the MHSA Permanent Loan Documents, subject to the rights of senior mortgage holders. Condemnation proceeds attributable to the fee owner's reversionary interest and to the Landlord's fee interest in the Property go to the Landlord.

(b) During the term of the MHSA Permanent Loan, the Agency shall have the right (but not the obligation) to participate in any condemnation proceeding or negotiation and in any settlement or stipulation of judgment with respect to any condemnation proceeding entered into with the condemnation authority affecting all or any portion of the Development or any agreement to sell all or any portion of the Development in lieu of condemnation, and no such settlement, stipulation or agreement shall be made or entered into without the Agency's prior written consent, which consent shall not be unreasonably withheld or delayed, and may be conditioned upon the satisfaction of such reasonable terms and conditions as the Agency may prescribe. The Agency shall also have the right (but not the obligation) to participate in any settlement, discussion, and/or arbitration proceeding between Landlord and Tenant with respect to the apportionment or application of any condemnation award.

11. Estoppel Certificate. Within thirty (30) calendar days after written request by the Agency, Landlord shall execute and deliver to the Agency or to any proposed purchaser or encumbrancer of Tenant's estate a certificate declaring: (i) that the Lease, or New Lease as the case may be, and any amendments thereto, remains in full force and effect; (ii) that all conditions under the Lease, or New Lease, have been satisfied, and that there are no defaults under the Lease or New Lease, or if there has been a default under the Lease or New Lease, a description of the nature of such default; (iii) the amount and timing of any rent and other payments due under the Lease or New Lease; (iv) any other information relating to the Lease or the Development reasonably requested; and (v) that Landlord understands the recipient will rely on the certificate, and describing in reasonable detail any exceptions to the foregoing statements.

12. Notices. Notices and other communications required by this Agreement shall be delivered by messenger to the addresses provided below or sent by U.S Postal Service certified mail, return receipt requested, postage prepaid, addressed as follows:

To Agency: Office of General Counsel
California Housing Finance Agency
P.O. Box 4034
Sacramento, California 95812-4034

To Landlord: The Redevelopment Agency of the City of
San Diego
Civic Center Plaza
1200 Third Avenue, Suite 1400
Mail Stop MS56D
San Diego, California 92101
Attn: Deputy Executive Director
Telephone: (619) 236-6700
Fax: (619) 533-3219

and

The Redevelopment Agency of the City of
San Diego
c/o Centre City Development Corporation
401 B Street, Suite 400
San Diego, CA 92101
Attn: Coordinator, Affordable Housing
Tel: 619-533-7177
Fax: 619-236-9148

To Tenant: Cedar Gateway, L.P.,
c/o ROEM Development Corporation 1650
Lafayette Street
Santa Clara, California 95050
Attn: Robert Emami

These addresses may be changed by a notice given in the same manner provided Landlord acknowledges and agrees that it shall have a duty to verify the addresses provided pertaining to Landlord herein with the Agency's Office of General Counsel. Notices shall be effective on receipt.

13. The Agency's and Landlord's Rights Against Tenant. Nothing in this Agreement shall limit or restrict the Agency's rights and remedies under the MHSA Permanent Loan Documents, or any other agreement between the Agency and Tenant. Nothing in this Agreement shall limit or restrict the Landlord's rights and remedies under the Lease or any other agreement between the Landlord and Tenant.

14. Successors and Assigns. This Agreement shall inure to the benefit of and bind the successors and assigns of the Agency, Landlord and Tenant.

15. Uninsured Hazard. Landlord agrees that neither the Agency nor any person acquiring the Leasehold or a portion of the Leasehold pursuant to a foreclosure under the MHSA Deed of Trust, or deed in lieu of foreclosure, nor the tenant under a New Lease pursuant to Section 7 hereof, nor any successive owner of the Leasehold or a portion thereof after such foreclosure or New Lease shall have any obligation hereunder or under the Lease or New Lease to repair or reconstruct any damage or loss to the Development which is due to a hazard not covered by insurance under the Lease or New Lease., during the last five (5) years of the Term (including all exercised options) of the Lease or New Lease.

16. Options. Landlord and Tenant agree that the Agency may exercise any option to extend the term of the Lease or to purchase any interest in the Property which is granted to Tenant under or in connection with the Lease in the event of a foreclosure or deed in lieu of foreclosure.

17. Limitation on Liability. If the Agency agrees to be bound by the terms of the Lease, or in the event of any Transfer to a Transferee, neither the Agency nor any Transferee shall have any obligation under the Lease with respect to any liabilities, obligations, losses, damages, fines, penalties, claims, demands, suits, actions, causes of actions, charges, judgments, costs, and expenses (including architects' and attorney fees and court costs) arising out of or resulting from acts, omissions, circumstances or events occurring before or existing at the time of such Transfer or the Agency's agreement to be bound by the Lease. Nothing in this Agreement, the MHSA Permanent Loan Documents, or in the Lease shall impose on the Agency any liability to perform the obligations of Tenant under the Lease or require the Agency to assume the Lease unless and until the Agency acquires Tenant's rights by foreclosure or deed in lieu of foreclosure. After acquiring Tenant's rights by foreclosure or deed in lieu of foreclosure, the Agency shall be liable to perform Tenant's obligations only until Agency assigns or transfers the Leasehold. Agency shall not, however, be required to cure Tenant's defaults occurring before the Agency's acquisition of Tenant's rights by foreclosure or deed in lieu of foreclosure.

18. Conflict with Lease. The provisions herein are intended to be supplementary to, and not in derogation of, the parties' rights and obligations contained in the Lease (including all of the Agency's rights under the Lease as a leasehold mortgagee), but in the event of any conflict or inconsistency between the terms of the Lease and the terms of this Agreement, the terms of this Agreement shall govern and control, and the Lease shall be deemed to be modified hereby.

19. Attorney Fees, Costs. If any party shall take any action to enforce or otherwise relating to this Agreement, the prevailing party or parties shall be entitled to recover reasonable attorney's fees and costs from the other party or parties.

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Landlord and Tenant acknowledge that the Agency is relying on the foregoing representations, warranties, covenants and agreements of the undersigned in making the MHSA Permanent Loan to Tenant, and warrants and affirms to and for the benefit of the Agency that each of those representations is true, correct and complete as of the Effective Date.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

LANDLORD:

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

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM AND LEGALITY

Jan I. Goldsmith
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____
Murray O. Kane

AGENCY:

CALIFORNIA HOUSING FINANCE AGENCY, a public instrumentality and political subdivision of the State of California

By: _____
Name: _____
Title: _____

TENANT:

CEDAR GATEWAY, L.P., a California limited partnership

By: CEDAR SQUIER ROEM, LLC, a California limited liability company, its General Partner

By: ROEM DEVELOPMENT CORPORATION, a California corporation, its Manager

By: _____

Name: Jonathan Emami
Its: Vice President

By: SQUIER PROPERTIES, LLC, a California limited liability company, its Manager

By: _____
Name: Gary Squier
Its: President

ACKNOWLEDGEMENTS

EXHIBIT A

Legal Description

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

Parcel 1:

Lots E and F, Block 214, Horton's Addition, according to map by L.L. Lockling, thereof filed in the Office of the County Recorder of San Diego County.

Parcel 2:

The North ½ of Lot "H" the South ½ of Lot "I", in Block 214 of Horton's Addition; according to map by L.L. Lockling; the South 50 feet of the North ½ of Lot 2 in Block 1 of Bay View Homestead (known as Caruther's Addition) according to map thereof No. 150 filed in the Office of the County Recorder of San Diego County January 29, 1873.

Parcel 3:

All that portion of Lot 2 in Block 1 of Bay View Homestead or Caruther's Addition, according to maps thereof Nos. 150 and 254 filed in the Office of the County Recorder of said San Diego County January 29, 1875, and August 18, 1871, respectively, and all of Fractional Lot "G" and the South ½ of Fractional Lot "H" in Block 214 of Horton's Addition, according to map of Horton's Addition, on file in the Office of the County Recorder of said San Diego County, all being described as follows:

Commencing at the Southwest corner of Lot "G" in Block 214 of Horton's Addition, in said City, according to map thereof on file in the Office of the County Recorder of said San Diego County said Southwest corner being also the Southeast corner of Lot "F" in said Block 214;

Thence Easterly and along the Southerly line of said Lot "G" in said Block 214 of Horton's Addition and along the Southerly line of Lot 2 in Block 1 of Bay View Homestead or Caruther's Addition, according to maps thereof Nos. 150 and 254, filed in the Office of the County Recorder of said San Diego County January 29, 1873, and August 18, 1871 respectively, being along the Northerly line of Cedar Street in said City of San Diego, a distance of 100.34 feet to the Southeast corner of said Lot 2;

Thence North along the East line of said Lot 2 being along the Westerly line of Sixth Street in said City, 75 feet;

Thence Westerly on a line parallel with and distant 75 feet from the Northerly line of said Cedar St., 100.40 feet to a point in the East line of Lot "E" in Block 214 of said Horton's Addition;

Thence South along the East line of Lot "E" and "F" in said Block 214, 75 feet to the point of commencement; being all of Lot "G" and the South ½ of Lot "H" in

EXHIBIT A (continued)

Legal Description

Block 214 of Horton's Addition, and a portion of Lot 2 in Block 1 of said Bay View Homestead, or Caruther's Addition.

Parcel 4:

All that portion of Lot D in Block 214 of Horton's Addition, according to the map thereof made by L.L. Lockling on file in the Office of the County Recorder of San Diego County, lying Southerly of that portion of the right of way line of State Freeway 11-8D-5-16.4 described as follows:

Beginning at the intersection of said right of way line with the East line of Block 1 of Bay View Homestead as shown on Map No. 150, said intersection being distant along last said line, North 0° 08' 43" East, 125.15 feet from the Southeast corner of said Block 1;

Thence North 89° 51' 20" West, 100.46 feet to the East line of said Lot D;

Thence South 76° 07' 09" West, 103.06 feet to a point on the West line of said Block 214, distant along last said line North 0° 06' 50" East, 100.17 feet from the Southwest corner of said Block 214.

Assessor's Parcel Number: **533-382-01,04,05,06**

ACKNOWLEDGEMENTS

STATE OF CALIFORNIA
COUNTY OF _____

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

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

WITNESS my hand and official seal.

_____ (Seal)
(Signature)

STATE OF CALIFORNIA
COUNTY OF _____

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

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

WITNESS my hand and official seal.

_____ (Seal)
(Signature)

EXHIBIT G

HCD LEASE RIDER

[behind this page]

Free recording in accordance with
California Government Code
Sections 6103 and 27383

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Multifamily Housing Program
Department of Housing and
Community Development
P.O. Box 952054
Sacramento, CA 94252-2054
Attn: SHMHP Program Manager

**LEASE RIDER
AND
ESTOPPEL AGREEMENT**
(Ground Lease)

This Lease Rider and Estoppel Agreement (the "Agreement") is made and entered into as of _____, 201_, for reference purposes only, by and among the Redevelopment Agency of the City of San Diego, a public body corporate and politic (the "Landlord"), Cedar Gateway, L.P., a California limited partnership (the "Lessee"), and the Department of Housing and Community Development, a public agency of the State of California (the "Department") in consideration of the following facts and circumstances:

A. Landlord is the fee simple owner of that certain real property described in Exhibit A attached hereto and incorporated herein (the "Property");

B. Pursuant to that certain Disposition and Development Agreement executed by Landlord and Lessee dated May 22, 2008 as amended by that certain First Amendment to the Disposition and Development Agreement dated _____, 2009 (collectively the "DDA") Landlord and the Lessee entered into a ground lease of the Property dated _____, 200__ (the "Lease"), referenced in a Memorandum of Ground Lease recorded in the official records of San Diego County, California (the "Official Records") on _____, 200__, as Document No. 200__-_____. [The Landlord and Lessee entered into a Memorandum of Ground Lease recorded in the Official Records on _____, 200__, as Document No. 200__-_____. (if applicable)], which granted Lessee a leasehold estate in the Property;

C. Pursuant to the Lease, Lessee has agreed to plan, develop, lease, maintain and operate an affordable housing project on the Property for rental to low income households. Lessee is the owner of a leasehold interest in the Property and the owner of a fee interest in all of those certain buildings, improvements and fixtures now or hereafter erected thereon, and all appurtenances, easements, and articles of property now or hereafter affixed to, placed upon or used in connection with such real property and owned by Lessee or in which Lessee has an interest, together with all additions to, substitutions for, changes in our replacements of the whole or any part of said articles of property (collectively, the "Improvements."). Collectively, the Lessee's ownership of a leasehold interest in the Property and the fee interest in the Improvements are hereinafter sometimes referred to as the Development (the "Development");

D. In conformance with the DDA and in furtherance of Landlord's utilization of Low and Moderate Income Housing Funds as defined in Health and Safety Code sections 33334.2 and 33334.6 for the Development, Landlord and Lessee entered into that certain Agreement Affecting Real Property recorded on _____, as Instrument No. _____ in the Official Records (the "Landlord Regulatory Agreement"). The DDA, the Lease, the Landlord Regulatory Agreement and all other documents executed by Landlord or for the benefit of Landlord in connection with the Development are referred to herein as the "Landlord Documents").

