

OWNER PARTICIPATION AGREEMENT

(5391 and 5411-5425 Santa Margarita Street)

by and between

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

and

**WAKELAND HOUSING AND DEVELOPMENT
CORPORATION, Owner.**

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OWNER PARTICIPATION AGREEMENT

THIS OWNER PARTICIPATION AGREEMENT (“Agreement”) is entered into on this _____ day of _____, 2010, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic (“Agency”), and WAKELAND HOUSING AND DEVELOPMENT CORPORATION, a California nonprofit corporation (“Owner”). The Agency and Owner (referred to collectively as the “Parties” and individually as a “Party”) agree as follows:

PART 1 SUBJECT OF AGREEMENT

Section 101 Purpose of the Agreement

The purpose of this Agreement is to allow the Agency to provide part of the financing needed for Owner’s rehabilitation of the existing 49-unit Vista Grande apartment complex located within the area of influence of Southeastern Economic Development Corporation. Upon completion of the rehabilitation work, the apartment complex will consist of 48 income-restricted rental units, one unrestricted manager’s unit, and various related amenities and improvements. The income-restricted units will include housing that is made available to extremely low income persons, very low income persons and low income persons. Owner presently has a contractual right to purchase the real property on which the apartment complex is situated. Owner will assign this contractual right to the San Diego Housing Commission, which in turn will purchase the real property and enter into a 65-year year ground lease with Owner (or its successor or assignee). During the ground lease term, Owner will own the existing and future improvements on the real property, except that the San Diego Housing Commission will have the option to purchase the improvements at the end of the tax credit compliance period applicable to Owner’s use of federal low income housing tax credits to finance a portion of the rehabilitation work. The acquisition and rehabilitation of the apartment complex pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the City of San Diego and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws and requirements.

Section 102 Definitions

For purposes of this Agreement, and in addition to certain terms defined elsewhere in this Agreement, the following capitalized terms shall have the following meanings:

“Affiliate” shall mean (1) any Person directly or indirectly controlling, controlled by or under common control with another Person; (2) any Person owning or controlling 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: (i) with respect to a corporation or limited liability company, control 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 (ii) 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.

“Affordable Rent” shall mean annual rent (including a reasonable utility allowance) which does not exceed the following amounts: (i) for a Low Income household at fifty percent (50%) CTCAC Area Median Income, the product of thirty percent (30%) times fifty percent (50%) of CTCAC Area Median Income, adjusted for family size appropriate to the unit; (ii) for a Very Low Income household at fifty percent (50%) Area Median Income, the product of thirty percent (30%) times fifty percent (50%) of Area Median Income, adjusted for family size appropriate to the unit; (iii) for a Very Low Income household at forty-five percent (45%) CTCAC Area Median Income, the product of thirty percent (30%) times forty-five percent (45%) of CTCAC Area Median Income, adjusted for family size appropriate to the unit; and (iv) for an Extremely Low Income household, the product of thirty percent (30%) times thirty percent (30%) of Area Median Income, adjusted for family size appropriate to the unit. For purposes of this Agreement, “adjusted for family size appropriate to the unit” shall mean the number of bedrooms in the unit plus one (1). To account for the fact that CTCAC rents (based on CTCAC Area Median Income) are anticipated to be higher than CRL rents (based on Area Median Income) with respect to the Low Income and Very Low Income households occupying Affordable Units, the following additional provisions shall apply to the determination of Affordable Rent hereunder: (a) in no event shall the Affordable Rent for Low Income households exceed the product of thirty percent (30%) times sixty percent (60%) of Area Median Income, adjusted for family size appropriate to the unit; and (b) in no event shall the Affordable Rent for Very Low Income households exceed the product of thirty percent (30%) times fifty percent (50%) of Area Median Income, adjusted for family size appropriate to the unit.

“Affordable Units” shall mean the residential rental dwelling units located on the Property which shall be restricted by Owner for rental to and occupancy by Low Income, Very Low Income and Extremely Low Income households at Affordable Rent in accordance with the terms and conditions of this Agreement and the Agreement Affecting Real Property. There shall be a minimum of forty-eight (48) Affordable Units, of which a minimum of fourteen (14) units shall be Low Income units with Affordable Rent, a minimum of twenty-nine (29) units shall be Very Low Income units with Affordable Rent, and a minimum of five (5) units shall be Extremely Low Income units with Affordable Rent.

“Agency/Housing Commission Agreement” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 22, which is incorporated herein by this reference.

“Agency” shall have the meaning set forth in the Preamble of this Agreement and Section 105.c hereof.

“Agency Board” shall mean the Agency’s Board of Directors.

“Agency Deed of Trust” shall mean the deed of trust securing the Agency Loan, substantially in the form attached to this Agreement as Attachment No. 9, to be filed in the Official Records against the Leasehold upon the occurrence of the Construction Closing,

subordinate to the deed of trust securing any Senior Loan and the Housing Commission Loan, and subordinate to the Housing Commission Ground Lease. Any request by Owner or any other Person for partial or full reconveyance of the Agency Deed of Trust shall be administered by the Agency in accordance with the provisions of the Agency Deed of Trust.

“Agency Executive Director” shall refer to the Agency Executive Director, Agency Assistant Executive Director, Agency Deputy Executive Director or designee.

“Agency Loan” shall mean the residual receipts loan by the Agency to Owner in an amount not to exceed Seven Hundred Eighty-One Thousand and Seventy-Three Dollars (\$781,073), which shall be (i) subordinate to the Senior Loan, the Housing Commission Loan, and the Housing Commission Ground Lease, (ii) evidenced by the Agency Note and secured by the Agency Deed of Trust, (iii) derived from the LMIHF and the proceeds of 2007 Series A taxable bonds, and (iv) of a limited recourse nature, as described in the Agency Note.

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

“Agency Note” shall mean the promissory note evidencing the Agency Loan substantially in the form attached to this Agreement as Attachment No. 8, which is incorporated herein by this reference.

“Agreement” shall have the meaning set forth in the Preamble of this Agreement and Section 608.d hereof.

“Agreement Affecting Real Property” shall mean the Agreement Affecting Real Property (Including Rental Restrictions) to be filed in the Official Records upon the Construction Closing, substantially in the form attached to this Agreement as Attachment No. 6, which is incorporated herein by this reference.

“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.

“Assignment and Assumption Agreement for Transfer to Housing Commission” shall mean an instrument substantially in the form attached to the Agency/Housing Commission Agreement at Exhibit B thereto.

“Assignment and Assumption Agreement for Transfers Generally” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 17, which is incorporated herein by this reference.

“Assignment of Agreements” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 12, which is incorporated herein by this reference.

“Assignment of Rents” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 11, which is incorporated herein by this reference.

“CEQA” shall mean the California Environmental Quality Act (California Public Resources Code Sections 21000 *et seq.*; California Code of Regulations, Title 14, Sections 15000 *et seq.*), as amended from time to time.

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

“Community Center” shall mean the approximately 1,740 square foot space to be located on the first floor of the building located at 5411 Santa Margarita Street within the Project, which shall be designated exclusively for community uses (including, among other things, a community room, a kitchen, a laundry facility, a computer center and a leasing/property management office) serving and benefitting the occupants of the Affordable Units, in accordance with the Scope of Development.

“Completion” shall mean the point in time when all of the following shall have occurred: (1) certification by the project architect that construction of the Project (with the exception of minor “punchlist” items) has been completed in a good and workmanlike manner in accordance with plans and specifications approved by the Agency and the City; (2) recordation of a Notice of Completion by Owner or its contractor for the Project; (3) payment, settlement or other extinguishment, discharge, release, waiver, bonding or insuring against of any mechanic’s liens that have been filed in the Official Records or stop notices that have been delivered for the Project; and (4) issuance and recordation of a Release of Construction Covenants for the Project.

“Construction Closing” shall mean the point in time when (i) Owner receives the Senior Loan; (ii) the Project is allocated the Low Income Housing Tax Credits, or tax credit exchange funds in lieu thereof; and (iii) the conditions precedent to the Construction Closing set forth in Section 7 of the Method of Financing have been satisfied, or have been waived in writing by the Party to be benefited.

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

“Construction Loan” shall mean the construction loan in the approximate amount of \$7,939,052, to be made to Owner at the time of the Construction Closing from a financial institution acceptable to the Agency Executive Director, which such acceptance shall not be unreasonably withheld.

“Construction Lender” shall mean the maker of the Construction Loan.

“Conversion” shall mean the date on which the Construction Loan is converted to permanent Sources of Financing.

“Covenant Period” shall mean the fifty-five (55) year period, commencing upon the date of Completion (as further described in the Agreement Affecting Real Property), during which time the Affordable Units on the Leasehold must be available to and occupied by Low Income, Very Low Income and Extremely Low Income households, at the Affordable Rents set forth in the Agreement Affecting Real Property.

“CRL” shall mean California Community Redevelopment Law (California Health and Safety Code Sections 33000 *et seq.*), as amended from time to time.

“CTCAC” shall mean the California Tax Credit Allocation Committee.

“CTCAC Area Median Income” or “CTCAC AMI” shall mean the area median income for San Diego County determined in accordance with 26 USC Section 142(g)(2)(C).