E. The Department has agreed to loan an amount not to exceed Three Million Three Hundred One Thousand One Hundred Ninety one and no/ 100 dollars (\$3,301,191.00) (the "Loan") to Lessee to finance the Development, in part, pursuant to the Multifamily Housing Program ("MHP Program"). The Loan is subject to numerous terms and conditions, including without limitation, the execution and delivery of this Lease Rider and Estoppel Agreement;

F. As a further condition of the Loan and pursuant to the requirements of the MHP Program, Lessee and the Department have entered into a Regulatory Agreement, including any amendments thereto (the "Regulatory Agreement"), governing the use, occupancy, operation, management and ownership of the Development. Landlord and Lessee hereby waive any such provisions of the Lease in conflict with or which would frustrate Lessee's compliance with the Regulatory Agreement in favor of the terms of the Regulatory Agreement;

G. The Loan will be evidenced by a Promissory Note (the "Note") from Lessee and secured by a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing

(the "Trust Deed") on Lessee's interests in the Property. The Note, Trust Deed, Regulatory Agreement and any other document executed in connection with the Loan shall be referred to collectively herein as the "Department Loan Documents"; and

H. Lessee and Landlord have requested that the Department accept the Lease as security for the Loan. In order to induce the Department to make the Loan, Landlord and Lessee have agreed to enter into and record this Agreement for the benefit of the Department, its successors, and assigns.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants hereinafter contained, the Department, Lessee, and Landlord hereby agree as follows:

1. Leasehold As used herein, "Leasehold" means all of Lessee's interest in the Property described in Exhibit A, in the Development, in the Improvements now or hereafter located on the Property, all options contained in the Lease or granted in connection with the Lease, all other rights of Lessee under the Lease, and all subleases entered into in connection with the Lease (the "Subleases").

2. Representations and Warranties of Landlord Landlord hereby represents and warrants to the Department as follows:

a. Title. Landlord's interest in the Development is free and clear of all liens, encumbrances, covenants, easements, licenses, judgments, or other matters of record except those shown as affecting the fee interest of the Property in that certain Preliminary Report regarding the Property issued on _____, 200__, _____, by _____ Title & Escrow Company for Order No. _____ - _____ (the "Report"). Landlord has not required or permitted, and has no actual knowledge of any other matters of record to be recorded that are not contained in all documents for the Development, including, but not limited to documents executed by the senior mortgage holders and the Landlord Documents.

b. Priority. The Lease is superior to any and all mortgage liens on the Property.

c. Transfers by Landlord. Landlord has not assigned, mortgaged, or otherwise hypothecated or transferred, or agreed to assign, mortgage or otherwise hypothecate or transfer, its interest in the Property and the Development in whole or in part, except as shown in the Report and except as security for loans to Lessee approved in writing by the Department. Department acknowledges and agrees that the Department written approval required in this subparagraph 2.c shall not apply in the event Landlord cures a Lessee event of default under a senior mortgage loan for the Development and executes and records a new Landlord deed of trust in relation

thereto or adds the cure amount to an existing Landlord deed of trust..

d. Status of Lease.

(1) Landlord is the current Lessor under the Lease. The Lease is in full force, the Lease is not void, voidable or terminable at the option of any party thereto or of any other person or entity claiming an interest in or to such Lease or the Development, and there has been no default thereunder on the part of Lessee, nor has any event occurred which, with the giving of notice or the passage of time, or both, would be an event of default thereunder. Landlord has not been informed of and has not otherwise received notice from Lessee or from any other person or entity concerning any alleged default on the part of Landlord under the Lease. There exist no defenses or offsets to enforcement of the Lease by Lessee.

(2) Any consent or approval of any third party (including any lender) that is required to deliver this Agreement has been obtained.

(3) No known alterations, improvements or additions now exist on the Property that have not been approved by the Landlord.

e. Other Agreements. All terms and conditions of the Lessee's tenancy under the Lease are set forth in the Lease and the DDA and there have been no further or other supplements, amendments, modifications or extensions thereof except those submitted to and approved by the Department as of the date of this Agreement set forth above. Nothing in this Lease Rider is intended to waive, supersede, modify or terminate any provision of the Lease granting rights to the Department as a Mortgage Lender.

f. Lease Term. The date of the commencement of the Lease term is _____, 200__ and will end on _____, 20__, subject to options described in the Lease. [pursuant to UMR §8316 the remaining lease term must be a minimum of 65 years "from the date the Department documents are recorded"] All conditions precedent to the effectiveness of the Lease and/or the exercise of any of Lessee's rights thereunder have been fully satisfied. [HCD recommends that the lease term be set now for 65 years plus the maximum foreseeable construction period and time to convert to permanent financing - otherwise a lease amendment will be necessary prior to HCD closing to extend the lease term of at least 65 plus years]

g. Development. The Improvements constructed, or to be constructed, by Lessee on the Property satisfy all requirements affecting the design, use or characteristics of such Development imposed by Landlord under the Lease or otherwise, any and all applicable provisions of federal, state and local laws, and all agreements with any public entities concerning the Development, as amended from time to time.

h. Insurance. All notices, certificates, binders, endorsements, copies of policies, and receipts required under the Lease have been delivered and approved by Landlord.

3. Cancellation, Transfer of Interest.

a. Unless as a result of a judicial or non-judicial foreclosure or a deed in lieu of foreclosure, Landlord and Lessee agree that so long as the Department, its successor or assigns holds the Trust Deed and Regulatory Agreement encumbering the Lease, no termination of the Lease by Lessee, and no subordination, cancellation, surrender, amendment or modification of the Lease shall be effective without the prior written consent of the Department, which consent shall not be unreasonably delayed or withheld. Any attempt by Landlord or Lessee to take such action shall be void without the Department's prior written consent. (**Citicorp as senior lender will record their interest on the leasehold ahead of HCD's lien interest. (Remember HCD only will record their interest at the permanent financing stage.) At permanent closing HCD will enter into a subordination agreement reinforcing that the

Citicorp interest as senior to the HCD interest, via this subordination agreement for the leasehold ***)

b. Unless as a result of a judicial or non-judicial foreclosure or a deed in lieu of foreclosure, Landlord agrees that so long as the Department, its successor or assigns holds the Trust Deed and Regulatory Agreement encumbering the Lease, it shall not encumber or permit any liens against its interest, or any portion thereof, in the Development without the prior written approval of the Department, which consent shall not be unreasonably withheld or delayed. If the Landlord transfers, conveys, sells, hypothecates or assigns its interest, or any portion thereof, in the Property or the Development, Landlord shall require that any purchaser, assignee or transferee expressly assume all of the obligations of Landlord under the Lease and this Agreement by a written instrument recordable in the Official Records. Notwithstanding the foregoing, with notice to the Department, the Landlord may make a total conveyance of its interest in the Property to a third party, subject to the terms of this Agreement and the Lease, without the Department's approval.

c. Bankruptcy. Neither the Landlord nor the Lessee, in the event of bankruptcy by either, will take the benefit of any provisions in the United States Bankruptcy Code that would cause the termination of the Lease or otherwise render it unenforceable in accordance with its terms.

d. No Merger. There shall be no merger of the Lease or any interest in the Lease, nor of the Leasehold interest, with the fee estate in the Property if the Lease or such interest therein, or such Leasehold estate may be directly or indirectly held by or for the account of any person who shall hold the fee estate in the Property, or any interest in such fee estate, nor shall there be such a merger by reason of the fact that all or any part of the Leasehold estate created thereby may be conveyed or mortgaged in a leasehold mortgage, deed of trust, or other security instrument to a leasehold mortgagee that shall hold the fee estate in the Development or any interest of the Landlord under the Lease.

4. Consent to Assignment, Payment of Rent

a. Landlord hereby consents to and approves the following to the extent such consents or approvals are required under the Lease:

(1) Lessee's encumbering the Lease, the Leasehold and the Development by the Trust Deed and the Regulatory Agreement; possession of the Property and any Improvements thereon by the Department or by a receiver under the Trust Deed or the Regulatory Agreement; and sale of the Leasehold and the

Improvements by foreclosure under the Trust Deed or transfer by deed in lieu of foreclosure;

(2) Assignments to the Department or its designee of any subleases and any and all rents from such subleases; and

(3) Sale or assignment of all or any part of any interest in the Leasehold to any purchaser at a foreclosure sale under the Trust Deed or to any transferee of a deed in lieu of foreclosure (such purchaser or transferee, including the Department, is collectively referred to as the "Transferee"), and to subsequent transfers without restriction (all such assignments, transfers, and subsequent transfers referred to in this Agreement as the "Transfer"), provided such Transferee has qualifications equal to or better than the original Lessee in all material respects, including, but not limited to its financial strength, experience in the successful development, operation and management of comparable developments. Any such Transferee, upon the Transfer of all its interest in the Development and the Leasehold, shall be relieved of all liability under the Lease accruing after date of such Transfer. Nothing in this subparagraph 4 a. (3) shall have the effect of relieving Borrower of its obligations under the Lease.

b. Nothing in this Agreement, in the Trust Deed, or in the Lease shall impose on the Department the obligations of Lessee under the Lease or require the Department to assume the Lease unless the Department forecloses on the Leasehold under the Trust Deed or accepts an assignment or deed in lieu of foreclosure.

5. Notice of Defaults; Termination Notice.

a. Notice and Cure. Landlord shall provide simultaneously to the Department a written copy of all notices and demands, including, without limitation, notices of default or breach which Landlord has given, delivered or sent to Lessee under the Lease. No notice or demand under the Lease shall be effective unless and until a copy of such notice is provided to the Department as provided herein. The Department shall have the right, but not the obligation, to cure any breach or default within the time period given in the Lease; provided that, if such notice to the Department is not given or is delayed for any reason, the period of time within which the Department may cure any such breach or default shall commence upon receipt by the Department of such notice. Landlord and Lessee authorize the Department to enter the Development for the purpose of preventing defaults or exercising its right to cure and any other powers given the Department under the Trust Deed, this Agreement or the Lease.

The Department shall provide simultaneously to the Landlord a written copy of all notices and demands, including, without limitation, notices of default or breach which the Department has given, delivered or sent to Lessee under the Department Loan Documents. No notice or demand under the Department Loan Documents shall be effective (against the Landlord) unless and until a copy of such notice is provided to the Landlord as provided herein. The Landlord shall have the right, but not the obligation, to cure any breach or default within the time period given in the Department Loan Documents; provided that, if such notice to the Landlord is not given or is delayed for any reason, the period of time within which the Landlord may cure any such breach or default shall commence upon receipt by the Landlord of such notice.

b. Termination Notice. After the expiration of the grace period given Lessee under the Lease to cure the default, Landlord shall not terminate the Lease on account of such default but shall give the Department a written notice (the "Termination Notice") that Lessee has failed to cure the default within the grace period and that, on account thereof, Landlord intends to terminate the Lease, which notice shall set a termination date not earlier than ninety (90) days after the Department's receipt of the Termination Notice, provided that Landlord agrees to extend such termination date if the Department reasonably requires additional time to accommodate the Department's taking possession of the Development where possession is necessary to cure Lessee's default, but in no event shall such extension exceed one hundred and twenty (120) days. If after notice and opportunity to cure, Lessee has failed to cure during the grace period provided under the Lease, the additional cure period granted to the Department herein is personal to the Department and such rights do not inure to the benefit of the Lessee or any other mortgagee. No Termination Notice shall be effective to terminate the Lease if:

(1) Except as provided in section 5.c., within ninety (90) days after receipt of the Termination Notice, the Department cures any default which can be cured by payment or expenditure of money or without possession of the Development; or provides reasonable assurance and undertakings for the cure of such default. To effect a cure of Lessee's default, the Department may make any repair or improvement, do any other act or thing required of Lessee under the Lease, or do any act or thing which may be necessary or proper to prevent termination of the Lease. The Department and its agents and contractors will have full access to the Development for purposes of accomplishing the curing of defaults under the Lease. Any of the foregoing done by the Department shall be as effective to prevent a termination of the Lease as the same would have been if done by Lessee; or

(2) The Department commences and diligently pursues to completion proceedings for foreclosure and sale under the Trust Deed or assignment or transfer in lieu of foreclosure.

c. Defaults Not Susceptible to Department Cure. The Department shall not be required to perform any act which is not susceptible to performance by the Department, such as to cure a filing or condition of bankruptcy or insolvency or to cure or commence the cure of any default which is Lessee's failure to pay any lien, charge or encumbrance which is junior in priority to the Trust Deed, or to pay any amount owed under an indemnity of Landlord by Lessee based on an event occurring prior to the Department's possession of the Development.

d. Landlord's Payment of Loan Payments. Landlord agrees that if Landlord cures Lessee's failure to make any payment due under the Loan, it shall seek reimbursement of amounts so paid solely from Lessee and the Department shall have no obligation to pay such amounts to Landlord, except that Landlord shall have the sole discretion without Department approval to add said amounts to its Landlord loan secured by the Landlord deed of trust encumbering the Development.

e. Waiver of Breach or Default. On transfer of the Leasehold at any foreclosure sale under the Trust Deed or by acceptance of a deed in lieu of foreclosure, all violations, defaults and breaches by Lessee under the Lease, including, without limitation, nonpayment of rent or other amounts payable under the Lease, shall be deemed personal obligations of Lessee, and the Department or other Transferee shall be entitled to the New Lease as described in section 6 below without incurring or assuming any liability or obligation of, or claim against, Lessee under the Lease. Nothing in this section shall be deemed a waiver of any claim by Landlord against Lessee under the Lease.

f. Enforcement Not a Breach. No action taken by the Department to enforce its rights under any of the documents governing the Loan against either the Landlord or the Lessee, or both, including, without limitation, any actions taken against Lessee to collect any amounts due and owing to the Department or any action to appoint a receiver for the Development or to otherwise protect the security of the Loan, shall constitute or result in a breach or violation of the Lease. Department acknowledges and agrees that Landlord has no obligation to make any payments to the Department under any Department Loan Documents, including, but not limited to the Loan, unless the Landlord assumes a Department loan.

g. Status Quo Ante. Any default by Lessee shall not prejudice the Department if

the Department chooses to cure such default within the applicable grace period, and Landlord acknowledges and agrees that upon the Department's cure of any such default, the Lease shall be restored status quo ante.