“Deferred Developer Fee” shall mean a deferred portion of the Developer Fee equal to Three Hundred Thousand Dollars (\$300,000), which amount is subject to adjustment by the Agency Executive Director in accordance with the Agency Note.

“Developer Fee” shall mean One Million One Hundred Thirty Thousand Dollars (\$1,130,000).

“Disbursement Agreement” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 16, which is incorporated herein by this reference.

“Effective Date” shall have the meaning set forth in Part 8 of this Agreement.

“Environmental Indemnity” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 13, which is incorporated herein by this reference.

“Existing Improvements” shall mean the Vista Grande apartment complex and related improvements located on the Property as of the Effective Date of this Agreement.

“Extremely Low Income” shall mean, for the purposes of this Agreement, a household income that does not exceed thirty percent (30%) of Area Median Income, adjusted for family size appropriate for the unit.

“Four Percent Tax Credit(s)” shall mean the federal tax credit allocated to the Project by CTCAC at the federal tax credit rate of approximately four percent (4%).

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

“Housing Commission” shall mean the San Diego Housing Commission.

“Housing Commission Ground Lease” shall mean the ground lease by which the Housing Commission, as owner of fee title to the Property, will grant the Leasehold in Owner’s favor.

The Housing Commission may cause the Housing Commission Ground Lease, or a memorandum thereof, to be filed in the Official Records against the Property.

“Housing Commission Loan” shall mean the loan to Owner by the Housing Commission in an original principal amount not to exceed Two Million Nine Hundred Sixty-Seven Thousand Dollars (\$2,967,000) disbursed to fund a portion of the acquisition of the Leasehold and the Rehabilitation Costs, and in a position subordinate to the Senior Loan.

“Housing Commission Loan Agreement” shall mean that certain loan agreement between the Housing Commission and Owner executed in connection with the Construction Closing, by which the Housing Commission agrees to disburse to Owner the proceeds of the Housing Commission Loan.

“Housing Commission Loan Deed of Trust” shall mean that certain deed of trust securing the promissory note evidencing the Housing Commission Loan.

“Housing Commission Loan Documents” shall mean the Housing Commission Loan Deed of Trust, Housing Commission Promissory Note, Housing Commission Loan Agreement, Housing Commission Regulatory Agreement, Housing Commission Regulatory Deed of Trust and any other document relating to the Housing Commission Loan.

“Housing Commission Option to Purchase” shall mean the option granted by Owner to the Housing Commission pursuant to a separate agreement entered into between Owner and the Housing Commission substantially concurrent herewith, whereby the Housing Commission shall retain an option to purchase the Leasehold Improvements from Owner upon the expiration of the tax credit compliance period associated with the Low Income Housing Tax Credits.

“Housing Commission Regulatory Agreement” shall mean the Housing Commission Inclusionary Housing Agreement regarding the Affordable Units, to the extent that the Housing Commission determines in its sole discretion that such agreement is required in connection with the Housing Commission Loan.

“Housing Commission Regulatory Deed of Trust” shall mean the performance deed of trust securing the Housing Commission Regulatory Agreement (if any).

“Inclusionary Housing Agreement” shall mean the Declaration which is required under the “Inclusionary Affordable Housing Regulations” set forth in Chapter 14, Article 2, Division 13 of the San Diego Municipal Code, to the extent the City or the Housing Commission determines in its sole discretion that such requirement applies to the Project.

“Inclusionary Housing Deed of Trust” shall mean the performance deed of trust securing the Inclusionary Housing Agreement (if any).

“Investor Partner Capital Contribution” shall mean funds provided to the Tax Credit Limited Partnership by the Tax Credit Equity Investor in consideration of the Low Income Housing Tax Credits.

“Junior Lender” shall mean the maker of any Junior Loan or beneficiary of any Junior Loan Deed of Trust.

“Junior Loan” shall mean any Source of Financing in the form of a loan, credit enhancement or construction period guaranty facility, secured by a deed of trust or other instrument against the Leasehold, which is subordinate to the Agency Deed of Trust and the other Agency Loan Documents. For purposes herein, the Junior Loans shall include loans from Owner’s gap financing sources.

“Junior Loan Deed of Trust” shall mean the deed(s) of trust and any related security instruments securing the Junior Loan, which is subordinate to the Agency Deed of Trust.

“Leasehold” shall mean that 65-year leasehold estate in the Property created by the execution of the Housing Commission Ground Lease.

“Leasehold Improvements” shall mean the improvements to be rehabilitated, constructed and installed on the Property as part of the Project in accordance with the Scope of Development, including, but not limited to, the 49-unit residential rental project (48 Affordable Units and one Unrestricted Unit), the Community Center and related improvements and amenities.

“Leasehold Permitted Exceptions” shall refer to those permitted exceptions to title as agreed to by Owner and the Agency for the Leasehold.

“Legal Description” shall mean the legal description of the Property attached to this Agreement as Attachment No. 2, which is incorporated herein by this reference.

“LMIHF” shall mean the Low and Moderate Income Housing Fund, established and maintained by the Agency pursuant to CRL Section 33334.2 *et seq.*, consisting of 20% set-aside tax increment revenue generated from the Redevelopment Project Areas.

“Low Income” shall mean, for the purposes of this Agreement, a household income that does not exceed fifty percent (50%) of CTCAC Area Median Income, adjusted for family size appropriate for the unit. For the purposes of this Agreement, and to ensure compliance with applicable CRL household income levels, in no event shall Low Income households include households whose income exceeds eighty percent (80%) of Area Median Income, adjusted for family size appropriate for the unit.

“Low Income Housing Tax Credit(s)” shall mean the federal tax credit(s) (including both the Four Percent Tax Credits and the Nine Percent Tax Credits) authorized by the Tax Reform Act of 1986 and governed by Internal Revenue Code Section 42, to be allocated by CTCAC toward the Project and to be purchased by the Tax Credit Equity Investor in the approximate aggregate amount of \$6,750,839.

“Method of Financing” shall mean the document attached to this Agreement as Attachment No. 3, which is incorporated herein by this reference.

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

“NEPA” shall mean the National Environmental Policy Act of 1969 (42 U.S.C. Sections 4321 through 4347), as amended from time to time.

“Nine Percent Tax Credit(s)” shall mean the federal tax credit allocated to the Project by CTCAC. “Nine Percent” refers to the applicable percentage of the qualified basis for a building that is not federally subsidized, as provided in Internal Revenue Code Section 42.

“Notice of Affordability Restrictions” shall refer to the Notice of Affordability Restrictions in the form attached to this Agreement as Attachment No. 15, which is incorporated herein by this reference.

“Official Records” shall mean the Official Records of the Office of the County Recorder for San Diego County, California. For purposes of this Agreement, “recordation” shall refer to the filing of any instrument in the Official Records.

“Owner” shall have the meaning set forth in the Preamble of this Agreement and Section 106.b hereof.

“Owner Equity” shall mean funds provided by Owner for payment of Rehabilitation Costs and shall not include the Senior Loan, the Agency Loan, the Housing Commission Loan or any other borrowed funds, and shall include the Investor Partner Capital Contribution (i.e., Owner Equity provided from the sale of the Low Income Housing Tax Credits) as well as any other funds of Owner.

“Partnership Agreement” shall mean the agreement governing Owner (including its permitted assignee hereunder) and any amendments thereto entered into in connection with obtaining the Low Income Housing Tax Credits.

“Permanent Lender” shall mean the maker of the Permanent Loan.

“Permanent Loan” shall mean any loan or combination of loans in the approximate original principal amount of \$2,871,942 that provide long-term financing to repay or refinance a portion of the Construction Loan and are from a financial institution(s) acceptable to the Agency Executive Director, which such acceptance shall not be unreasonably withheld.

“Permanent Loan Deed of Trust” shall mean the deed(s) of trust and any related security instruments filed in the Official Records against the Leasehold to secure the Permanent Loan, which shall be first in priority and shall be senior to the Housing Commission Loan Deed of Trust and the Agency Deed of Trust.

“Permitted Mortgage” shall mean and include: (i) any conveyance of a security interest in the Leasehold or the Leasehold Improvements, or both, to one or more Mortgagees to secure any loan to finance the Project as required by this Agreement, specifically including the Senior

Loan and any other loan specifically described in the Method of Financing; (ii) any conveyance of a security interest in the Leasehold or the Leasehold Improvements, or both, to one or more Mortgagees in order to secure the interest rate lock for the Permanent Loan; and (iii) the conveyance of title to the Mortgagee or its assignee in connection with a foreclosure or a deed in lieu of foreclosure of such loan.

“Permitted Mortgagee” shall mean the maker of any Permitted Mortgage Loan.

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

“Permitted Transfer” shall mean any of the following, provided that Owner or its general partner or managing member retains day-to-day control over management and operations of the Property and the Leasehold Improvements:

- a. Any Permitted Mortgage;
- b. A conveyance of a security interest in the Leasehold or the Leasehold Improvements, or both, in connection with any Senior Loan and any transfer of title by foreclosure, deed or other conveyance in lieu of foreclosure in connection with or following the same;
- c. A conveyance of the Leasehold and the Leasehold Improvements to Wakeland Vista Grande Apartments, L.P., a California limited partnership (which is the entity formed by Owner to serve as the Tax Credit Limited Partnership), so long as Wakeland Housing and Development Corporation, a California nonprofit corporation, remains the general partner of such limited partnership, and provided that the assignor, assignee and the Agency shall have executed the Assignment and Assumption Agreement for Transfers Generally;
- d. A conveyance of the Leasehold and the Leasehold Improvements to Wakeland Vista Grande Apartments, LLC, a California limited liability company (which is the entity formed by Owner to serve as the general partner of the Tax Credit Limited Partnership), so long as Wakeland Housing and Development Corporation, a California nonprofit corporation, remains the managing member of such limited liability company, and provided that the assignor, assignee and the Agency shall have executed the Assignment and Assumption Agreement for Transfers Generally;
- e. The removal for cause of any general partner by a limited partner of the Tax Credit Limited Partnership, and the replacement thereof as set forth in Section 501.e, so long as the replacement general partner is reasonably acceptable to the Agency Executive Director based on sufficient evidence of creditworthiness and submittal of appropriate financial statements;
- f. The inclusion of equity participation by Owner by addition of limited partners to the Tax Credit Limited Partnership, or similar mechanism, and the purchase of

any such limited partnership interest or interests by the general partner of the Tax Credit Limited Partnership;

- g. The lease for occupancy of all or any Affordable Unit or Unrestricted Unit;
- h. The granting of easements or permits to facilitate the completion of the Project in accordance with this Agreement; and
- i. The conveyance of the Leasehold Improvements to the Housing Commission upon the exercise of the Housing Commission Option to Purchase, provided that, if the Housing Commission does not fully repay the Agency Loan (including the outstanding principal balance and all accrued interest thereon) upon or before such conveyance of the Leasehold Improvements, then (1) the assignor (i.e., original Owner), assignee (i.e., the Housing Commission) and the Agency shall have executed the Assignment and Assumption Agreement for Transfer to Housing Commission and (2) the Housing Commission shall have executed and delivered to the Agency in recordable form that certain Amendment to Agency Note, Agency Deed of Trust and Related Security Instruments attached as Exhibit C to the Agency/Housing Commission Agreement; and provided further that, if the Housing Commission fully repays the Agency Loan (including the outstanding principal balance and all accrued interest thereon) upon or before such conveyance of the Leasehold Improvements, then the assignor (i.e., original Owner), assignee (i.e., the Housing Commission) and the Agency shall have executed the Assignment and Assumption Agreement for Transfers Generally.

Any transfer described in clauses a. through i., inclusive, shall be subject to the reasonable approval of documentation by the Agency. Assuming that Owner is a limited partnership, the withdrawal, removal or replacement of any limited partner of Owner's limited partnership pursuant to the terms of the Partnership Agreement in effect as of the Effective Date of this Agreement shall not constitute a default under this Agreement or any of the Agency Loan Documents, nor shall such actions accelerate the maturity of the Agency Loan.

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

"Project" shall mean the financing, planning, construction, development and use of the Leasehold Improvements in accordance with this Agreement, including, but not limited to, the Scope of Development.

"Project Budget" shall mean the initial budget attached to this Agreement as Attachment No. 7, which is incorporated herein by this reference. Upon acceptance of the final project budget pursuant to Section 7 of the Method of Financing, such final project budget shall be the Project Budget for purposes of this Agreement.

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

“Public Agency Indemnified Parties” shall refer collectively to the Agency, SEDC, the City and their respective elected officials, officers, employees, agents, consultants, contractors, attorneys and representatives.

“Redevelopment Project Areas” shall mean and refer collectively to the Central Imperial Redevelopment Project Area and the Mount Hope Redevelopment Project Area, both of which are administered by SEDC on the Agency’s behalf.

“Rehabilitation Costs” shall mean all costs which are actually incurred by Owner for the acquisition, development and construction of the Project as set forth in the Project Budget.

“Release of Construction Covenants” shall mean the certificate to be issued by the Agency upon Completion in accordance with Section 324 of this Agreement, conforming in form and substance to the document attached to this Agreement as Attachment No. 18, which is incorporated herein by this reference.

“Relocation Costs” shall mean all costs which are actually incurred by Owner for any relocation of tenants on the Property, and shall include, without limitation, any relocation consultant fee and any relocation cost items set forth in the Project Budget.

“Relocation Laws” shall mean all applicable State and local relocation laws, including, without limitation, the California Relocation Assistance Law, Government Code Section 7260 *et seq.* and the implementing regulations thereto in the California Code of Regulations, Title 25, Section 6000 *et seq.* and the local implementing regulations thereto, and all applicable federal relocation laws, including, without limitation, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4201-4655, and 49 CFR Part 24, the acquisitions and eminent domain laws in Government Code Section 7267 *et seq.* and Code of Civil Procedure Section 1240.000 *et seq.* and any other applicable federal, State or local enactment, regulation or practice providing for relocation assistance and benefits, acquisition or compensation of property interests (including, without limitation, goodwill and furnishings, fixtures and equipment, leasehold bonus value, and moving expenses).

“Relocation Plan” shall mean a relocation plan for the Project to be prepared by Owner’s designated relocation consultant, to the extent required by Relocation Laws.

“Reporting and Monitoring Agreement” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 21, which is incorporated herein by this reference.

“Residential Units” shall refer collectively to the Affordable Units and the Unrestricted Unit.

“Schedule of Performance” shall mean the document attached to this Agreement as Attachment No. 5, which is incorporated herein by this reference.

“Scope of Development” shall mean the document attached to this Agreement as Attachment No. 4, which is incorporated herein by this reference.

“SEDC” shall mean Southeastern Economic Development Corporation.

“Senior Lender” shall mean the maker of any Senior Loan.

“Senior Loan” shall mean the Construction Loan, the Permanent Loan, the Housing Commission Loan, and any other loan to finance the Rehabilitation Costs that is secured by a deed of trust to which the Agency agrees to subordinate the lien of the Agency Deed of Trust.

“Site Map” shall mean the document which is attached to this Agreement as Attachment No. 1, which is incorporated herein by this reference.

“Source of Financing” shall mean a source of financing the Project which has been approved by the Agency, as more specifically described in the Method of Financing.

“State” shall mean the State of California.

“Subordination Agreement” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 10, which is incorporated herein by this reference, with non-substantive modification as may be agreed to by the Agency Executive Director and Agency General Counsel. Any and all substantive modifications prior to filing of the Subordination Agreement in the Official Records shall be submitted to the Agency Board for approval.

“Tax Credit Equity Investor” shall mean a Person who will be a limited partner and will contribute equity to Owner in consideration of the Low Income Housing Tax Credits.

“Tax Credit Limited Partnership” shall mean the limited partnership formed by Owner for the Low Income Housing Tax Credit financing for the Project.

“Tax Credit Regulatory Agreement” shall mean the regulatory agreement required by CTCAC to be filed in the Official Records against the Leasehold in exchange for issuance of the Low Income Housing Tax Credits.

“Title Company” shall mean Stewart Title Company, or another title insurance company mutually acceptable to the Parties.

“Title Policy” shall mean an ALTA lender’s policy of title insurance in favor of the Agency, together with such endorsements as the Agency may reasonably require, insuring the lien of the Agency Deed of Trust against the Leasehold, in the amount of the Agency Loan.

“UCC-1 Financing Statement” shall mean a financing statement, substantially in the form attached to this Agreement as Attachment No. 14, which is incorporated herein by this reference.

“Universal Design” shall mean the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design, consistent with The Seven Principles of Universal Design developed by North Carolina State University’s Center for Universal Design and consistent with the Universal Design Checklist attached to this Agreement as Attachment No. 20, which is incorporated herein by this reference.

“Unrestricted Unit” shall mean the residential unit (2-bedroom) to be used by the resident manager of the Project that is not restricted to Low Income, Very Low Income or Extremely Low Income tenants.

“Very Low Income” shall mean, for the purposes of this Agreement, a household income that: (i) with respect to a Very Low Income household at fifty percent (50%) Area Median Income, does not exceed fifty percent (50%) of Area Median Income, adjusted for family size appropriate to the unit; and (ii) with respect to a Very Low Income household at forty-five percent (45%) CTCAC Area Median Income, does not exceed forty-five percent (45%) of CTCAC Area Median Income, adjusted for family size appropriate to the unit. For the purposes of this Agreement, and to ensure compliance with applicable CRL household income levels, in no event shall Very Low Income households include households whose income exceeds fifty percent (50%) of Area Median Income, adjusted for family size appropriate for the unit.