6. New Lease.

a. Conditions. Section 5 hereof notwithstanding, Landlord agrees to comply with the requirements of subsection 6.b., if the following conditions specified in this subsection 6.a. apply:

(1) The Lease is terminated for any reason whatsoever or if the Department forecloses under the Trust Deed or accepts a deed in lieu of foreclosure; and

(2) Department or other Transferee, whether or not such party has assumed the Lease, requests Landlord in writing to enter into a new lease of the Property within ninety (90) days after (a) the Department completes a foreclosure under the Trust Deed, or (b) the Department accepts a deed in lieu of foreclosure, or the end of the cure period provided to the Department in the Termination Notice (the "New Lease").

b. Obligations. If the conditions specified in section 6.a. have been satisfied, Landlord shall:

(1) upon receipt of the request for New Lease described in subsection 6.a.
(2) above, enter into a New Lease of the Property with the Department, its nominee, or its successor-in-interest or other Transferee, for the remainder of the term of the Lease, effective as of the date of the termination or conveyance pursuant to a foreclosure sale or of a deed-in-lieu of foreclosure. The New Lease shall be at the rent of, and consistent with the terms, provisions, covenants, options and agreements contained in the terminated or foreclosed Lease, or granted by the Landlord in connection with the Lease all as modified or supplemented by this Agreement, and subject to the rights, if any, of any parties then in possession of any part of the Development;

(2) convey by grant deed to the Department, its nominee or its successor-in-interest or other Transferee, all title and interest to the Development, if any, which may become vested in Landlord as a result of any termination of the Lease or foreclosure of the Trust Deed or conveyance of Lessee's interest by deed in lieu of foreclosure, for a term of years equal to the term of the New Lease, subject to the reversion in favor of Landlord upon expiration or sooner termination of the New Lease;

;

(3) assign to the Department, its nominee, or its successor-in-interest or other Transferee, all of Landlord's interest, if any, in all existing subleases of all or any part of the Development and all attornments given by the sublessees.

c. Within thirty (30) days after receipt of the new lease from Landlord complying with the terms of this section 6, the Department or other Transferee shall execute and deliver the new lease to Landlord.

d. The Department, its nominee, or its successor-in-interest or other Transferee shall perform and observe all covenants contained in the Lease on Lessee's part to be performed, but does not have to remedy any other conditions which Lessee under the terminated Lease was obligated to perform, i.e. the Department does not have to cure prior deficiencies, but the Department as a Lessee will cure any reasonable health and safety deficiencies pertaining to the Property contingent on availability of funding. Nothing in this Lease Rider vitiates Landlord's claim for damages (due to breach of the lease) against the terminated Lessee.

e. Priority. The Leasehold estate and any rights granted the Department under this Agreement, or its nominee or its successor-in-interest under this section 6 shall be prior to any mortgage or other lien, charge or encumbrance on the Development, except as approved in writing by the Department or as shown in the Report. (**HCD will record its lien on the leasehold estate at permanent closing by which time Citicorp would have already recorded its lien on the leasehold estate and ahead of any HCD lien, and the Citicorp interest will be show on the preliminary title report ahead of any HCD interest.**)

7. Successors to Department. Subject to section 4 hereof, if the Leasehold is transferred by a foreclosure sale under the Trust Deed or by a deed in lieu of foreclosure, Landlord shall recognize the Transferee as the tenant under the Lease. Anything in the Lease notwithstanding, the rights and benefits of the Department under this Agreement shall benefit and may be exercised by any Transferee or by the holder of any mortgage or deed of trust which may be given to secure a portion of the purchase price in any sale by the Department or its successor(s) after the Department acquires the Leasehold or enters into a New Lease under this Agreement.

8. Diligence of Department. So long as the Department is prevented by any process or injunction issued by any court or by any statutory stay, or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Landlord or

Lessee, from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the Department shall not be deemed for that reason to have failed to commence such proceedings or to have failed to prosecute diligently such proceedings, provided, however, that the Department shall use reasonable efforts to contest and appeal the issuance or continuance of any such process, stay or injunction.

9. Condemnation and Insurance Proceeds.

a. Anything in the Lease notwithstanding, all fire and other hazard or casualty insurance proceeds shall be paid to the Department to the extent required by the Regulatory Agreement and subject to the rights of senior mortgage holders. In addition, in the event of any condemnation or partial condemnation, all condemnation award proceeds payable on account of such condemnation or partial condemnation shall be paid to the Department to the extent required by the Regulatory Agreement, subject to the rights of holders of senior mortgages, if any. Condemnation proceeds attributable to the fee owner's reversionary interest and to Landlord's fee interest in the Property go to the Landlord.

b. During the term of the Loan, the Department shall have the right to participate in any settlement or stipulation of judgment with respect to any condemnation proceeding entered into with the condemnation authority affecting all or any portion of the Development or any agreement to sell all or any portion of the Development in lieu of condemnation, and no such settlement, stipulation or agreement shall be made or entered into without the Department's prior written consent, which consent shall be in the Department's sole and absolute discretion and may be conditioned upon the satisfaction of such reasonable terms and conditions as the Department may prescribe. Department shall also have the right (but not the obligation) to participate in any settlement, discussion, and/or arbitration proceeding between Landlord and Lessee with respect to the apportionment or application of any condemnation award.

10. Certificate by Landlord. Within thirty (30) calendar days after written request by the Department, Landlord shall execute and deliver to the Department or to any proposed purchaser or encumbrancer of Lessee's estate a certificate declaring (i) the existence and validity of the Lease, or New Lease as the case may be, and amendments thereto, if any, remains in full force and effect; (ii) that all conditions under the Lease, or New Lease, have been satisfied, and that there are no defaults under the Lease or New Lease, or if there has been a default under the Lease or New Lease, a description of the nature of such default; (iii) any other information relating to the condition of the Lease, the Property or the Development reasonably requested by the Department; and (iv) that Landlord understands the recipient will rely on the certificate and that the Landlord will describe in reasonable

detail any exceptions to the foregoing statements.

11. Notices. Notices and other communications required by this Agreement shall be delivered by messenger to the addresses provided below or sent by U.S Postal Service certified mail, return receipt requested, postage prepaid, addressed as follows:

To Department: Department of Housing and Community Development
Multifamily Housing Program
P.O. Box 952054
Sacramento, CA 94252-2054
Attn. MHP Program Manager
or:
1800 Third Street, Suite 390
Sacramento, CA 95811
Attn: MHP Program Manager

To Landlord: Redevelopment Agency of the City of San Diego
Civic Center Plaza
1200 Third Avenue, Suite 1400
Mail Stop MS56D
San Diego, California 92101
Attn: Deputy Executive Director
Telephone: (619) 236-6700
Fax: (619)533-3219

and

Redevelopment Agency of the City of San Diego
c/o Centre City Development Corporation
401 B Street, Suite 400
San Diego, California 92101
Attn: Coordinator, Affordable Housing
Tel: 619-533-7177
Fax: 619-236-9148

To Lessee: Cedar Gateway, L.P.
c/o Pacific Housing, Inc.
1801 L Street, #245
Sacramento, CA 95811
Attn: Executive Director

Cedar Squier Roem, LLC
3129 6th Street
Santa Monica, CA 90405
Attn: Manager

These addresses may be changed by a notice given in the same manner provided that Landlord acknowledges and agrees that it shall have a duty to verify the addresses pertaining to Landlord provided herein. Notices shall be effective on receipt.

12. Department's Rights Against Lessee; Landlord's Rights Against Lessee

a. Nothing in this Agreement shall limit or restrict the Department's rights and remedies under the Note, the Trust Deed, the Regulatory Agreement, or any other agreement between the Department and Lessee.

b. Nothing in this Agreement shall limit or restrict the Landlord's rights and remedies under the Lease or any other agreement between the Landlord and Lessee.

13. Successors and Assigns. This Agreement shall inure to the benefit of and bind the successors and assigns of the Department, Landlord and Lessee.

14. Uninsured Hazard. Landlord agrees that neither the Department nor any person acquiring the Property or a portion of the Leasehold pursuant to a foreclosure under the Trust Deed, or deed in lieu of foreclosure, nor the lessee under a New Lease pursuant to section 6 hereof, nor any successive owner of a portion of the Leasehold after such foreclosure or New Lease shall have any obligation hereunder or under the Lease or New Lease to repair or reconstruct any damage or loss to the Development which is due to a hazard not required to be covered by insurance under the Lease or New Lease, during the last five (5) years of the term (including all exercised options) of the Lease or New Lease.

15. Duty to Repair. Landlord agrees that if the Department, its nominee, or its successor-in-interest succeeds to Lessee's leasehold interest in the Property and if the Improvements on the Property shall have been or becomes materially damaged before or after the date of such acquisition by an insured casualty, the Department's, its nominee's, or its successor-in-interest's obligation, if any, to repair, replace or reconstruct the Improvements shall in any such event be limited to the greater of: i) the amount of the net insurance proceeds received by the Department by reason of that damage or ii) the amount the Department would be entitled to if in compliance with the minimum insurance requirements of Lessee under the Lease.

16. Options. Landlord and Lessee agree that the Department may exercise any option to extend the term of the Lease or to purchase any interest in the Property which is granted to Lessee under or in connection with the Lease.

17. Limitation on Liability. If the Department agrees to be bound by the terms of the Lease, or in the event of any Transfer to a Transferee, neither the Department nor Transferee shall have any obligation under the Lease with respect to any liabilities, obligations, losses, damages, fines, penalties, claims, demands, suits, actions, causes of actions, charges, judgments, costs, and expenses (including architects' and attorneys' fees and court costs) arising out of or resulting from acts, omissions, circumstances or events occurring before or existing at the time of such Transfer or the Department's agreement to be bound by the Lease. Nothing in this Agreement or in the Lease shall impose on the Department any liability to perform the obligations of Lessee under the Lease or require the Department to assume the Lease unless and until the Department acquires Lessee's rights by foreclosure or deed in lieu of foreclosure. After acquiring Lessee's rights by foreclosure or deed in lieu of foreclosure, the Department shall be liable to perform Lessee's obligations only until the Department assigns or transfers the Leasehold. The Department shall not, however, be required to cure Lessee's defaults occurring before the Department's acquisition of Lessee's rights by foreclosure or deed in lieu of foreclosure.

18. Conflict With Lease. The provisions herein are intended to be supplementary to, and not in derogation of, the parties' rights and obligations contained in the Lease (including all of the Department's rights under the Lease as a leasehold mortgagee), but in the event of any conflict or inconsistency between the terms of the Lease and the terms of this Agreement, the terms of this Agreement shall govern and control, and the Lease shall be deemed to be modified hereby.

19. Option to Purchase and Right of First Refusal. Landlord and Lessee agree that so long as the Department, its successor or assigns holds the Trust Deed and Regulatory Agreement encumbering the Lease, any option to purchase and right of first refusal, including that described in Article 17 of the Lease, shall not be effective without the prior written consent of the Department, which consent shall not be unreasonably conditioned, withheld or delayed.

20. Split of certain operating cash flow (AKA Split of Distributions and Residual Receipts.) Title 25 California Code of Regulations (CCR) Section 8300 et seq. are Uniform Multifamily Regulations the Department must follow when assisting multifamily rental housing developments. Certain operating cash flow may be available for the Sponsor (see Title 25 CCR Section 8301(r)) and the Department, which is labeled as Distributions and Residual Receipts respectively (see Title 25 CCR Section 8314(a)(2)), of which typically 50% is given to the Sponsor as Distributions and 50% is given to the Department. The Department may agree to share what would otherwise be its 50% share of available cash flow (i.e. Residual Receipts) with other public agencies in amounts proportional to the

agencies' respective loan amounts; as long as public agency is not making a grant or a forgivable loan (see Title 25 CCR Section 8314(a)(2)(A).) The sharing of Residual Receipts is permissive, the Department is reasonable in sharing Residual Receipts, the amount of which depend on a completed and acceptable project Cost Certification being provided to the Department after construction of the Development is completed. (The Department acknowledges that the Landlord is a public agency making a loan on the Property.) The Department may agree to set the amount payable to the Sponsor (as Distributions) at amount less than 50% (see Title 25 CCR Section 8314(a)(2)(B). The Department hereby acknowledges and agrees to set the amount payable to the Sponsor at an amount less than 50% as set forth below. The Department hereby further acknowledges and agrees to share what would otherwise be its 50% share of available cash flow (i.e. Residual Receipts) with Landlord, the California Housing Finance Agency ("CalHFA") and other eligible public agencies in amounts proportional to each agencies' respective loan amounts. (Note: The Regulatory Agreement calls Residual Receipts "Net cash flow.")

- 20.1 For years 1 through 30 of the Lease Term the following 40%/60% split in available cash flow will be in effect, in which 40% is being retained by Sponsor as Distributions, and 60% is being shared between the Department, Landlord, CalHFA, and other eligible public lending agencies in proportion to each agencies' respective loan amounts as Residual Receipts. ; and
- 20.2 For years 31-55 of the Lease Term the following 20%/80% split in available cash flow will be in effect, in which 20% is being retained by Sponsor as Distributions, and 80% is being shared between the Department, Landlord, CalHFA, and other eligible public lending agencies in proportion to each agencies' respective loan amounts as Residual Receipts.

[HCD staff will have to review Lease Article 4 - Rent Payments - to assure compatibility with HCD regulations regarding cash flow, etc. Further comment on this is reserved]

21. Actions and Future Amendments. Lessee warrants that it can perform and comply with all the provisions and covenants of all documents pursuant to its operation of the Development. Landlord and Department are not aware of any conflicts between their documents, or other documents that encumber the Property, that make it impossible or

impractical for the Lessee to perform and comply with all the provisions and covenants of all the documents in Lessee's operation of the Development. Except as provided in this Agreement, none of the parties shall take any action or pursue any remedy, including but not limited to any remedy or right the Landlord may have pursuant to its: Landlord Regulatory Agreement; Landlord Leasehold Deed of Trust; and, DDA, which negates any provision of the Lease, the Department loan documents, or this Agreement, without the prior written consent of the Landlord and the Department which consent shall not be unreasonably withheld, conditioned or delayed. The Landlord may not modify the Lease or any of its documents that encumber the Property in anyway that jeopardizes Lessee's performance under the Department's loan documents. The Department may not modify its loan documents in anyway that jeopardizes Lessee's performance under the Lease or the Landlord's Loan documents.

22. Attorney Fees, Costs. In any action to enforce any provision of this Agreement, the prevailing party shall be entitled to recover from the other party, its costs and reasonable expenses as permitted by law.

23. Acknowledgment. Landlord, and Lessee acknowledge that the Department is relying on the foregoing representations, warranties, covenants and agreements of the undersigned in making the Loan to Lessee, and warrants and affirms to and for the benefit of the Department that each of those representations is true, correct and complete as of this date.

DEPARTMENT:
Department of Housing and Community
Development, a public agency of the State
of California

By: _____
Diane Snyder, Manager
Multifamily Housing Program

[signatures continued on following page]

LANDLORD:
Redevelopment Agency of the City Of
San Diego, a public body corporate and politic

Dated:

By:

Name:

Title:

APPROVED AS TO FORM AND LEGALITY
Jan I. Goldsmith, Agency General Counsel

By: _____
Deputy General Counsel

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____
Murray O. Kane

[signatures continued on following page]

LESSEE:

Cedar Gateway, L.P,
a California limited partnership

By: CEDAR SQUIER ROEM, LLC,
a California limited liability company,
its General Partner

By: ROEM DEVELOPMENT CORPORATION,
a California corporation, its Manager

By:
Name: Jonathan Emami
Its: Vice President

By: SQUIER PROPERTIES, LLC,
a California limited liability company,
its Manager

By:
Name: Gary Squier
Its: President

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the State of California,

Discussion Draft

[to be put in the RDA docs, maybe Article 8 of the Lease]

Approved Financing: Approved Financing as of the date hereof includes the following:

A permanent loan from the State of California Department of Housing and Community Development ("Department or HCD") of Multifamily Housing Program ("MHP") funds in the approximate amount of Three Million Three Hundred One Thousand One Hundred Ninety one Dollars (\$3,301,191)...

DISCUSSION DRAFT

Exhibit No. 12

REVISED FORM OF THE NOTICE OF AFFORDABILITY RESTRICTIONS

ATTACHMENTS

ATTACHMENT NO. 23

REVISED FORM OF NOTICE OF
AFFORDABILITY RESTRICTIONS

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

Recording Requested by and When
Recorded Return to:

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO
c/o Centre City Development
Corporation
401 B Street, Suite 400
San Diego, California 92101
Attn: Centre City Project Manager

Space above this line for Recorder's use only

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

In accordance with Health and Safety Code Section 33334.3(f)(3)(B), notice is hereby given that certain real property located at 1601 – 1623 5th Avenue and 1620 6th Avenue in the City of San Diego, County of San Diego, State of California, and known as Assessor's Parcel Numbers 533-382-01, 533-382-04, 533-382-05 and 533-382-06, and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property"), is subject to certain affordability covenants and restrictions identified in that certain **AGREEMENT AFFECTING REAL PROPERTY (INCLUDING RENTAL RESTRICTIONS)** ("Agreement Affecting Real Property") dated as of _____, 200__, made by and between **THE REDEVELOPMENT AGENCY OF THE**

CITY OF SAN DIEGO, a public body corporate and politic (the “Agency”), and **CEDAR GATEWAY, L.P.**, a California limited partnership (“Owner”), recorded concurrently herewith and incorporated herein by this reference.

The affordability covenants and restrictions will expire on the fifty-fifth (55th) anniversary of the recordation of the Agreement Affecting Real Property, which restricts the use of the Property as set forth below. Any capitalized term not described herein shall have the meaning ascribed to such term in the Agreement Affecting Real Property.

- (1) There shall be 65 units consisting of 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units (collectively referred to herein as the “Units”).
- (2) All of the residential Units shall be rented to and occupied by (i) Very Low Income households whose incomes do not exceed the qualifying limits for very low income families as defined in Health and Safety Code Section 50105 as published annually by the Department of Housing and Urban Development (“HUD”) and (ii) Extremely Low Income households whose incomes do not exceed the qualifying limits for extremely low income families as defined in Health and Safety Code Section 50106 as published annually by HUD (and as such shall be rented at an Affordable Rent to persons of Very Low and Extremely Low Income) subject to increases as set forth below at Section 5. (c). The number of Units by unit-types and the Affordable Rent applicable to the Units by unit-types (applicable to rents), shall be as set forth in the Schedule of Affordable Rents attached to hereto as Exhibit “B”.
- (3) Twenty three of the Units shall be supportive housing units targeted for the special needs population.
- (4) If the lender of the Construction Loan forecloses, judicially, non-judicially or by deed in lieu of foreclosure, upon Owner’s leasehold interest in the Leasehold Parcels (a “Foreclosure Transfer”), that the foreclosing purchaser, its successors and assigns, shall thereafter use the Housing Parcel exclusively to provide affordable housing for Low Income Households, subject to all of the terms and conditions of the

Agreement Affecting Real Property, but without any obligation to provide supportive housing units described in paragraph (3) above and in the Agreement Affecting Real Property. The term “Low Income” shall mean households whose incomes do not exceed the qualifying limits for lower income families as defined in Health and Safety Code Section 50079.5 as published annually by HUD. The maximum incomes of residential tenants eligible to rent the Units shall be determined on the basis of the area median income for the San Diego Standard Metropolitan Area, as determined by HUD and published from time to time by the California Department of Housing and Community Development (“Area Median Income”).

- (5) Rents charged shall not exceed “Affordable Rent” as follows: The maximum monthly rent, including a reasonable utility allowance that may be charged to tenants shall be calculated as follows:

(A) As to Extremely Low Income households: The maximum monthly rent shall not exceed one-twelfth (1/12) times the product of 30% times 30% of the TCAC Area Median Income, adjusted for family size appropriate for the Unit. In no event shall the Affordable Rent for Extremely Low Income households exceed the product of 30% times 50% of Area Median Income, adjusted for household size. The term “TCAC Area Median” as used herein shall mean the area median income for San Diego County determined in accordance with 26 USC 42 (g).

(B) As to Very Low Income households: The maximum monthly rent shall not exceed one-twelfth (1/12) times the product of 30% times 50% of the Area Median Income, adjusted for family size appropriate for the Unit.

(C) In the event of a Foreclosure Transfer, as to Low Income Households: The maximum monthly rent shall not exceed one-twelfth (1/12) times the product of 30% times 60% of the Area Median Income, adjusted for family size appropriate for the Unit.

For purposes of this Notice, the phrase “adjusted for family size appropriate for the Unit” shall mean the number of bedrooms in the Unit plus one (1).

- (6) To the extent permitted by law, this Section shall govern in the event of increases in tenant incomes: (a) A tenant who initially qualified as an Extremely Low Income Household, but who, due to an increase in income, no longer qualifies as an Extremely Low Income Household but does qualify as a Very Low Income Household, shall pay as rent an amount that is Affordable Rent to a Very Low Income Household, as defined in Section 5(B) above; and (b) a tenant who initially qualified as a Very Low Income Household, but who, due to an increase in income, no longer qualifies as a Very Low Income shall pay as rent the lesser of the amount payable by the tenant under State law or 30% of the family’s adjusted income.
- (7) To the extent permitted by law, Owner agrees that among Extremely Low and Very Low Income households who are otherwise eligible to rent the Units to be developed pursuant to the Agreement, Owner shall make reasonable efforts to give first priority to those persons who have been displaced by any redevelopment project within the City of San Diego over other eligible persons. The Owner agrees that prior to the initial rent-up of the Units, Owner shall consult with and obtain the approval of the Agency in developing a fair marketing plan for renting the Units.
- (8) Agency and the City of San Diego Housing Commission (the “Housing Commission”), and their respective successors and assigns, shall have the right to monitor and enforce the covenants contained herein. Owner covenants that it shall comply with any monitoring program set up by Agency and/or the Housing Commission to enforce said covenants. In complying with such monitoring program, Owner or its agent shall prepare and submit to Agency (or the Housing Commission) an occupancy report, financial information and income verification documents for each tenant of a Unit, and all supporting documentation, on forms provided by Owner (or the Housing Commission), annually, setting forth the required information for the preceding year. On an annual basis, Owner or its

agent shall additionally submit to Agency (or the Housing Commission) evidence of each Very Low or Extremely Low Income tenant's continuing eligibility for the Units. Agency (or the Housing Commission) shall review such reports within 14 days of receipt for certification of continuing affordability of Units and eligibility of tenants. Owner shall pay such costs associated with said monitoring and enforcement efforts as required by the Housing Commission.

- (9) Except for a resident manager, no officer, employee, agent, official or consultant of Owner may occupy any of the Units.

This notice is prepared for notice and recordation purposes only, and in no way modifies the terms, conditions, provisions and covenants set forth in the Agreement Affecting Real Property. In the event of any inconsistency between the terms, conditions, provisions and covenants set forth in the Agreement Affecting Real Property and this notice, the terms, conditions, provisions and covenants set forth in the Agreement Affecting Real Property shall prevail.

[signatures on following page]

IN WITNESS WHEREOF, the parties have duly executed this Notice of Affordability Restrictions on Transfer of Property.

REDEVELOPMENT
AGENCY OF THE CITY
OF SAN DIEGO

By: _____
Janice Weinrick,
Deputy Executive Director

APPROVED AS TO FORM AND
LEGALITY
Jan I. Goldsmith
Agency General Counsel

By: _____
Agency Deputy General Counsel

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

EXHIBIT “A”

**LEGAL DESCRIPTION OF THE PROPERTY
[to be inserted]**

EXHIBIT "A"

SCHEDULE OF AFFORDABLE RENTS

Type of Units	Maximum Income	Maximum Rent
23 One Bedroom	Extremely Low Income	1/12 of 30% of 30% TCAC AMI
2 Two Bedroom	Extremely Low Income	1/12 of 30% of 30% TCAC AMI
3 Three Bedroom	Extremely Low Income	1/12 of 30% of 30% TCAC AMI
14 Two Bedroom	Very Low Income	1/12 of 30% of 50% AMI
23 Three Bedroom	Very Low Income	1/12 of 30% of 50% AMI

* "TCAC AMI" means the area median income for San Diego County determined in accordance with 26 USC 42 (g). In no event shall the Affordable Rent for Extremely Low Income households exceed the product of thirty percent (30%) times fifty percent (50%) of Area Median Income, adjusted for household size.

STATE OF CALIFORNIA)
)ss
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature

Exhibit No. 13

FORM OF SUBORDINATION AGREEMENT WITH HCD

ATTACHMENTS

**Free recording in accordance
with California Government
Code Section 27383**

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

State of California
Department of Housing and
Community Development
P. O. Box 952052
Sacramento, CA 94252-2052
Attn: Multifamily Housing Program
Documents Coordinator
08-SHMHP-4330

DRAFT

SUBORDINATION AGREEMENT AND ESTOPPEL CERTIFICATE

[DRAFTING NOTE: THE SUBSTANTIVE PROVISIONS OF THIS FORM SHALL BE USED FOR THE HCD SUBORDINATION AGREEMENT AUTHORIZED BY THE DDA AS AMENDED, EXCEPT FOR MODIFICATIONS (INCLUDING ADDITIONS) TO THE RIGHTS AFFORDED TO THE AGENCY IN PARAGRAPHS 5 AND 6 HEREOF REASONABLY REQUESTED BY THE AGENCY EXECUTIVE DIRECTOR OR DESIGNEE TO PROTECT THE AGENCY'S INTERESTS IN THE AGENCY LOAN AND AGENCY LOAN DOCUMENTS. ANY AND ALL SUBSTANTIVE MODIFICATIONS PRIOR TO RECORDATION SHALL BE SUBMITTED TO THE AGENCY BOARD FOR APPROVAL.]

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 AND ESTOPPEL CERTIFICATE (the "Agreement") is dated as of _____, 20___, for reference purposes only, and is entered into by and among Redevelopment Agency of the City of San Diego, a public body corporate and politic, (the "Junior Lienholder") and Cedar Gateway, L.P., a California limited partnership (the "Borrower"), and the Department of Housing and Community Development, a public agency of the State of California (the "Senior Lender").

RECITALS

A. Borrower is the owner of a leasehold estate in that real property described in Exhibit A attached hereto and made a part hereof (the "Property"). The Borrower is developing a 65-unit multifamily residential rental development on the Property (the

"Improvements"). The Property and the Improvements are sometimes referred to collectively as the "Development."

Junior Lienholder is the owner of the fee simple interest in that real property described in Exhibit A attached hereto and made a part hereof (the "Property"). The Junior Lienholder and the Borrower have a Landlord-Tenant relationship in the Property pursuant to the ground lease mentioned below (in Recital D.)

B. Pursuant to the California Community Redevelopment Law, the Junior Lienholder has established a Low and Moderate Income Housing Fund and has deposited therein certain tax increment funds and bond proceeds, if applicable, made available to the Junior Lienholder exclusively for the purpose of increasing, improving, and preserving the community's supply of affordable low and moderate income housing (referred to in this Agreement as the "Housing Funds"). For the purpose of increasing the supply of housing in the City of San Diego that will be affordable to Extremely Low and Very Low Income households, Junior Lienholder and Borrower have entered into that certain Disposition and Development Agreement, dated May 22, 2008, as amended by that certain First Amendment to the Disposition and Development Agreement dated _____ (the Disposition and Development Agreement and its First Amendment are collectively referred to herein as the "Disposition and Development Agreement"), which is a public document on file in the office of the Agency Secretary and which is incorporated herein by this reference, providing, among other things, for a loan of Housing Funds to Borrower to provide a portion of the financing for the construction of the Improvements.