Section 103 Production of Affordable Housing

a. Because the Property is located outside of, but in close proximity to, each of the Redevelopment Project Areas, the Agency’s use of the LMIHF toward the Project requires that the Agency Board and the Council each make a finding under CRL Section 33334.2(g)(1) that such use of the LMIHF will be of benefit to each of the Redevelopment Project Areas. The Agency Board and the Council will have made such finding(s) of benefit before the Agency Board authorizes the Agency’s execution of this Agreement.

b. The Project will involve the “substantial rehabilitation” of the Existing Improvements for purposes of CRL Section 33413(b)(2)(A)(iv) in that, based on the Project Budget, the Rehabilitation Costs applicable to the Affordable Units will constitute greater than 25% of the post-rehabilitation value of the Affordable Units, inclusive of land value. The substantial rehabilitation of the Existing Improvements, together with the creation of the Affordable Units through imposition of affordability covenants for the Covenant Period, will allow the Agency to count one-half of the Affordable Units toward satisfaction of the Agency’s inclusionary affordable housing obligation for the Redevelopment Project Areas, in accordance with CRL Section 33413(b)(2)(A)(ii). In particular, the Project will result in the production of an aggregate total of thirty-four (34) Affordable Units to be occupied by Very Low Income and Extremely Low Income households at Affordable Rent, and the Agency will count one-half (i.e., 17) of those Affordable Units toward satisfaction of the Agency’s affordable housing obligation at the Very Low Income level for the Redevelopment Project Areas (including 16 Very Low Income units attributable to the Central Imperial Redevelopment Project Area and 1 Very Low Income unit attributable to the Mount Hope Redevelopment Project Area). Each of the two benefited Redevelopment Project Areas will contribute the LMIHF toward the production of the Very Low Income and Extremely Low Income units in the Project, in an amount proportionate to

the number of such units that are attributed to each such Redevelopment Project Area in satisfaction of the Agency's affordable housing obligation at the Very Low Income level.

c. The Project may result in the creation of more affordable housing units than needed by the Agency to meet its inclusionary affordable housing obligation for the Redevelopment Project Areas under CRL Section 33413(b)(2)(A)(i). Consequently, the Agency reserves the right to apply any such "excess" number of Affordable Units toward the Agency's obligation under CRL Section 33413(a) to provide replacement housing units, which would offset the impact arising from the removal or destruction of units occupied by low or moderate income households to facilitate any other redevelopment projects assisted by the Agency.

Section 104 The Property

The "Property" is that certain real property consisting of approximately 3.2 acres located within SEDC's area of influence and in close proximity to the Redevelopment Project Areas, as illustrated on the "Site Map" (attached hereto as Attachment No. 1) and as described in the "Legal Description of the Property" (attached hereto as Attachment No. 2). The Property is currently improved with the Existing Improvements. Owner represents that Owner presently has a contractual right to purchase fee title to the Property from the current owner, Vista Grande Apartments, L.P., a California limited partnership, which is not an Affiliate.

Section 105 Agency

a. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Chapter 2 of the CRL.

b. The address of the Agency for purposes of receiving notices pursuant to this Agreement shall be the Redevelopment Agency of the City of San Diego, c/o Southeastern Economic Development Corporation, 4393 Imperial Avenue, Suite 200, San Diego, California 92113, Attention: Central Imperial Redevelopment Project Area - Project Manager. The facsimile number for the Agency's receipt of notices is (619) 262-9845.

c. "Agency" as used in this Agreement includes the Redevelopment Agency of the City of San Diego and any assignee or successor to its rights, powers and responsibilities.

Section 106 Owner

a. Owner is Wakeland Housing and Development Corporation, a California nonprofit corporation. The address of Owner for purposes of receiving notices pursuant to this Agreement is 1230 Columbia Street, Suite 950, San Diego, California 92101, Attention: Kenneth L. Sauder, President. The facsimile number for Owner's receipt of notices is (619) 235-5386.

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

Section 107 Assignments and Transfers

a. Owner represents and agrees that its undertakings pursuant to this Agreement are for the purpose of rehabilitating the Existing Improvements and providing the Affordable Units on the Property, and not for speculation in land holding. Owner further recognizes that the qualifications and identity of Owner are of particular concern to the City and the Agency, in light of the following: (1) the importance of the Project 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 the Project possible; and (3) the fact that a change in ownership or control of Owner, or any other act or transaction involving or resulting in a significant change in ownership or control of Owner, is for practical purposes a transfer or disposition of the property then owned by Owner. Owner further recognizes that it is because of such qualifications and identity that the Agency is entering into the Agreement with Owner. Therefore, no voluntary or involuntary successor in interest of Owner shall acquire any rights or powers under this Agreement except as expressly set forth herein.

b. Until full reconveyance of the Agency Deed of Trust, Owner shall not assign all or any part of this Agreement, or any interest herein, or convey any part of the Leasehold or the Leasehold Improvements or any interest therein, without the prior written approval of the Agency. Subject to review of documentation effectuating any such proposed assignment or transfer, the Agency shall reasonably give such approval if the assignment is a Permitted Transfer.

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

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

e. Owner shall promptly notify the Agency of any and all changes whatsoever in the identity of the parties in control of Owner or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information. Except for Permitted Transfers, this Agreement may be terminated by the Agency if there is any significant

change (voluntary or involuntary) in membership, management or control of Owner (other than such changes occasioned by the death or incapacity of any individual) prior to full reconveyance of the Agency Deed of Trust. In the event, prior to full reconveyance of the Agency Deed of Trust, of the death or incapacity of any individual who owns or controls Owner or the general partner of Owner, any resulting change in the management of the Project or the control of the day-to-day operations of the Property and the Affordable Units shall be subject to the Agency's approval, which shall not be unreasonably withheld, conditioned or delayed.

f. In addition to the requirements set forth in the "Permitted Transfer" definition in Section 102, the Agency reserves the right to require where deemed appropriate by the Agency, as a condition precedent to the completion of any Permitted Transfer and any other assignments or transfers approved by the Agency, the execution of the Assignment and Assumption Agreement for Transfers Generally by Owner, Owner's assignee and the Agency.

g. The restrictions of this Section 107 shall terminate upon full reconveyance of the Agency Deed of Trust.

Section 108 Relocation

a. All right(s) to possession of all portions of the Property or the Existing Improvements necessary for construction, development and operation of the Project shall be cleared by Owner at Owner's sole expense as an eligible Project cost. The relocation of any occupants or businesses, if any, required for construction, development and operation of the Project, including provisions of relocation assistance and benefits pursuant to Relocation Laws, shall be the financial responsibility of Owner (as an eligible Project cost). Relocation obligations, if any, which arise from the Property, Project or this Agreement shall be administered by Owner (or its designee, a qualified relocation consultant acceptable to the Agency) in conformity with Relocation Laws, with such administration paid by Owner. The Agency hereby accepts Mecky Myers and Associates, a qualified relocation consultant, as Owner's designee for relocation consulting for the Property. If the Relocation Plan is required under Relocation Laws, then at the earliest reasonable opportunity after execution of this Agreement, and in any event before the actual displacement of any existing tenants at the Property, the City Council will consider adoption of the Relocation Plan and the Agency Board will consider adoption of the Relocation Plan and the making of certain related determinations under California Code of Regulations, Title 25, Section 6010. Owner shall implement or cause the implementation of the approved Relocation Plan (if any), including the relocation program and payment of relocation benefits set forth therein.

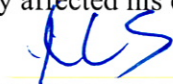
b. All of the cost and expenses incurred or to be incurred by Owner to cause the vacating of the Property and the Existing Improvements, or the relocation of all occupants and businesses from the Property or the Existing Improvements, or both, for construction, development and operation of the Project (including, but not limited to, payments made to displaced persons and businesses, pre- or post-relocation rental payments, fees and actual expenses of attorneys, relocation consultants and other experts employed to effect the relocation of occupants and businesses, etc.) shall be the financial responsibility of Owner (as an eligible Project cost). Any costs arising related in any respect to such displacement, such as, but without limitation, claims for loss of business goodwill, payment for furniture, fixtures and equipment,

payment for leasehold bonus value, and any other compensable interest under Relocation Laws shall be the financial responsibility of Owner (as an eligible Project cost) and subject to review by the Agency (or its designee).

c. Owner hereby covenants and agrees to indemnify, save, protect, hold harmless, pay for and defend the Public Agency Indemnified Parties from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs, or expenses, including, without limitation, reasonable consultants' and reasonable attorneys' fees, or relocation benefits claimed or payable under Relocation Laws which may now or in the future be incurred or suffered by the Public Agency Indemnified Parties by reason of, or resulting from, in full or in part, or in any respect whatsoever from the displacement of businesses or other occupants of the Property or the Existing Improvements pursuant to this Agreement or the implementation of the Relocation Plan (if any). The foregoing indemnity shall survive the Construction Closing and the termination of this Agreement and shall continue after Completion and the filing of the Release of Construction Covenants in the Official Records.

d. Owner, on behalf of itself and any and all successors and assigns, hereby fully and finally releases the Public Agency Indemnified Parties from any and all manner of actions, causes of actions, suits, obligations, liabilities, judgments, executions, debts, claims, and demands of every kind and nature whatsoever, known and unknown, which Owner or any of its successors or assigns may now have or hereafter obtain against the Public Agency Indemnified Parties, or any of them, by reason of, arising out of, relating to, or resulting from, in full or in part, Owner's election to acquire the Leasehold. The Parties agree that, with respect to the release of claims as set forth above, all rights under California Civil Code Section 1542 and any similar law of any state or territory of the United States are expressly waived. California Civil Code Section 1542 states as follows:

Civil Code Section 1542. Certain claims not affected by general releases. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.



Owner's Initials

Section 109 Owner's Representations and Warranties

Owner hereby represents the following to the Agency, for the purpose of inducing the Agency to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the Effective Date and as of the Closing:

a. Owner has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which Owner is a party (which have been executed by Owner), to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder.

b. All requisite action has been taken by Owner and all requisite consents have been obtained in connection with the entering into this Agreement and the instruments and documents referenced herein to which Owner is a party (which have been executed by Owner), and the consummation of the transaction contemplated hereby comply with all applicable laws, statutes, ordinances, rules and governmental regulations.

c. This Agreement is duly executed by Owner, and all agreements, instruments and documents to be executed by Owner pursuant to this Agreement shall, at such time as they are required to be executed hereunder, be duly executed by Owner, and each such agreement heretofore or concurrently executed by Owner is valid and legally binding upon Owner and enforceable in accordance with its terms and the execution and delivery thereof shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which Owner is a party.

d. There is no pending litigation or, to Owner's best knowledge, threatened litigation which would prevent Owner from performing its duties and obligations hereunder.

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

PART 2 ACQUISITION AND FINANCING

Section 201 Acquisition of Leasehold

As a condition precedent to the effectiveness of the Agency's obligations under this Agreement, Owner shall acquire the Leasehold from the Housing Commission pursuant to the Housing Commission Ground Lease, enabling Owner to take possession of the Leasehold and to complete the Project.

Section 202 Method of Financing

The Project shall be financed with a combination of Sources of Financing as provided in the Method of Financing. Owner shall use diligent, good faith efforts to secure (i) the Low Income Housing Tax Credits and all other necessary Sources of Financing for the Project and (ii) the highest feasible amount of Low Income Housing Tax Credits and private financing for the Project. Owner is responsible for all costs to complete the construction and development of the Leasehold Improvements pursuant to this Agreement and the Scope of Development. Owner hereby warrants and agrees that the Agency Loan to be disbursed pursuant to this Agreement shall be used by Owner solely for the purpose of paying a portion of the Rehabilitation Costs attributable to the acquisition and rehabilitation of the Affordable Units, as identified in the Project Budget, and for no other purpose.

Section 203 Housing Commission's Purchase Option

a. The Parties acknowledge that the Housing Commission and Owner have entered into or will enter into a separate agreement setting forth the Housing Commission Option to Purchase. In connection with the Housing Commission's acquisition of the Leasehold

Improvements from Owner based upon the exercise of the Housing Commission Option to Purchase or otherwise, the Housing Commission shall have the right to either pay the entire balance of the Agency Loan or assume the Agency Loan in accordance with the Agency/Housing Commission Agreement. To provide adequate protections in favor of the Agency, Owner agrees that the Housing Commission's acquisition of the Leasehold Improvements, based upon the exercise of the Housing Commission Option to Purchase or otherwise, shall be subject to the following conditions precedent benefitting the Agency (involving the fulfillment of either clause (1) or clause (2) below, and the fulfillment of clause (3) below):

(1) That both of the following events shall occur: (i) the entire balance of the Agency Loan (including the principal balance and all accrued interest thereon) shall be paid to the Agency on or before the consummation of the transaction by which the Housing Commission acquires the Leasehold Improvements; and (ii) if the Agency so requests, Owner, the Housing Commission and the Agency shall enter into the Assignment and Assumption Agreement for Transfers Generally, thereby assigning to the Housing Commission all of Owner's rights, title, interest and obligations under this Agreement, in and to all associated documents attached to this Agreement, and in and to all associated documents entered into pursuant to this Agreement, and whereby the Housing Commission shall accept such assignment and assume performance of all terms, obligations, covenants, and conditions on the part of Owner to be performed, occurring, or arising thereunder; or

(2) That all of the following events shall occur: (i) the entire balance of the Agency Loan (including the principal balance and all accrued interest thereon) shall be assumed by the Housing Commission upon the consummation of the transaction by which the Housing Commission acquires the Leasehold Improvements; (ii) Owner, the Housing Commission and the Agency shall enter into the Assignment and Assumption Agreement for Transfer to Housing Commission, thereby assigning to the Housing Commission all of Owner's rights, title, interest and obligations under this Agreement, in and to all associated documents attached to this Agreement, and in and to all associated documents entered into pursuant to this Agreement, including without limitation the Agency Note, the Agency Deed of Trust and related security instruments, and whereby the Housing Commission shall accept such assignment and assume performance of all terms, obligations, covenants, and conditions on the part of Owner to be performed, occurring, or arising under this Agreement, the Agency Note, the Agency Deed of Trust and related security instruments; (iii) Owner shall execute that certain Amendment to Agency Note, Agency Deed of Trust and Related Security Instruments, substantially in the form attached as Exhibit C to the Agency/Housing Commission Agreement; and (iv) upon the assumption of the Agency Loan by the Housing Commission, the Agency shall have the right (without imposing any cost or obligation on the Agency) to cause the then existing property manager for the day-to-day operation and management of the Project to continue serving in such capacity for so long as the Housing Commission remains obligated under the Agency Note, as amended, provided that such property manager agrees to continue serving in such capacity; and

(3) That the Agreement Affecting Real Property shall remain in a first priority position recorded against the Property relative to any other regulatory agreements or any monetary liens notwithstanding the exercise of the Housing Commission Option to Purchase.

b. The Parties acknowledge and agree that, upon the Construction Closing, the Housing Commission and the Agency shall have entered into the Agency/Housing Commission Agreement whereby the Housing Commission agrees that its acquisition of the Leasehold Improvements, based upon the exercise of the Housing Commission Option to Purchase or otherwise, shall be subject to the conditions precedent described in Section 203.a.

Section 204 Agency Assistance

a. Agency Loan. In accordance with and subject to the terms and conditions of this Agreement, including the Method of Financing, the Agency agrees to lend to Owner, and Owner agrees to borrow from the Agency, the Agency Loan, contingent upon certification from the City Comptroller that funds are available to the Agency to fund the Agency Loan. At or prior to the Construction Closing, the Parties shall execute and deliver such instruments and documents as may be necessary to evidence and secure the Agency Loan, consistent with the terms of this Agreement, the Disbursement Agreement and the Method of Financing, and each in a form that is acceptable to the Agency Executive Director. The Agency Loan shall be used to pay a portion of the Rehabilitation Costs (which includes the acquisition of the Leasehold) as set forth in the Method of Financing and shall be disbursed pursuant to the Disbursement Agreement commencing on the Construction Closing Date.

b. Gap Assistance. The Parties acknowledge that the Agency Loan is intended to be “gap” assistance, not to exceed the amount needed to bridge the gap between the total Rehabilitation Costs (as set forth in the Method of Financing) and the maximum loans and tax credits and rebates obtainable, but in any event not to exceed the respective dollar amounts set forth in the Method of Financing. The principal amount of the Agency Loan shall be reduced or repaid, or both, as provided in the Agency Note and the Method of Financing.

c. Cost Savings. As further described in the Method of Financing, in the event and to the extent that actual Rehabilitation Costs for the Project in the Project Budget are less than the total amount of Rehabilitation Costs set forth in the final Agency-approved Project Budget (“Cost Savings”), then fifty percent (50%) of such Cost Savings shall be used to pay the Deferred Developer Fee and the other fifty percent (50%) of such Cost Savings shall be paid to, or shall reduce the respective funding contributions of, each of the following entities in proportion to the pro rata share of their respective total funding contribution or financial commitment to the total Rehabilitation Costs: (i) the Agency, to reduce the principal amount of the Agency Loan; (ii) the Housing Commission, to reduce the principal amount of the Housing Commission Loan, provided that, upon the Construction Closing, the Agency and the Housing Commission enter into the Agency/Housing Commission Agreement; (iii) CTCAC, in the event CTCAC approves a grant of tax credit exchange funds in lieu of tax credit equity; and (iv) the Permanent Lender, to reduce the principal amount of the Permanent Loan. The allocation of Cost Savings described in this paragraph shall not apply in favor of the Agency, the Housing Commission, CTCAC or the Permanent Lender, or shall be adjusted as reasonably necessary, to the extent that such allocation is prohibited by any established federal or State law, regulation or policy governing the use of any Sources of Financing issued by federal or State agencies or will cause an adverse effect under any established federal or State law, regulation or policy with respect to the calculation of the “tiebreaker” score attributable to the application submitted by Owner to CTCAC seeking an allocation of Low Income Housing Tax Credits toward the Project.

d. Additional Proceeds. As further described in the Method of Financing, in the event and to the extent any of the Sources of Financing for the Project exceed the amounts shown in the Method of Financing and the Project Budget, then the excess portion of the Sources of Financing (“Additional Proceeds”) shall first be used to pay for any increased costs of the Project as set forth in a revised Project Budget approved in writing by the Agency Executive Director for which there are no other Sources of Financing, and thereafter, fifty percent (50%) of such Additional Proceeds shall be used to pay the Deferred Developer Fee and the other fifty percent (50%) of such Additional Proceeds shall be used to reduce or repay the Agency Loan, and provided that, upon the Construction Closing, the Housing Commission enters into that certain Housing Commission Agreement with the Agency, the applicable portion of such remaining Additional Proceeds shall be used to reduce or repay the Housing Commission Loan and the Agency Loan in proportion to their respective original principal balances. The allocation of Additional Proceeds described in this paragraph shall not apply in favor of the Agency or the Housing Commission, or shall be adjusted as reasonably necessary, to the extent that such allocation is prohibited by any established federal or State law, regulation or policy governing the use of any Sources of Financing issued by federal or State agencies or will cause an adverse effect under any established federal or State law, regulation or policy with respect to the calculation of the “tiebreaker” score attributable to the application submitted by Owner to CTCAC seeking an allocation of Low Income Housing Tax Credits toward the Project.

e. Modifications. The Agency Executive Director may make modifications to this Agreement (including the attachments hereto) to facilitate Owner’s receipt of Sources of Financing for the Project so long as such modifications do not (i) subordinate the affordability covenants contained in this Agreement and the Agreement Affecting Real Property; (ii) increase any obligation or liability of the Agency under this Agreement (including any attachments hereto); or (iii) result in an increase of greater than ten percent (10%) in the amount by which the Agency Loan is subordinated to any Senior Loan, or otherwise result in a greater subordination of the Agency Loan than permitted by this Agreement. Any other requested modifications shall be submitted to the Agency Board for approval.