C. In conformance with the Disposition and Development Agreement and in furtherance of the Junior Lienholder's utilization of the Housing Funds, the Junior Lienholder and Borrower entered into an Agreement Affecting Real Property, which, among other things specifically set forth therein, restricted the use of the Property to affordable housing ("Junior Lienholder Regulatory Agreement"). The Junior Lienholder Regulatory Agreement was recorded in the Official Records of the Office of the San Diego County Recorder ("Official Records") on _____ as Instrument No. _____.

D. Pursuant to a ground lease between Junior Lienholder as Landlord and Borrower as Tenant, dated _____, 2009, a memorandum of which was recorded in the Official Records concurrently herewith (the "Ground Lease"), Junior Lienholder conveyed a leasehold interest (the "Leasehold") in the Property to Borrower.

E. Pursuant to the Disposition and Development Agreement, among other things, the Junior Lienholder has made a loan to the Borrower in the principal sum of Three Million Six Hundred Sixty One Thousand Dollars (\$3,661,000.00) (the "Junior Lienholder Loan"). The Junior Lienholder Loan will be evidenced by a certain promissory note (the "Junior Lienholder Note"), to be secured by a certain deed of trust (the "Junior Lienholder Deed of Trust") to be recorded concurrently herewith, in the Official Records of San Diego County, California (the "Official Records"). (The Junior Lienholder Deed of Trust, the Junior Lienholder Regulatory Agreement, and all other documents evidencing or securing the Junior Lienholder Loan are collectively referred to herein as the "Junior Lienholder Documents.")

F. In order to finance the development of the Improvements, the Senior Lender has agreed to loan the Borrower a sum not to exceed Three Million Three Hundred One Thousand One Hundred Ninety one Dollars (\$3,301,191.00) (the "MHP Loan"), subject to the terms and conditions of: (i) a regulatory agreement restricting the use and occupancy of the Development and the income derived therefrom which shall be dated as of even date herewith and recorded as an encumbrance on the Property in the Official Records (the "MHP Regulatory Agreement"), and (ii) other loan documents. The MHP Loan will be evidenced by a promissory note (the "MHP Note"), the repayment of which will be secured by, among other things, a deed of trust by Borrower as trustor, to Senior Lender as beneficiary recorded as an encumbrance on the Property in the Official Records (the "MHP Deed of Trust") and by such other security as is identified in other loan documents. The MHP Regulatory Agreement, MHP Note, MHP Deed of Trust and all other documents evidencing or securing the Senior Lienholder Loan or MHP Loan are collectively referred to herein as the "Senior Loan Documents").

G. The Senior Lender is willing to make the MHP Loan provided the MHP Deed of Trust and the MHP Regulatory Agreement are liens, claims or charges upon the Development prior and superior to the Junior Lienholder Documents, and provided that the Junior Lienholder specifically and unconditionally subordinates and subjects the Junior Lienholder Documents to the liens, claims or charges of the MHP Deed of Trust and the MHP Regulatory Agreement.

H. California Code of Regulations, Title 25, Section 8315, provides that the Senior Lender's loan shall not be subordinated to the liens of a local government lender, here the Junior Lienholder, unless the amount of the local government loans is more than twice the amount of the Senior Lender's total assistance to the Project (the "Senior Lender Regulation").

I. California Health and Safety Code Section 33334.2 et seq., which is the applicable State Law governing the Junior Lienholder Loan, permits the Junior Lienholder to subordinate the requirements contained in the Junior Lienholder Regulatory Agreement to the Senior Lender's lien only if the Senior Lender refuses to consent to the seniority of the Junior Lienholder's Regulatory Agreement on the basis that it is required to maintain its lien and regulatory agreement in a senior position due to regulatory requirements pertaining to the financing of the Improvements.

J. The Junior Lienholder Loan is not twice the amount of the Senior Lender's total assistance to the project.

K. Junior Lienholder used Housing Funds to the purchase the Property and committed Housing Funds in the Junior Lienholder Loan Documents in connection with the development of the Improvements. At the request of the Senior Lender and Borrower and in furtherance of the Junior Lienholder's duties to provide affordable housing to the community under the California Community Redevelopment Law, Junior Lienholder agrees to enter into

this Agreement to assure Borrower may access the additional funding sources provided by Senior Lender under the Senior Loan Documents to realize and construct the Improvements contemplated in the Disposition and Development Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to induce the Senior Lender to make its MHP Loan, it is hereby declared, understood and agreed as follows:

1. The MHP Regulatory Agreement and the MHP Deed of Trust securing the MHP Note in favor of the Senior Lender, and any and all renewals, modifications, extensions or advances made to protect Senior Lender's interests in its security thereunder or secured thereby (including interest thereon) shall unconditionally be and remain at all times liens, claims, or charges on the Development prior and superior to the Junior Lienholder Documents, and to all rights and privileges of the Junior Lienholder thereunder; and the Junior Lienholder Documents, together with all rights and privileges of the Junior Lienholder thereunder are hereby irrevocably and unconditionally subject and made subordinate to the liens, claims or charges of the MHP Deed of Trust and the MHP Regulatory Agreement.

2. This Agreement shall be the whole and only agreement with regard to the subordination of the Junior Lienholder Documents, together with all rights and privileges of the Junior Lienholder thereunder, to the liens, claims or charges of the MHP Deed of Trust and the MHP Regulatory Agreement, and this Agreement shall supersede and cancel, any prior agreements to subordinate the claims, liens or charges of, but only insofar as would affect the priority between the claims, liens or charges of the Junior Lienholder Documents to the MHP Deed of Trust and the MHP Regulatory Agreement including, but not limited to, those provisions, if any, contained in the Junior Lienholder Documents, which provide for the subordination of the lien or charge thereof to another lien or charge on the Property or the Improvements.

3. The Junior Lienholder declares, agrees and acknowledges that:

a. The Junior Lienholder consents and approves (i) all provisions of the MHP Note, the MHP Deed of Trust and the MHP Regulatory Agreement, and (ii) all agreements among the Junior Lienholder, Borrower and Senior Lender for the disbursement of the proceeds of the MHP Loan, including without limitation any loan escrow agreements which have been provided to the Junior Lienholder for review;

b. The Senior Lender, in making disbursements of the MHP Loan pursuant to the MHP Note or any other agreement, is under no obligation or duty to, nor has the Senior Lender represented that it will, see to the application of such proceeds by the

person or persons to whom the Senior Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part;

c. That none of the execution, delivery or recordation of any of the MHP Note, MHP Deed of Trust, or MHP Regulatory Agreement, or the performance of any provision, condition, covenant or other term thereof, will conflict with or result in a breach of the Junior Lienholder Documents or the Junior Lienholder Note; and

d. The Junior Lienholder intentionally and unconditionally waives, relinquishes, subjects and subordinates the claims, liens or charges upon the Development of the Junior Lienholder Documents, all present and future indebtedness and obligations secured thereby, in favor of the claims, liens or charges upon the Development of the MHP Deed of Trust and the MHP Regulatory Agreement in the order of priority specified in this Agreement and understands that in reliance upon, and in consideration of, this waiver, relinquishment, subjection, and subordination, the MHP Loan and advances thereof made for the protection of the Senior Lender's security interest are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment, subjection and subordination.

5. Notwithstanding anything to the contrary contained in this 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 Junior Lienholder Loan, permits the Junior Lienholder to subordinate the requirements contained in the Junior Lienholder Regulatory Agreement to the Senior Lender's lien only if the Senior Lender refuses to consent to the seniority of the Junior Lienholder's Regulatory Agreement on the basis that it is required to maintain its lien and regulatory agreement in a senior position due to regulatory requirements pertaining to the financing of the Improvements. California Code of Regulations, Title 25, Section 8315, requires the subordination of the Junior Lienholder Loan Documents, including the Junior Lienholder Regulatory Agreement to the lien of the Senior Lender Loan Documents. In order to protect the Junior Lienholder's investment in the event of default, Senior Lender hereby agrees, but only as a separate and independent covenant of the Senior Lender and not as a condition to the continued effectiveness of the covenants and agreements of the Borrower and the Junior Lienholder as set forth herein, as follows:

(a) Upon the occurrence of an event of default under the MHP Deed of Trust, MHP Regulatory Agreement and other Senior Lender Loan documents ("Event of Default"), Senior Lender shall promptly notify Junior Lienholder at the addresses set forth in Section 9 below of the occurrence of such Event of Default, which notification shall be provided to Junior Lienholder within the time provided pursuant to California Civil Code Section 2924b. (b)(1);

(b) Junior Lienholder shall have the right, but not the obligation, during the cure periods which apply to the Borrower pursuant to the Senior Loan Documents to cure Borrower's Event of Default relative to the MHP Loan. If the Event of Default is such that it is not reasonably capable of being cured within the period set forth in the Senior Loan Documents, and if the Junior Lienholder (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 Senior Lender acknowledges and agrees to extend such cure period to accommodate Junior Lienholder's cure of the Event of Default prior to exercise of any remedies by Senior Lender;

(c) After an Event of Default, but prior to a foreclosure sale or deed in lieu assignment of the Leasehold, Junior Lienholder shall have the right, but not the obligation, to take title to the Leasehold and cure the Event of Default without the Senior Lender exercising any right it might otherwise have to accelerate the MHP Loan by reason of such title transfer;

(d) After an Event of Default, but prior to a foreclosure sale or deed in lieu assignment of the Leasehold, Junior Lienholder shall have the right, but not the obligation, to purchase the Leasehold from Borrower and pay all amounts due and owing under the Senior Lender Loan Documents; and

(e) If due to an event of foreclosure, the Junior Lienholder Regulatory Agreement is terminated and eliminated from title to the Property during the term of its affordability period, the Senior Lender shall allow the Junior Lienholder to re-record the Junior Lienholder Regulatory Agreement, on any post foreclosure estate retained or acquired by Senior Lender pursuant to paragraph 7 below.

In no event shall Senior Lender 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 one hundred and eighty (180) days after the first notice of default is given, or such longer period of time as may be specified in the Senior Lender Documents.

Except as set forth herein, nothing in this Section 5 is intended to modify any covenant, term or condition contained in the Senior Lender Documents, including, without limitation, the covenant against creating or recording any liens or encumbrances against the Property by Borrower without the prior written approval of the Senior Lender, which shall not be unreasonably withheld or delayed.

The provisions of this paragraph 5 are intended to supplement, and not to limit, waive, modify or replace, those provisions of law pertaining to notice and cure rights of junior lenders including, without limitation, those set forth in California Civil Code Section 2924.

Senior Lender shall provide duplicate copies of all Borrower notices pertaining to an Event of Default under the Senior Loan Documents or any document executed in connection with the MHP Loan to the Junior Lienholder at the addresses set forth in paragraph 9 below at the same time Senior Lender notifies Borrower in writing of such Event of Default.

The Senior Lender's failure to provide a duplicate copy will not be a breach by the Senior Lender, nor will it impair the Senior Lender's foreclosure remedies in any way.

6. Senior Lender agrees that upon Junior Lienholder's initiation of receivership and/or judicial or non-foreclosure proceedings, deed in lieu of foreclosure or other proceeding or transaction whereby Junior Lienholder takes title to Borrower's interests in the Leasehold in connection with the exercise of remedies under the Junior Lienholder Loan, Senior Lender shall not exercise its right to accelerate the amounts due under the MHP Promissory Note or the Senior Lender Documents if:

- a. Junior Lienholder is the successful bidder at its own foreclosure sale, or if Junior Lienholder institutes a receivership and/or actions for specific performance; and
- b. Junior Lienholder uses best efforts to ensure that Borrower's obligations to Senior Lender, including without limitation, the obligation to make timely payment of principal and interest and property taxes and to maintain insurance as required by the Senior Lender are met despite such foreclosure, receivership or action for specific performance.

Except as set forth herein, the provisions of this paragraph 6 are not intended to waive, limit, modify or replace Senior Lender's remedies under the Senior Lender Documents, including without limitation, Senior Lender's right to accelerate the amounts due under the Senior Lender Documents or the MHP Promissory Note by reason of nonpayment of principal or interest or property taxes or the failure to maintain insurance as required by the Senior Lender.

7. Senior Lender and Junior Lienholder acknowledge and agree that, if due to an event of foreclosure, the Junior Lienholder Regulatory Agreement is terminated and eliminated from title to the Property during the term of its affordability period, the Senior Lender will allow the Junior Lienholder to re-record the Junior Lienholder Regulatory Agreement, on any post foreclosure estate retained or acquired by Senior Lender. This paragraph does not obligate Senior Lender to cure any defaults or otherwise participate in any foreclosure proceedings to acquire the Property, nor is Senior Lender obligated to reinstate the Junior Lienholder Regulatory Agreement in any particular lien priority order.

8. Nothing in this Agreement, the Disposition and Development Agreement, the Ground Lease, or the Junior Lienholder Deed of Trust shall impose on the Junior Lienholder the obligations of the Borrower under the Senior Loan Documents, or require the Junior Lienholder to cure events of default under the Senior Loan Documents or commence a Junior Lienholder foreclosure, unless and until the Junior Lienholder forecloses on the Property under the Junior Lienholder Deed of Trust, accepts a deed in lieu of foreclosure or accepts an assignment of Borrower's obligations therein.