Section 205 Submission of Evidence of Financing

a. Items to be Submitted. At or prior to the Construction Closing, within the respective times established in the Schedule of Performance, Owner shall submit to the Agency Executive Director for review and reasonable approval the following items:

- (1) Documentation satisfactory to the Agency Executive Director that Owner has obtained all of the financing necessary for the completion of the Project in accordance with this Agreement, including, but not limited to, a commitment by the Construction Lender to issue the Construction Loan;
- (2) Verification that Owner has obtained an allocation from CTCAC for the issuance of the Low Income Housing Tax Credits to be applied toward Rehabilitation Costs;

- (3) A copy of the Partnership Agreement for the Tax Credit Limited Partnership or other documentation acceptable to the Agency Executive Director demonstrating the commitment of the Tax Credit Equity Investor to provide the Investor Partner Capital Contribution, or a grant from CTCAC in lieu of tax credit equity, to demonstrate that Owner has adequate equity funds committed to provide the amount of Owner Equity required by the Method of Financing;
- (4) A copy of the Housing Commission Loan Documents demonstrating a loan commitment in the amount of \$2,967,000;
- (5) A copy of all loan documents evidencing that the Permanent Loan will be available upon completion of the Project, certified by Owner to be a true and correct copy or copies thereof;
- (6) A copy of the contract between Owner and the general contractor for the construction of the Leasehold Improvements, certified by Owner to be a true and correct copy thereof;
- (7) All documents set forth in Section 7 of the Method of Financing; and
- (8) Any other documents reasonably required by the Agency Executive Director.

b. Agency Approval. The Agency shall approve or disapprove such evidence of financing within the time established in the Schedule of Performance. Such approval shall not be unreasonably withheld. If the Agency disapproves any such evidence of financing, the Agency shall do so by written notice to Owner stating the reasons for such disapproval, in which case Owner shall have a reasonable period of time to correct and resubmit any disapproved item for the Agency's approval.

c. Priority of Agency Documents. The Parties acknowledge that the potential future exercise of the Housing Commission Option to Purchase will cause the Housing Commission Ground Lease to be terminated and will further cause the Agreement Affecting Real Property and the Agency Deed of Trust against the Leasehold to be eliminated, although the Agency Deed of Trust shall survive with respect to the Housing Commission's ownership of improvements situated on the Property in the event that the Housing Commission does not fully repay the Agency Loan, as further described in the Agency/Housing Commission Agreement. As a result, two specific conditions precedent to the Agency's disbursement of any proceeds to the Agency Loan shall be: (i) that the Agreement Affecting Real Property is filed in the Official Records against the fee title to the Property in a first priority position relative to any monetary liens; and (ii) that the Agency/Housing Commission Agreement is executed and recorded (in full

or memorandum form) against the fee title to the Property, or is placed in escrow for such purpose as of the time of the Construction Closing.

d. Title Policy. Upon the Construction Closing, Owner shall cause Title Company to issue the Title Policy to the Agency at Owner's sole expense as an eligible Project cost. The Title Policy shall show that the Agency Deed of Trust is a first priority lien against the Leasehold, subject only to the Leasehold Permitted Exceptions.

e. Developer Fee. The payment to Owner of the Developer Fee and the Deferred Developer Fee shall be in accordance with the Method of Financing.

f. Title at Construction Closing. At the Construction Closing, title to the Leasehold shall be subject to the following encumbrances in the following order of priority (listed in progression from senior to junior priority):

- i. Inclusionary Housing Agreement;
- ii. Agreement Affecting Real Property;
- iii. Construction Loan Deed of Trust;
- iv. Housing Commission Loan Deed of Trust;
- v. Agency Deed of Trust;
- vi. Housing Commission Regulatory Deed of Trust; and
- vii. Inclusionary Housing Deed of Trust.

g. Title at Completion of Conversion. At completion of the Conversion, title to the Leasehold shall be subject to the following encumbrances in the following order of priority (listed in progression from senior to junior priority):

- i. Inclusionary Housing Agreement;
- ii. Agreement Affecting Real Property;
- iii. Tax Credit Regulatory Agreement;
- iv. Permanent Loan Deed of Trust;
- v. Housing Commission Loan Deed of Trust;
- vi. Agency Deed of Trust;
- vii. Housing Commission Regulatory Deed of Trust;
- viii. Inclusionary Housing Deed of Trust; and
- ix. Junior Loan Deed of Trust.

PART 3 DEVELOPMENT OF THE LEASEHOLD IMPROVEMENTS

Section 301 Land Use Approvals

Without cost to the Agency, Owner shall ensure that zoning of the Property and all applicable City land use requirements will be such as to permit construction and development of the Leasehold Improvements and the use, operation and maintenance of the Leasehold Improvements in accordance with the provisions of this Agreement. Nothing contained herein shall be deemed to entitle Owner to any City permit or other City approval necessary for the completion of the Project, or waive any applicable City requirements relating thereto. This

Agreement does not (a) grant any land use entitlement to Owner, (b) supersede, nullify or amend any condition which may be imposed by the City in connection with approval of the development described herein, (c) guarantee to Owner or any other party any profits from the completion or operation of the Project, or (d) amend any City laws, codes or rules. This is not a Development Agreement as provided in Government Code Section 65864. Without incurring any third-party cost, the Agency shall provide appropriate technical assistance to Owner in connection with Owner's effort to obtain all necessary entitlements, permits and approvals for the construction and development of the Leasehold Improvements.

Section 302 Condition of the Property

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

b. Owner agrees to perform and be solely responsible for the remediation of any Hazardous Materials on, in, under or within the Property, at the sole cost, risk and expense of Owner. Owner shall defend, indemnify and hold harmless the Public Agency Indemnified Parties, except to the extent of their gross negligence or willful misconduct, from any claims, liability, injury, damages, costs and expenses (including, without limiting the generality of the foregoing, the cost of any required remediation of Hazardous Materials, and the cost of attorneys' fees) which may be sustained as the result of the presence or remediation of Hazardous Materials on, in, or under the Property. As a condition precedent to the Construction Closing, Owner shall execute, and deliver to the Agency, the Environmental Indemnity. Nothing herein shall prevent Owner from making separate application for funding administered by the Agency (including without limitation Cal ReUse funds) intended for the investigation and remediation of Hazardous Materials on, in, or under the Property, should Hazardous Materials be found in the future.

Section 303 Scope of Development

The Property shall be developed in accordance with, and within the limitations established in, the Scope of Development.

Section 304 Basic Concept Drawings

a. Owner shall prepare and submit to the Agency, for its review and written approval, Basic Concept Drawings and related plans and documents for the construction and development of the Leasehold Improvements or, at a minimum, the building that will contain the Community Center. Basic Concept Drawings shall include a site plan and, to the extent applicable, elevations and sections of the Leasehold Improvements as they are to be developed

and constructed on the Property. All such plans and documents shall be submitted to the Agency within the time established in the Schedule of Performance.

b. The Leasehold Improvements shall be developed as established in the Basic Concept Drawings and related plans and documents except as changes may be mutually agreed upon between Owner and the Agency Executive Director. Any such changes shall be within the limitations of the Scope of Development. If Owner desires to make any substantial change in the Basic Concept Drawings after their approval, then such proposed change shall be submitted to the Agency for approval, which approval shall not be unreasonably withheld or delayed.

c. Without limiting any obligations or conditions imposed on Owner as the result of obtaining any financing other than the Agency Loan, Owner shall use commercially reasonable efforts to incorporate Universal Design components into the Project in excess of accessibility standards required by the current California Building Code and International Code Council/American National Standards Institute (ICC/ANSI) A117.1-2003. Consistent with the immediately preceding sentence, Owner agrees to meet and confer with the Agency (or its designee), sufficiently in advance of the Construction Closing, to determine the financial and logistical feasibility of incorporating Universal Design components into the Project.

Section 305 Landscaping and Grading Plans

a. Owner shall prepare and submit to the Agency, for its review and approval, preliminary and final landscaping and, if applicable, preliminary and finish grading plans for the Project. These plans shall be prepared and submitted within the times established in the Schedule of Performance.

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

c. Approval of progressively more detailed plans will be promptly granted by the Agency Executive Director if developed as a logical evolution of Plans already approved. Any items so submitted and approved by the Agency Executive Director shall not be subject to subsequent disapproval.