9. All notices, requests, demands, or other communications to the respective

parties hereto (unless otherwise expressly stipulated in this Agreement) shall be deemed to have been duly given or made if addressed as follows:

If to Senior Lender:

If to Borrower:

If to Junior Lienholder:

10. The Senior Lender would not make the MHP Loan without this Agreement.
 11. This Agreement shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of the parties.
 12. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
 13. In the event that any party to this Agreement brings an action to interpret or enforce its rights under this Agreement, the prevailing party in such action shall be entitled to recover its costs and reasonable attorneys' fees as awarded by the court in such action.
 14. This Agreement may be signed by different parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts shall be deemed an original of this Agreement.
 15. Borrower hereby represents that the persons executing this Agreement on behalf of Borrower have full authority to do so and to bind Borrower to perform pursuant to the terms and conditions of this Agreement.
- Senior Lender hereby represents that the persons executing this Agreement on behalf of Lender have full authority to do so and to bind Senior Lender to perform pursuant to the terms and conditions of this Agreement.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON (OR ENTITY) OBLIGATED ON YOUR LEASEHOLD PROPERTY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above and agree to be bound hereby:

JUNIOR LIENHOLDER:

BORROWER:

Approved as to form:

By: _____

Name: _____

Its: _____

SENIOR LENDER:

**The Department of Housing and
Community Development**, a public
agency of the State of California

By: _____

, Manager
Multifamily Housing Program

[Signatures must be acknowledged]

EXHIBIT A

Legal Description of the Property

Leasehold Property Description

DRAFT

DISCUSSION

Exhibit No. 14

FORM OF SUBORDINATION AGREEMENT WITH CALHFA

ATTACHMENTS

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FREE RECORDING REQUESTED)
PURSUANT TO GOVERNMENT CODE)
SECTION 27383)
)
Recording requested by and)
when recorded return to:)
)
CALIFORNIA HOUSING FINANCE AGENCY)
Office of General Counsel)
P.O. Box 4034)
Sacramento, CA 95812-4034)

(space above this line for Recorder’s use)

SUBORDINATION AGREEMENT
MHSA

[DRAFTING NOTE: THE SUBSTANTIVE PROVISIONS OF THIS FORM SHALL BE USED FOR THE CALHFA SUBORDINATION AGREEMENT AUTHORIZED BY THE DDA, EXCEPT FOR MODIFICATIONS (INCLUDING ADDITIONS) TO THE RIGHTS AFFORDED TO THE AGENCY IN PARAGRAPH 3 HEREOF REASONABLY REQUESTED BY THE AGENCY EXECUTIVE DIRECTOR OR DESIGNEE TO PROTECT THE AGENCY’S INTERESTS IN THE DDA LOAN AND DDA LOAN DOCUMENTS. ANY AND ALL SUBSTANTIVE MODIFICATIONS PRIOR TO RECORDATION SHALL BE SUBMITTED TO THE AGENCY BOARD FOR APPROVAL.]

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

THIS AGREEMENT dated as of _____, 2009, is entered into by and between Redevelopment Agency of the City of San Diego, a public body, corporate and politic the “**Locality**”), Cedar Gateway, L.P., a California limited partnership (“**Borrower**”), and the California Housing Finance Agency (“**CalHFA**”) a public instrumentality and a political subdivision of the State of California in connection with a loan by CalHFA on behalf of the Department of Mental Health to Borrower to finance a multifamily residential rental housing project (“**Improvements**”) on real property located in the City of San Diego, County of San Diego, California and more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference (“**Property**”) in which Borrower is the owner of a leasehold estate in the Property (“**Leasehold**”). The Improvements and the Leasehold are collectively referred to herein as the “Project.”

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Unless otherwise noted, references to instruments recorded in “*Official Records*” refer to instruments recorded in the Office of the County Recorder of the County of San Diego.

RECITALS

A. WHEREAS, CalHFA is making, contemporaneously with the making of this Agreement, a construction loan to Borrower which will convert to a permanent mortgage loan (“*MHSA Permanent Loan*”). The MHSA Permanent Loan is evidenced by a promissory note from the Borrower to CalHFA in the face amount of Two Million Seven Hundred Fifty-Two Thousand and No/100 Dollars (\$2,752,000.00) secured by a deed of trust. The deed of trust was executed by Borrower, as trustor, to _____, as trustee, in favor of CalHFA, as beneficiary, and is entitled “California Housing Finance Agency Permanent Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing, MHSA CalHFA Development No. 08-022-C/S” dated _____ (the “*MHSA Deed of Trust*”) to be recorded in the Official Records contemporaneously with this Agreement. The Project shall also be regulated and encumbered by a regulatory agreement executed by Borrower and CalHFA entitled “California Housing Finance Agency MHSA Regulatory Agreement, CalHFA Development No. 08-022-C/S” dated as of _____ (the “*MHSA Regulatory Agreement*”) to be recorded in the Official Records contemporaneously with this Agreement. The MHSA Regulatory Agreement, MHSA Deed of Trust and related unrecorded documents, including but not limited to that certain MHSA Construction/Rehabilitation Loan Agreement (if applicable), shall hereafter be collectively referred to herein as the “*MHSA Documents*”;

B. WHEREAS, Borrower and Locality have entered into that certain Disposition and Development Agreement, dated May 22, 2008, as amended by that certain First Amendment to the Disposition and Development Agreement dated _____ (the Disposition and Development Agreement and its First Amendment are collectively referred to herein as the “*DDA*”), which is a public document on file in the office of the Locality Secretary. Pursuant to the DDA, Locality has agreed to lend funds to the Borrower to provide a portion of the financing for the construction of the Project (the “*DDA Loan*”), pursuant to a promissory note in the amount of approximately Three Million Six Hundred Sixty One Thousand Dollars (\$3,661,000.00) (the “*DDA Note*”) to be secured by a deed of trust with an assignment of rents (the “*DDA Deed of Trust*”) to be recorded concurrently herewith in the Official Records;

C. WHEREAS, Borrower and Locality have or will enter into an Agreement Affecting Real Property, which, among other things specifically set forth therein, restricts the use of the Property to affordable housing (the “*AARP*”) to be recorded in the Official Records concurrently herewith. In connection with the AARP Borrower and Locality have or will enter into that certain Notice of Affordability Restrictions on Transfer of Property (the “*Notice*”) to be recorded concurrently herewith in the Official Records;

D. WHEREAS, Borrower and Locality have or will encumber the Project with that certain Memorandum of Ground Lease (the “*Ground Lease*”) to be recorded in the Official Records concurrently herewith, with Locality as landlord and Borrower as tenant. The Locality

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has conveyed a leasehold interest in the property as described in Exhibit A to Borrower;

E. WHEREAS, in connection with the Ground Lease, Borrower and Locality have or will encumber the Project with that certain Memorandum of Lease (the “***MOL***”) to be recorded concurrently herewith in the Official Records;

F. WHEREAS, Borrower and Locality have or will encumber the Project with that certain Option to Purchase and Right of First Refusal (Housing) dated as of _____ (the “***Option Housing***”);

G. WHEREAS, Borrower and Locality have or will encumber the Project with that certain Option to Purchase and Right of First Refusal (Retail Parcels) dated as of _____ (the “***Option Retail***”);

H. WHEREAS, Borrower and Locality have or will encumber the Project with that Assignment of Rents and Leases dated (the “***Assignment***”) to be recorded concurrently herewith in the Official Records;

I. WHEREAS, Locality may file or record a UCC-1 financing statement and may restrict the Development by recording a development agreement, declaration of restrictions or similar document against the Development. All of these documents, the DDA Note, the DDA Deed of Trust, the Option Housing, the Option Retail and the Assignment provided by Locality are referred to herein as the “***Locality Documents***.” The AARP and its priority are not affected by this Agreement. The AARP is not a Locality Document;

J. WHEREAS, it is a condition precedent to CalHFA making the MHSA Permanent Loan that the MHSA Documents have priority over the Locality Documents;

K. WHEREAS, it is beneficial to all parties that CalHFA make the MHSA Loan, and the parties are willing to subordinate the Locality Documents in order that the MHSA Loan be made; and

L. WHEREAS, the Locality purchased the Property and committed funds in the Locality Documents in connection with the development of the Project. At the request of Borrower and in furtherance of the Locality’s duties to provide affordable housing to the community under the California Community Redevelopment Law, the Locality agrees to enter into this Agreement to assure Borrower may access the additional funding sources provided under the MHSA Documents to realize and construct the Project contemplated in the DDA.

NOW THEREFORE, In consideration of the foregoing and other consideration the receipt and sufficiency of which are hereby acknowledged, and in order to induce CalHFA to make the MHSA Loan, the parties hereto agree as follows:

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1. Subordination of Locality Documents.

a. The Locality and Borrower hereby unconditionally subordinate the Locality Documents to the MHSA Documents, including all extensions, non-material modifications, incremental disbursements of the original amount of the MHSA Permanent Loan if made during construction, or additional advances made thereunder to protect CalHFA's security interest under the MHSA Documents. Hereafter, the MHSA Documents shall unconditionally be, and remain at all times, liens and encumbrances on the Project prior and superior to the encumbrances of the Locality Documents and to all rights and privileges of the parties thereunder, and the liens and encumbrances of the Locality Documents together with all rights and privileges of the parties thereunder shall hereby be subject to and made subordinate to the liens and encumbrances of the MHSA Documents. In the event of a judicial or non-judicial foreclosure of the MHSA Documents, the lien of the Locality Documents shall be extinguished.

b. CalHFA agrees that it shall use its best efforts to provide Locality with a copy of all initial notices of default provided to Borrower under the MHSA Documents, provided, CalHFA shall have no liability to Locality and/or Borrower for its failure to do so, nor shall failure to do so constitute grounds for any restraining order, injunction, or other prohibition against or delay in CalHFA's exercise of its remedies under the MHSA Documents. CalHFA shall not record a Notice of Default related to such initial notice during the period ninety (90) days after the date of such initial notice if such notice relates to a nonmonetary default or defaults under the MHSA Documents. During the term of such period Locality shall have the right, but not the obligation, to cure any nonmonetary default under such initial notice. Notwithstanding the foregoing, if at any time following the date of the initial notice, there shall occur or be continuing a default in the payment of any amount due CalHFA under the MHSA Documents, CalHFA shall have the right to, and in its sole discretion may, record a Notice of Default and proceed to foreclosure based upon any such nonpayment regardless of any extended cure period with respect to nonmonetary defaults. During the term of such period Locality shall have the right, but not the obligation, to cure a monetary default after the recordation of a Notice of Default.

c. Locality has read, understands and approves the MHSA Documents and agrees, subject to the terms set forth herein, to be bound thereby in the event of its foreclosure or acquisition of the Project by deed in lieu of foreclosure.

2. Representations. Locality hereby represents and warrants to CalHFA that at the time of execution of this agreement, the Borrower is in substantial compliance with its obligations to the Locality under the terms of the Locality Documents, and Locality has read and understands the MHSA Documents.

3. Attorneys Fees & Costs. If any party shall take any action to enforce this Agreement, the prevailing party or parties shall be entitled to recover reasonable attorney's fees and costs from the other party or parties.

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4. Amendments Amendments to this Agreement shall be in writing and signed by all the parties hereto.

5. Governing Law. This Agreement shall be construed in accordance with and be governed by the laws of California.

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

7. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, it shall not invalidate or render unenforceable any other part of this Agreement.

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

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

[remainder of page intentionally blank]

[signatures on following page]

DRAFT – DO NOT EXECUTE

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

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

BORROWER:

CEDAR GATEWAY, L.P.,
a California limited partnership

By: Pacific Housing, Inc.,
a California nonprofit public benefit
corporation, its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

LOCALITY:

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

By: _____
Name _____
Title: _____

**APPROVED AS TO FORM AND
LEGALITY**

Jan I. Goldsmith
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____
Murray O. Kane

CalHFA:

**CALIFORNIA HOUSING FINANCE
AGENCY**, a public instrumentality and
political subdivision of the State of
California

By: _____
Name _____
Title: _____

EXHIBIT A

Legal Description

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

Parcel 1:

Lots E and F, Block 214, Horton's Addition, according to map by L.L. Lockling, thereof filed in the Office of the County Recorder of San Diego County.

Parcel 2:

The North ½ of Lot "H" the South ½ of Lot "I", in Block 214 of Horton's Addition; according to map by L.L. Lockling; the South 50 feet of the North ½ of Lot 2 in Block 1 of Bay View Homestead (known as Caruther's Addition) according to map thereof No. 150 filed in the Office of the County Recorder of San Diego County January 29, 1873.

Parcel 3:

All that portion of Lot 2 in Block 1 of Bay View Homestead or Caruther's Addition, according to maps thereof Nos. 150 and 254 filed in the Office of the County Recorder of said San Diego County January 29, 1875, and August 18, 1871, respectively, and all of Fractional Lot "G" and the South ½ of Fractional Lot "H" in Block 214 of Horton's Addition, according to map of Horton's Addition, on file in the Office of the County Recorder of said San Diego County, all being described as follows:

Commencing at the Southwest corner of Lot "G" in Block 214 of Horton's Addition, in said City, according to map thereof on file in the Office of the County Recorder of said San Diego County said Southwest corner being also the Southeast corner of Lot "F" in said Block 214;

Thence Easterly and along the Southerly line of said Lot "G" in said Block 214 of Horton's Addition and along the Southerly line of Lot 2 in Block 1 of Bay View Homestead or Caruther's Addition, according to maps thereof Nos. 150 and 254, filed in the Office of the County Recorder of said San Diego County January 29, 1873, and August 18, 1871 respectively, being along the Northerly line of Cedar Street in said City of San Diego, a distance of 100.34 feet to the Southeast corner of said Lot 2;

Thence North along the East line of said Lot 2 being along the Westerly line of Sixth Street in said City, 75 feet;

Thence Westerly on a line parallel with and distant 75 feet from the Northerly line of said Cedar St., 100.40 feet to a point in the East line of Lot "E" in Block 214 of said Horton's Addition;

Thence South along the East line of Lot "E" and "F" in said Block 214, 75 feet to the point of commencement; being all of Lot "G" and the South ½ of Lot "H" in

EXHIBIT A (continued)

Legal Description

Block 214 of Horton's Addition, and a portion of Lot 2 in Block 1 of said Bay View Homestead, or Caruther's Addition.

Parcel 4:

All that portion of Lot D in Block 214 of Horton's Addition, according to the map thereof made by L.L. Lockling on file in the Office of the County Recorder of San Diego County, lying Southerly of that portion of the right of way line of State Freeway 11-8D-5-16.4 described as follows:

Beginning at the intersection of said right of way line with the East line of Block 1 of Bay View Homestead as shown on Map No. 150, said intersection being distant along last said line, North 0° 08' 43" East, 125.15 feet from the Southeast corner of said Block 1;

Thence North 89° 51' 20" West, 100.46 feet to the East line of said Lot D;

Thence South 76° 07' 09" West, 103.06 feet to a point on the West line of said Block 214, distant along last said line North 0° 06' 50" East, 100.17 feet from the Southwest corner of said Block 214.

Assessor's Parcel Number: **533-382-01,04,05,06**

ACKNOWLEDGEMENTS

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

(Signature) (Seal)

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

(Signature) (Seal)

Exhibit No. 15

FORM OF SUBORDINATION AGREEMENT WITH CTCAC

ATTACHMENTS

**Free recording in accordance
with California Government
Code section 27383**

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

California Tax Credit Allocation
Committee
915 Capitol Mall, Rm. 487
Sacramento, CA 95814
CA-2009-_____

SUBORDINATION AGREEMENT AND ESTOPPEL CERTIFICATE

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

THIS SUBORDINATION AGREEMENT AND ESTOPPEL CERTIFICATE (the "Agreement") is dated as of _____, 200__, for reference purposes only, and is entered into by and among the Redevelopment Agency of the City of San Diego, a public body corporate and politic (the "Junior Lienholder") and Cedar Gateway, L.P., a California limited partnership (the "Borrower"), and the California Tax Credit Allocation Committee, a public agency of the State of California (the "Senior Lender").

RECITALS

A. Borrower is the owner of a leasehold estate in that real property described in Exhibit A attached hereto and made a part hereof (the "Leasehold Estate"). The Borrower has acquired and is developing a 65-unit multifamily residential rental development on the Leasehold (the "Improvements"). The Leasehold and the Improvements are sometimes referred to collectively as the "Development."

B. The Junior Lienholder has made a loan to the Borrower in the principal sum of Three Million Six Hundred Sixty One Thousand Dollars (\$ 3,661,000.00) (the "Junior Lienholder Loan"). The Junior Lienholder Loan is evidenced by a certain promissory note (the "Junior Lienholder Note"), secured by a certain deed of trust (the "Junior Lienholder Deed of Trust") recorded concurrently herewith, in the Official Records of San Diego County, California (the "Official Records"), on _____, 200__, as Instrument No. _____. The Junior Lienholder and Borrower have also entered into a

regulatory agreement affecting the use of the Development, recorded on _____, as Instrument No. _____ in the Official Records (the "Junior Lienholder Regulatory Agreement"). (Except for the Junior Lienholder's Regulatory Agreement which is not a Junior Lienholder Document, the Junior Lienholder Deed of Trust and all other documents evidencing or securing the Junior Lienholder Loan are collectively referred to herein as the "Junior Lienholder Documents.")

C. In order to finance the development of the Improvements, the Senior Lender has agreed to loan the Borrower a sum not to exceed Fourteen Million Twenty Four Thousand Four Hundred and Fifteen Dollars (\$ 14,024,415.00) (the "ARRA Loan"), subject to the terms and conditions of: (i) a regulatory agreement restricting the use and occupancy of the Development and the income derived therefrom which shall be dated as of even date herewith and recorded as an encumbrance on the Leasehold in the Official Records (the California Tax Credit Allocation Committee (TCAC) Regulatory Agreement"), and (ii) other loan documents. The ARRA Loan will be evidenced by a promissory note (the "ARRA Note"), the repayment of which will be secured by, among other things, a deed of trust by Borrower as trustor, to Senior Lender as beneficiary recorded as an encumbrance on the Leasehold in the Official Records (the "ARRA Deed of Trust") and by such other security as is identified in other loan documents. The ARRA Deed of Trust, the TCAC Regulatory Agreement and all other documents evidencing or securing the ARRA Loan are referred to herein as the ARRA Loan Documents.

D. The Senior Lender is willing to make the ARRA Loan provided the ARRA Deed of Trust are liens, claims or charges upon the Development prior and superior to the Junior Lienholder Documents, and provided that the Junior Lienholder specifically and unconditionally subordinates and subjects the Junior Lienholder Documents to the liens, claims or charges of the ARRA Deed of Trust.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to induce the Senior Lender to make its ARRA Loan, it is hereby declared, understood and agreed as follows:

1. The ARRA Deed of Trust securing the ARRA Note in favor of the Senior Lender, and any and all renewals, modifications, extensions or advances thereunder or secured thereby (including interest thereon) shall unconditionally be and remain at all times liens, claims, or charges on the Development prior and superior to the Junior Lienholder Documents, and to all rights and privileges of the Junior Lienholder thereunder; and the Junior Lienholder Documents, together with all rights and privileges of the Junior Lienholder thereunder are hereby irrevocably and unconditionally subject and made subordinate to the liens, claims or charges of the ARRA Deed of Trust.

2. This Agreement shall be the whole and only agreement with regard to the subordination of the Junior Lienholder Documents, together with all rights and privileges of

the Junior Lienholder thereunder, to the liens, claims or charges of the ARRA Deed of Trust, and this Agreement shall supersede and cancel any prior agreements to subordinate the claims, liens or charges of, but only insofar as would affect the priority between the claims, liens or charges of the Junior Lienholder Documents to the ARRA Deed of Trust including, but not limited to, those provisions, if any, contained in the Junior Lienholder Documents, which provide for the subordination of the lien or charge thereof to another lien or charge on the Leasehold or the Improvements.

3. The Junior Lienholder declares, agrees and acknowledges that:

(a) The Junior Lienholder consents and approves (i) all provisions of the ARRA Note, the ARRA Deed of Trust and the TCAC Regulatory Agreement, and (ii) all agreements among the Junior Lienholder, Borrower and Senior Lender for the disbursement of the proceeds of the ARRA Loan, including without limitation any loan escrow agreements which have been provided to the Junior Lienholder for review;

(b) The Senior Lender, in making disbursements of the ARRA Loan pursuant to the ARRA Note or any other agreement, is under no obligation or duty to, nor has the Senior Lender represented that it will, see to the application of such proceeds by the person or persons to whom the Senior Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part;

(c) That none of the execution, delivery or recordation of any of the ARRA Note, ARRA Deed of Trust, or TCAC Regulatory Agreement, or the performance of any provision, condition, covenant or other term thereof, will conflict with or result in a breach of the Junior Lienholder Documents or the Junior Lienholder Note; and

(d) The Junior Lienholder intentionally and unconditionally waives, relinquishes, subjects and subordinates the claims, liens or charges upon the Development of the Junior Lienholder Documents, all present and future indebtedness and obligations secured thereby, in favor of the claims, liens or charges upon the Development of the ARRA Deed of Trust, and understands that in reliance upon, and in consideration of, this waiver, relinquishment, subjection, and subordination, the ARRA Loan and advances thereof are being and will be made and, as part and parcel thereof, 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, subjection and subordination.

Notwithstanding anything to the contrary contained in this Subordination Agreement, the Senior Lender hereby agrees as follows:

(e) Upon the occurrence of an event of default under the ARRA Deed of Trust and other ARRA Loan documents, and prior to completion of a foreclosure sale thereunder, Senior Lender shall promptly notify the Junior Lender via written notice delivered by certified or registered U.S. Mail at the addresses set forth herein of the

occurrence of such event of default (“Senior Lender Notice of Default”), which notification shall be provided to the Junior Lienholder within the time provided pursuant to California Civil Code Section 2924b(b)(1), provided, however, that the Junior Lienholder’s receipt of such notice shall be the date of actual delivery as shown by the addressee’s registry or certification of receipt (or refusal to accept delivery);

(f) The Junior Lienholder shall have the right, during the cure periods which apply to the Borrower pursuant to the ARRA Loan Documents to cure Borrower’s default relative to the ARRA Loan; and

(g) After a default on the ARRA Loan Documents, but prior to a foreclosure sale or deed in lieu assignment of the Leasehold and the Improvements under the ARRA Loan Documents, the Junior Lienholder shall have the right to purchase the Leasehold and the Improvements from the Borrower, so long as it concurrently pays all amounts to Senior Lender owing under the ARRA Loan Documents; and

(h) After a default on the ARRA Loan Documents, but prior to a foreclosure sale or deed in lieu assignment of the Leasehold and the Improvements under the ARRA Loan Documents, the Junior Lienholder shall have the right, but not the obligation, to negotiate with the Senior Lender with respect to an event of default under the ARRA Loan Documents; and

(i) If prior to the foreclosure of the ARRA Loan, the Junior Lienholder takes title to the Leasehold and Improvements and cures an event of default under the ARRA Loan Documents, the Senior Lender shall not exercise any right it may have under the ARRA Loan Documents to accelerate the ARRA Loan by reason or transfer of title to the Junior Lienholder.

5. In connection with the Junior Lienholder Loan, Junior Lienholder and Borrower have executed and are recording in the Official Records of San Diego County the Junior Lienholder Regulatory Agreement. The Junior Lienholder Regulatory Agreement and its priority are not affected by this Agreement, and shall not be extinguished, terminated or cancelled by a foreclosure sale under the ARRA Loan.

6. The Senior Lender would not make the ARRA Loan without this Agreement.

7. All notices, requests, demands or other communications to the respective parties hereto (unless otherwise expressly stipulated in this Agreement) shall be deemed to have been duly given or made if addressed as follows:

If to Senior Lender, to: _____

If to Borrower, to:

Cedar Gateway, L.P.
1650 LaCedar Gateway, L.P.
c/o ROEM Development Corporation
1650 Lafayette Street
Santa Clara, California 95050
Attn: Robert Emami
Tel: (408) 984-5600
Fax: (408) 984-311

and

Squier Properties
3129 6th Street
Santa Monica, California 90405
Attn: Gary Squier
Tel: (310) 850-9043
Fax: 310-392-5831

and

Pacific Housing, Inc.
1801 L Street, Suite 245
Sacramento, California 95811
Attention: Mark Wiese

with a copy to:

Cox, Castle & Nicholson, LLP
555 California Street, 10th Floor
San Francisco, California 94104
Attention: Stephen C. Ryan, Esq.

If to Junior Lienholder: Redevelopment Agency of the City of San Diego
1200 Third Avenue, Suite 1400
Mail Stop MS56D
San Diego, California 92101
Attn: Deputy Executive Director
Facsimile: (619) 553-3219

and

Redevelopment Agency of the City of San Diego

c/o Centre City Development Corporation
401 "B" Street, Suite 400
San Diego, California 92101
Attn: Ms. Eri Kameyama
Centre City Affordable Housing
Telephone: (619) 533-7100
Facsimile: (619) 236-9148

With copies to:

Office of City Attorney
1200 Third Avenue, Suite 1100
Mail Stop MS56D
San Diego, California 92101
Attention: Kendall Berkey, Esq.

and

Kane, Ballmer & Berkman
515 S. Figueroa St. Suite 1850
Los Angeles, California 90071
Attention: Murray O. Kane, Esq.
Facsimile: (213) 625-0931

or to such other address or such other person as either party may from time to time hereafter specify to the other in writing delivered in the manner provided herein. Any notice, request, demand or other communication to be given or made hereunder may (except to the extent otherwise required by law) be given or made by registered or certified U.S. mail, return receipt requested with postage prepaid, or by personal service (including service by a reputable overnight courier service, such as FedEx, DHL or other comparable courier). Unless otherwise expressly stipulated in this Agreement, notices shall be deemed to have been given or made on the documented date of receipt, in the case of notice by certified mail on the date reflected on the return receipt, or in the case of delivery by courier, on the date signed received by the addressee of the courier's delivery receipt.

8. This Agreement shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of the parties.

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

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

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

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

11. In the event that any party to this Agreement brings an action to interpret or enforce its rights under this Agreement, the prevailing party in such action shall be entitled to recover its costs and reasonable attorneys' fees as awarded by the court in such action.

12. This Agreement may be signed by different parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts shall be deemed an original of this Agreement.

[remainder of page intentionally blank]

[signatures on following page]

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON (OR ENTITY) OBLIGATED ON YOUR LEASEHOLD ESTATE SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LEASEHOLD ESTATE.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above and agree to be bound hereby:

JUNIOR LIENHOLDER:

AGENCY:
REDEVELOPMENT AGENCY
OF THE CITY OF SAN DIEGO

By: _____
Janice Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY
Jan I. Goldsmith
Agency General Counsel

By: _____
Kendall D. Berkey
Deputy General Counsel

Agency Special Counsel
KANE, BALLMER & BERKMAN

By: _____
Murray O. Kane

[signatures continued on following page]

BORROWER:

CEDAR GATEWAY, L.P.,
a California limited partnership

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

[signatures continue on following page]

Approved as to form:

SENIOR LENDER:

CALIFORNIA TAX CREDIT ALLOCATION
COMMITTEE,
a public agency of the State of California

By: _____

Name: _____

Its: _____

[Signatures must be acknowledged]

EXHIBIT A

Legal Description of the Property

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

[to be inserted]

State of California

County of _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of San Diego

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of Los Angeles

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit No. 16

FORM OF MONITORING AGREEMENT

ATTACHMENTS

**FORM OF ATTACHMENT NO. 32
REPORTING AND MONITORING AGREEMENT**

**ADMINISTRATION AGREEMENT
Rental Units**

Cedar Gateway

This Monitoring Agreement (“Agreement”) is entered into as of _____, 20____ by and between the Redevelopment Agency of the City of San Diego, a public body, corporate and politic (“Agency”), the San Diego Housing Commission, a public agency (“Administrator”), and Cedar Gateway, L.P., a California limited partnership (“Owner”), which shall collectively be referred to as the “Parties”.