Section 306 Construction Drawings and Related Documents

a. Owner shall prepare and submit construction drawings and related documents related to the development and construction of the improvements in the building that will contain the Community Center (collectively called the "Plans") to the Agency, for its review (including but not limited to architectural review) and written approval, within the times established in the Schedule of Performance. Such construction drawings and related documents shall be submitted as 50% and Final Construction Drawings. Final Construction Drawings are hereby defined as those in sufficient detail to obtain a building permit. The Parties acknowledge

that Owner shall not be required to submit Plans for the entire Project because most of the work contemplated by this Agreement will involve rehabilitation of the Existing Improvements, not construction of new improvements on the Property.

b. Approval of progressively more detailed Plans will be promptly granted by the Agency Executive Director if developed as a logical evolution of Plans already approved. Any items so submitted and approved by the Agency Executive Director shall not be subject to subsequent disapproval.

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

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

Section 307 Agency Approval of Plans

a. Subject to the terms of this Agreement, the Agency shall have the right of review (including without limitation architectural review) of all Plans and submissions, including any proposed substantial changes to any such Plans or submissions approved by the Agency. The Agency shall approve or disapprove the Plans referred to in Sections 304, 305 and 306 of this Agreement within the times established in the Schedule of Performance. Upon receipt of a disapproval based upon powers reserved by the Agency hereunder, Owner shall revise the Plans and resubmit them to the Agency Executive Director as soon as possible after receipt of the notice of disapproval. The Agency shall approve or disapprove any revised Plans within thirty (30) days after receipt. Any disapproval shall state in writing the reasons for disapproval and any changes to submitted Plans which the Agency Executive Director determines must be made to obtain approval. Such reasons and such changes must be consistent with the Scope of Development and any items previously approved hereunder; provided, however, that the Agency's failure to notify Owner of approval or disapproval within thirty (30) days shall not be deemed to be approval of any matter.

b. If Owner desires to make any substantial change in the Final Construction Drawings after their approval, such proposed change shall be submitted to the Agency Executive Director for approval. For purposes of this Section 307.b, a "substantial change" shall mean any material change in building materials or equipment, specifications, or the structural or architectural design or appearance of the Project. Nothing herein shall be interpreted as altering, modifying, waiving, amending, or reducing any requirements of any governmental permit required by any local, State or federal permitting authority for the Project.

Section 308 Cost of Construction and Development

The cost of constructing and developing the Leasehold Improvements, including any offsite or onsite improvements required by the City in connection therewith, and the cost of any relocation claims or costs associated with the construction and development of the Leasehold Improvements, shall be Owner's sole responsibility (as an eligible Project cost), without any cost to Agency, subject to the terms of this Agreement.

Section 309 Schedule of Performance

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

b. After the Construction Closing, Owner shall promptly begin and thereafter diligently prosecute to completion the construction and development of the Leasehold Improvements as provided in the Scope of Development. Owner shall begin and complete all construction and development within the times specified in the Schedule of Performance with such reasonable extensions of said dates as may be granted in writing by the Agency Executive Director, provided that Owner submits a timely written request with substantiating documentation that establishes good cause for such an extension, and provided such an extension will not have a detrimental effect on the Agency's interests.

c. During periods of construction, Owner shall submit to the Agency a written report of the progress of construction when and as reasonably requested by the Agency, but not more frequently than once every quarter. The report shall be in such form and detail as may be reasonably required by the Agency and shall include a reasonable number of construction photographs (if requested) taken since the last report by Owner. From time to time, at the request of the Agency's staff, Owner (and, as requested by the Agency's staff, Owner's key representative as well as key representatives of consultants, contractors and subcontractors) shall meet with the Agency's staff (or the Agency's designee) for progress meetings.

Section 310 Indemnification and Insurance

a. Owner's Indemnity. To the maximum extent permitted by law, Owner agrees to and shall defend, indemnify and hold harmless the Public Agency Indemnified Parties from and against all claims, liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person resulting or arising from or in any way connected with the following, provided Owner shall not be responsible for (and such indemnity shall not apply to) any gross negligence or willful misconduct of the Public Agency Indemnified Parties:

(1) the existence, release, presence or disposal on, in, under, about or adjacent to the Property of any Hazardous Materials, except to the extent it is due to the gross

negligence or willful misconduct of the Agency, SEDC, the City or their respective officers, employees, contractors or agents;

(2) the development, construction, marketing, operation or use of the Leasehold Improvements by Owner, its contractors, subcontractors, agents, employees or other persons acting on Owner's behalf (collectively, the "Indemnifying Parties");

(3) the displacement or relocation of any person from the Property as the result of the development of the Project by the Indemnifying Parties;

(4) any Plans or designs for Leasehold Improvements prepared by or on behalf of Owner or any Indemnifying Parties, including without limitation any errors or omissions with respect to such plans or designs;

(5) any loss or damage to the Agency resulting from any inaccuracy in or breach of any representation or warranty of Owner, or resulting from any breach or default by Owner, under this Agreement; or

(6) any and all actions, claims, damages, injuries, challenges, costs or liabilities arising from the approval of any and all entitlements or permits for the Project by the City, SEDC or the Agency.

The foregoing defense and indemnification obligations shall survive the termination of this Agreement and shall continue to remain in effect after any or all of the following events: Construction Closing, Completion, recordation of the Release of Construction Covenants, and full conveyance of the Agency Deed of Trust.

b. Insurance Policies.

(1) Commencing upon the first to occur of (i) the entry by Owner onto the Property for any purposes hereunder and (ii) the Construction Closing, and for the periods of time as set forth below, Owner shall maintain in effect and deliver to the Agency duplicate originals or appropriate certificates of the following insurance policies (collectively, "Insurance Policies") naming the Agency, SEDC, the City and their respective officers, employees, contractors and agents as additional insureds:

(A) All-Risk Policies: at all times until Completion, Owner shall maintain or cause to be maintained coverage of the type now known as builder's completed value risk insurance, as delineated on an All Risk Builder's Risk 100% Value Non-Reporting Form. 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 Owner 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 Agency, 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 or flood coverage, if obtained at Owner's sole discretion, shall carry a deductible not to exceed 25% of the policy amount, or such other deductible amount as the Agency may reasonably determine is acceptable, in light of the cost of the premium for such insurance);

(B) **Liability Insurance:** Owner 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 Owner on the Property, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Owner, or any person acting for Owner, 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 Owner or its tenants, or any person acting for Owner, or under its control or direction. Such property damage and personal injury insurance shall also provide for and protect the Agency, SEDC and the City 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 full recoveyance of the Agency 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), Four Million Dollars (\$4,000,000) Products and Completed Operations Aggregate, and Two Million Dollars (\$2,000,000) each Occurrence, which amounts shall be subject to increases equal to increases in the Consumer Price Index. Owner agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Owner may be held responsible for the indemnification obligations hereunder or the payment of damages to persons or property resulting from Owner's activities, activities of its tenants or the activities of any other person or persons for which Owner is otherwise responsible.

(C) **Automobile Insurance:** Owner 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:** Owner shall maintain or cause to be maintained workers' compensation insurance issued by a responsible carrier authorized under the laws of the State to insure employers against liability for compensation under the workers' compensation laws now in force in the State, 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 Owner 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 Owner. Notwithstanding the foregoing, Owner may, in compliance with the laws of the State and in lieu of maintaining such insurance, self-insure for workers' compensation in which event Owner shall deliver to the Agency evidence that such self-insurance has been approved by the appropriate State authorities.

(2) All policies or certificates of insurance shall provide that such policies shall not be canceled, reduced in coverage or limited in any manner without at least thirty (30) days prior written notice to the Agency. All fire and liability insurance policies (not automobile and Workers' Compensation) may name the Agency, SEDC, the City and Owner as insureds, additional insureds, 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, Southeastern Economic Development Corporation and their respective officers, employees, contractors, agents and attorneys.”

(4) Owner 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. Owner agrees to submit binders or certificates evidencing such insurance to the Agency prior to the Construction Closing. 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 the Agency. All insurance herein provided for under this Section 310 shall be provided by insurers licensed to do business in the State and rated A-VII or better. To the extent that Owner maintains increased or additional insurance coverage, in excess of the minimum coverage requirements prescribed by paragraphs (b)(1)(B) and (b)(1)(C) of this Section 310, Owner shall ensure that the additional insureds specified in paragraph (b)(3) of this Section 310 derive the benefit of such increased or additional insurance coverage.

(5) If Owner fails or refuses to procure or maintain insurance as required by this Agreement, the Agency shall have the right, but not the obligation, at the Agency's election, and upon ten (10) days prior notice to Owner, to procure and maintain such insurance. The premiums paid by the Agency shall be treated as a loan, due from Owner, to be paid on the first day of the month following the date on which the premiums were paid. The Agency shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

(6) Owner shall have the right in its discretion to provide the insurance coverage required by this Section 310 through one or more umbrella policies, so long as the type and level of insurance protection to be maintained by Owner in accordance with this Section 310 is not diminished by so doing (as reasonably determined by the Agency Executive Director).