RECITALS

WHEREAS, Owner is developing a rental housing project on certain real property located at 1601 5th Street and 1620 Cedar Street, San Diego, within the Centre City Redevelopment Project Area (the “Property”) and occupied by Extremely Low Income and Very Low Income tenants (or low-income tenants in the event of foreclosure as set forth in the AARP) for not less than fifty-five (55) years from the date of Completion at an Affordable Rent (collectively, the “Affordable Units”);

WHEREAS, the Affordable Units and the Property are the subject of that certain Agreement Affecting Real Property entered into by and between the Owner and the Agency dated _____, 20____ and recorded against the Property on _____, 20____ (“AARP”), and that certain Disposition and Development Agreement dated as of May 22, 2008 as amended by that certain First Amendment to the Disposition and Development Agreement dated _____ (collectively referred to herein as the “DDA”). The DDA and AARP are incorporated herein by this reference. DDA and AARP as used herein shall mean, refer to and include the DDA and AARP, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not defined herein shall have the meaning ascribed to such term in the DDA;

WHEREAS Pursuant to that certain DDA, Owner and Agency entered into a ground lease of the Property dated _____, 200____ (the “Lease”), referenced in a Memorandum of Ground Lease recorded in the official records of San Diego County, California (the "Official Records") on _____, 200____, as Document No. 200____ - _____, which granted Owner a leasehold estate in the Property;

WHEREAS, the DDA and the AARP collectively require the 65-unit multi-family housing project on the Leasehold Parcels (as defined in the OPA) to be rented to and occupied by Extremely Low Income and Very Low Income tenants for not less than fifty-five (55) years from the date of Completion for the Project at an Affordable Rent (the “Project”). Further, the DDA and the AARP collectively require that 23 of the 65 units be set-aside as supportive housing units targeted for the special needs population.

WHEREAS, pursuant to California Health and Safety Code Section 33418 *et seq.* of the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*) (“CRL”), the Agency is a public agency charged with enforcing the affordable housing obligations of the Owner contained in the DDA and the AARP including, without limitation, determining the eligibility of renters and rental restrictions of the Affordable Units;

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

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

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

NOW, THEREFORE, the Parties hereby agree as follows:

AGREEMENT

I. Purpose of Agreement

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

II. Scope of Work

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

B. **Administrator and Agency Approval of Rents.** The maximum amount which Owner may charge to a tenant and paid by a tenant for initial rent of each of the Affordable Units (based on 2009 Income Levels) is set forth in Exhibit A attached hereto and incorporated herein by this reference. The maximum amount of rent may change from year to year as set forth in the AARP. To the extent there is a conflict between the terms of the AARP and this Agreement, the AARP shall control.

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

III. Parties to Agreement

The Parties to this Agreement are:

A. The Redevelopment Agency of the City of San Diego, California, a public entity, corporate and politic, having its principal office at the following address: Redevelopment Agency of the City of San Diego, c/o Centre City Development Corporation, 401 B Street, Suite 400, San Diego, CA 92101, Attn: Executive Director.

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

C. Cedar Gateway, L.P., a California limited partnership, with notices mailed to:

Cedar Gateway, L.P.
c/o ROEM Development Corporation
1650 Lafayette Street
Santa Clara, California 95050
Attn: Robert Emami
Tel: (408) 984-5600
Fax: (408) 984-311

With a copy to: Squier Properties
3129 6th Street
Santa Monica, California 90405
Attn: Gary Squier
Tel: (310) 850-9043
Fax: 310-392-5831

and with a copy to: Cox, Castle & Nicholson LLP
Attn: Stephen C. Ryan, Esq.
555 California Street, 10th Floor
San Francisco, CA 94104-1513
Tel: (415) 392-4200
Fax: (415) 392-4250

IV. Representatives of the Parties

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

A. The representative of the Agency shall be:

Redevelopment Agency of the City of San Diego
c/o Centre City Development Corporation
401 B Street, Suite 400
San Diego, CA 92101
Attn: Executive Director
Tel: 619-533-7100
Fax: 619-236-9148

B. The representative of the Administrator shall be:

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

C. The representative of the Owner shall be:

c/o _____

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

V. Time of Performance

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

VI. Monitoring of the Administrator by the Agency

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

VII. Monitoring and Reporting Requirements

Administrator Requirements.

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

Agency Requirements.

- A. Provide evidence of the Owner's advance notification of any fees required under this Agreement, as demonstrated by Exhibit B attached hereto and incorporated herein by this reference.
- B. Annually, upon request from the Administrator, provide an updated rent chart based upon the San Diego Median Income and the CRL and TCAC rents.

Owner Requirements.

- A. Provide complete and accurate information required by the Administrator with regard to the affordable housing obligations of the Owner contained in the DDA and the AARP, within the time periods set forth in the DDA or AARP as applicable.

- B. Provide the tenants with a written notice from the Owner one (1) year prior to the expiration of an affordability restriction.
- C. Owner shall timely pay all fees to the Administrator as required by this Agreement.

VIII. Books and Records

A. Complete Books. The Administrator shall maintain or cause to be maintained complete and accurate books, reports, files, and records necessary to carry out its monitoring and reporting obligations under this Agreement, the DDA and the AARP. The Owner shall maintain or cause to be maintained in the City of San Diego complete and accurate books, reports, files, and records necessary to carry out its monitoring and reporting obligations under this Agreement, the DDA and the AARP.

B. Availability. All records prepared in accordance with this Agreement shall be made available to the Agency in the City of San Diego for copying and inspection at any time with reasonable advance notice during normal business hours.

IX. Access to Records

A. The Agency shall have complete access to all books, papers, documents, and records of the Administrator and/or Owner that are pertinent to the obligations of all Parties under this Agreement, subject to reasonable advance notice and during normal business hours.

B. The Administrator shall have complete access to all books, papers, documents and records of the Owner and/or Agency that are pertinent to the Administrator's obligations under this Agreement, subject to reasonable advance notice and during normal business hours.

X. Ownership, Use and Distribution of Documents

A. All records, reports, books, papers, documents, computer discs or other information prepared or developed by the Administrator or Owner on behalf of the Agency in connection with services rendered under this Agreement, are and shall remain the exclusive property of the Agency. As of the date of this Agreement, Owner has not prepared any records, reports, books, papers, documents, computer discs or other information on behalf of the Agency in connection with this Agreement.

B. The Agency and Administrator may use and distribute in each of their sole discretions any records, reports, books, papers, documents, computer discs or other information prepared by the Administrator and/or Owner pursuant to this Agreement. Such purposes include, but are not limited to, annual reports, reports required by the CRL, and responses to public information requests. The Agency shall identify the Administrator as the author of any such reports prepared by the Administrator that are distributed by the Agency. Neither the Agency,

nor the Administrator shall be required to secure any prior authorization, written or otherwise, from one another prior to any such distribution.

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

XI. Payment of Compensation

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

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

C. Administrator Entitled to All Fees. The Owner also agrees to pay additional fees as necessary to reasonably compensate the Administrator in the event Administrator’s monitoring results in a need to take additional steps to enforce the covenants and conditions contained in the AARP and referenced in this Agreement (see Exhibit B attached hereto). Owner further agrees that failure to pay all such fees within fifteen (15) business days after receipt of a billing statement for such fees shall constitute a material breach of the covenants and conditions of this Agreement. Such breach shall entitle the Administrator, in addition to all other rights that it has at law, equity and under the terms of this Agreement, to terminate this Agreement in accordance with Section XII or Section XV of this Agreement.

XII. Default

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

XIII. No Partnership

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

XIV. Amendment or Assignment of Agreement

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

XV. Termination

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

XVI. Complete Agreement

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

XVII. Limitations on Agreement

The Parties agree that this Agreement is not in any way intended to, and does not, revise or amend the terms of the DDA or the AARP. The Parties hereby agree that, except as expressly provided herein, the provisions of the DDA and the AARP shall be and remain unmodified and in full force and effect. In the event of a conflict between the terms of this Agreement and the DDA or the AARP, the provisions of the DDA or the AARP, as applicable, shall control.

XVIII. Counterparts

This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. The signature pages of one or more counterpart copies may be removed from such counterpart copies and all attached to the same copy of this Agreement, which, with all attached signature pages, shall be deemed to be an original Agreement.

XIX. Time of Essence

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

XX. Captions

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

XXI. Additional Documents

The Parties each agree to sign any additional documents, which are reasonably necessary to carry out this Agreement or to accomplish its intent, provided however that in no event shall Owner be required to execute any agreement that increases its liabilities or alters the terms of the DDa or AARP, except as otherwise set forth herein.

XXII. Benefit and Burden

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

XXIII. Governing Law

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

XXIV. Venue

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

XXV. Attorney's Fees

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

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

XXVI. Waiver

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

XXVII. Signing Authority

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

XXVIII. Exhibits and Recitals Incorporated

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

XXIX. Severability of Provisions

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

XXX. Reserved.

[signatures on following pages]

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

AGENCY:

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

Dated: _____

By: _____

Name: William Anderson

Its: Assistant Executive Director

APPROVED AS TO FORM AND LEGALITY

JAN I. GOLDSMITH
Agency General Counsel

By: _____

Kendall Berkey

Deputy General Counsel

ADMINISTRATOR:

SAN DIEGO HOUSING COMMISSION

By: _____

Chief Executive Officer

Date: _____

Approved as to form:

CHRISTENSEN & SPATH, LLP

By: _____

Walter F. Spath, III

General Counsel

San Diego Housing Commission

OWNER:

Cedar Gateway, L.P.,
a California limited partnership

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: Cedar Squier ROEM, LLC,
a California limited liability company,
its Co-General Partner

By: Roem Development Corporation,
a California corporation,
its Manager

By: _____
Jonathan Emami,
Vice President

By: Squier Properties, LLC,
a California limited liability company,
its Manager

By: _____
Gary Squier,
President

EXHIBIT A

QUALIFIED TENANT AND INITIAL RENT SCHEDULE

(CEDAR GATEWAY PROJECT)

A “Qualified Tenant” shall be a person of Extremely Low Income and Very Low Income, as applicable, as defined in the DDA. Qualified Tenants shall meet the income limits and shall not pay more than the initial rental rates identified and illustrated in the following tables:

RESTRICTIONS FOR TENANT ELIGIBILITY AND ILLUSTRATION OF INITIAL MAXIMUM RENTS**

# of Units	# of Bedrooms	Income Level¹	# of Years
23	3	Very Low Income households at 50% AMI	55
14	2	Very Low Income households at 50% AMI	55
3	3	Extremely Low households at 30% TCAC AMI	55
2	2	Extremely Low households at 30% TCAC AMI	55
23	1	Extremely Low households at 30% TCAC AMI	55

¹ Income Level = Eligible Households earning up to respective AMI based on household size.

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

³Maximum Rents = for “Extremely Low Income households at 30% TCAC AMI”, based upon 30% of 30% TCAC AMI; for “Very Low Income households at 50% AMI”, based on 30% of 50% AMI, adjusted for household size. In no event shall any Maximum Rent exceed 30% of 50% AMI (less utility allowance) based upon household size. The rents for Extremely Low Income households in this chart are illustrative TCAC rents based upon median family income as estimated by HUD and published in 2009 as “area median income” by TCAC. The rents for Extremely Low Income households in this chart are illustrative CRL rents based upon Health & Safety Code Sec. 50053 (b) (2). Actual rents at time of lease-up may be different due to fluctuations in the San Diego Median Income.

** Assumes one person household for living unit.

ILLUSTRATION OF ELIGIBLE HOUSEHOLDS

Based upon 2009 San Diego Median Income (HUD):

<u>Size of Household</u>	<u>Maximum Household Income</u>
	Up to: 30% AMI (Extremely Low)
One Person Household	\$
Two Person Household	\$
Three Person Household	\$
Four Person Household	\$
Five Person Household	\$
Six Person Household	\$
Seven Person Household	\$
Eight Person Household	\$
	Up to: 50% AMI (Very Low)
One Person Household	\$
Two Person Household	\$
Three Person Household	\$
Four Person Household	\$
Five Person Household	\$
Six Person Household	\$
Seven Person Household	\$
Eight Person Household	\$

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

EXHIBIT “B”

OCCUPANCY MONITORING FEE SCHEDULE – Rental Units

Cedar Gateway

Initial Monitoring Fee

System Set-up and Implementation

\$500

The initial monitoring fee is a one-time, not to exceed charge to cover costs for setting up and implementing the monitoring system and procedures for the Project, and is due and payable upon execution of this Agreement.

Annual Monitoring Fee

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

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

Maximum Annual Fee

Pursuant to this Agreement and recorded Agreement Affecting Real Property (including Rental Restrictions), the maximum initial annual fee charged by the Administrator shall not exceed \$3,975 plus the initial monitoring fee of \$500. This maximum initial annual amount may be adjusted for changes in the Consumer Price Index as set forth in Section XI of this Agreement, and may exceed the \$3,975 maximum in any year succeeding the initial year of the Agreement.

Enforcement Fees

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

Billing and Payment of Fees

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