Section 311 Nondiscrimination and Equal Opportunity

a. Compliance with Contracting Requirements. Owner shall provide equal opportunity in all employment practices. Owner and its contractors, subcontractors, consultants, subconsultants, vendors and suppliers shall comply with the City's Equal Opportunity Contracting Requirements attached to this Agreement as Attachment No. 19, which is incorporated herein by this reference. Owner represents and warrants that it has received, read, understands and agrees to be bound by the Equal Opportunity Contracting Information Packet provided by the Agency. Owner represents and warrants that it has received, read, understands and agrees to be bound by City of San Diego Municipal Code Division 27 (Equal Employment Opportunity Outreach Program), and the City Manager's Policies and Procedures implementing that program contained in the Equal Opportunity Packet provided by the Agency. Owner has submitted, and the Agency acknowledges receipt of, an initial Equal Opportunity Report and either a Work Force Report or an Equal Employment Opportunity Plan, as required by City of San Diego Municipal Code Section 22.2705. Owner agrees periodically to provide updated reports as requested by the Agency. Prior to commencing construction and in accordance with the Schedule of Performance, Owner shall contact the City's Equal Opportunity Contracting Program to determine compliance with all applicable rules and regulations.

b. Nondiscrimination. Owner shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring or treatment of any contractors or consultants, to participate in subcontracting/subconsulting opportunities. Owner understands and agrees that violation of this clause shall be considered a material breach of this Agreement and may result in termination, debarment or other sanctions. This language shall be incorporated into all contracts between Owner and any contractor, consultant, subcontractor, subconsultants, vendors and suppliers.

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

Section 312 Local, State and Federal Laws

a. Owner hereby agrees to carry out construction, development (as defined by applicable law) and operation of the Leasehold Improvements, including, without limitation, any and all public works (as defined by applicable law), in conformity with all applicable federal

and State labor laws, including, without limitation, the payment of State prevailing wages, if required for the Project.

b. Owner hereby expressly acknowledges and agrees that neither the City nor the Agency has ever previously affirmatively represented to Owner or its contractor(s) for the improvements in writing or otherwise, in a call for bids or otherwise, that the work to be covered by the bid or contract is not a “public work,” as defined in Labor Code Section 1720. Owner hereby agrees that Owner shall have the obligation to provide any and all disclosures, representations, statements, rebidding and identifications which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Owner hereby agrees that Owner shall have the obligation to provide and maintain any and all bonds to secure the payment to contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code or by Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Owner hereby agrees that Owner shall have the obligation, at Owner’s sole cost, risk and expense, to obligate any party as may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Owner shall indemnify, protect, defend and hold harmless the Public Agency Indemnified Parties, with counsel reasonably acceptable to the applicable Public Agency Indemnified Party, from and against any and all loss, liability, damage, claim, cost, expense, and “increased costs” (including labor costs, penalties, reasonable attorneys’ fees, court and litigation costs, and fees of expert witnesses) which, in connection with the construction, development (as defined by applicable law) and operation of the Leasehold Improvements, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by Owner of any applicable local, State and federal law, including, without limitation, any applicable State and federal labor laws (including, without limitation, if applicable, the requirement to pay State prevailing wages); (2) the implementation of Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other similar law; (3) failure by Owner to provide any required disclosure, representation, statement, rebidding or identification which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law; (4) failure by Owner to provide and maintain any and all bonds to secure the payment to contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code or by Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law; or (5) failure by Owner to obligate any party as may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law.

c. The Parties agree that, in connection with the construction, development (as defined by applicable law) and operation of the Leasehold Improvements, including, without limitation, any public work (as defined by applicable law), Owner shall bear all risks of payment or nonpayment of State prevailing wages and the implementation of Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, and any other provision of law. The term “increased costs” as used in this Section 312 shall have the meaning

ascribed to such term in Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time.

d. The foregoing indemnity shall survive the Construction Closing and the termination of this Agreement and shall continue after Completion and the filing of the Release of Construction Covenants in the Official Records.

Section 313 Permits

Before commencement of demolition, construction or development of any buildings, structures or other work of improvement in connection with the Project, Owner shall, at its own expense (as an eligible Project cost), secure or cause to be secured, any and all permits which may be required by the City or any other governmental agency affected by such construction, development or work. The disbursement of the Agency Loan is subject, among other conditions, to the issuance of all building permits, as well as any other permits, approvals, entitlements or variances, as may be required by the City for the development and construction of the Leasehold Improvements. Moreover, Owner 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, to the extent such program is applicable to the Project.

Section 314 Rights of Access

Representatives of the Agency and the City shall have the reasonable right of access to the Property and the Leasehold Improvements, upon 24 hours' written notice to Owner (except in the case of an emergency, in which case the Agency shall provide such notice as may be practical under the circumstances), without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements. Such representatives of the Agency or the City shall be those who are so identified in writing by the Agency Executive Director.

Section 315 Disclaimer of Responsibility by Agency

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

Section 316 Taxes, Assessments, Encumbrances and Liens

a. Without limiting any provisions of the Housing Commission Ground Lease,

Owner shall pay when due, but not later than the imposition of any penalty, all real estate taxes and assessments assessed and levied on or against the Leasehold and the Leasehold Improvements. Prior to full reconveyance of the Agency Deed of Trust, Owner shall not place, or allow to be placed, on title to the Leasehold or Property or any portion thereof, any mortgage, trust deed, encumbrance or lien not authorized by this Agreement. In addition, Owner shall remove, or shall have removed, any levy or attachment made on title to the Leasehold (or any portion thereof), or shall assure the satisfaction thereof within a reasonable time but in any event prior to a sale thereunder. Nothing herein contained shall be deemed to prohibit Owner from requesting any exemption to any and all real estate taxes to which it may be entitled as a result of its general partner's non-profit status, nor shall Owner be prohibited from contesting in good faith the validity or amount of any tax assessment, encumbrance or lien, nor to limit the remedies available to Owner in respect thereto. Owner's covenants set forth in this Section 316 shall remain in effect until full reconveyance of the Agency Deed of Trust.

b. The Agency shall, at any and all times during the term of this Agreement, have the right to post and maintain on the Property, and record against the Property, as required by law, any notice or notices of non responsibility provided for by the mechanics' lien laws of the State; provided, however, that Owner shall, on behalf of the Agency, post and maintain on the Property, and record against the Property, all notices of non responsibility provided for by the mechanics' lien laws of the State.

Section 317 Prohibition against Transfer

a. Prior to full reconveyance of the Agency Deed of Trust, Owner shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any right herein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Leasehold or the Leasehold Improvements thereon, without prior written approval of the Agency. This prohibition shall not be deemed to prohibit Permitted Transfers.

b. Except as permitted by Section 317.a, in the event Owner does assign this Agreement or any of the rights herein, or does sell, transfer, convey or assign the Leasehold or the Leasehold Improvements prior to full reconveyance of the Agency Deed of Trust without the Agency's approval, the Agency shall have the right to terminate this Agreement.

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

Section 318 No Encumbrances except Permitted Mortgages

a. Notwithstanding Section 317, other than the Housing Commission Loan, upon and after the Construction Closing, Owner shall have the right to encumber the Leasehold and the Leasehold Improvements with Permitted Mortgages, but only for the purpose of securing loans of funds to be used for financing the predevelopment expenses, and acquisition, development and construction of the Leasehold Improvements ("Permitted Financing

Purposes”). Prior to full reconveyance of the Agency Deed of Trust, Owner: (1) shall not have any authority to encumber the Property, the Leasehold or the Leasehold Improvements for any purpose other than Permitted Financing Purposes; (2) shall notify the Agency in advance of any proposed financing; and (3) shall not enter into any Mortgage without the prior written approval of the Agency, which approval the Agency shall grant if it is a Permitted Mortgage. A Permitted Mortgagee of a Permitted Mortgage Loan approved by the Agency pursuant to this Section 318 shall not be bound by any amendment, implementation agreement or modification to this Agreement subsequent to its approval without such lender giving its prior written consent.

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

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

d. The Agency Executive Director shall have the authority to make reasonable written modifications to Sections 317 through 323 that may be requested by a Permitted Mortgagee or the Tax Credit Equity Investor, provided such modification does not, based on the Agency Executive Director’s reasonable determination, (i) adversely affect the receipt of any material benefit or right of the Agency under this Agreement (including any attachments hereto), including, without limitation, subordination of any covenants in this Agreement and the Agreement Affecting Real Property, or (ii) increase any of Agency’s obligations or liabilities under this Agreement (including any attachments hereto). Upon the reasonable request of a Permitted Mortgagee or the Tax Credit Equity Investor, the Agency Executive Director shall execute from time to time such reasonable modifications, interpretations and estoppel certificates to the extent they are consistent with the terms of this Agreement (including, without limitation, this Section 318.d).

e. The requirements of this Section 318 shall not apply following full reconveyance of the Agency Deed of Trust.

Section 319 Permitted Mortgagee Not Obligated to Construct Improvements

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

Section 320 Notice and Cure Rights Affecting Mortgagees

a. Whenever the Agency shall deliver any notice or demand to Owner with respect to any breach or default by Owner in completion of construction of the Leasehold Improvements, the Agency shall at the same time deliver to each Mortgagee of record and the Tax Credit Equity Investor a copy of such notice or demand. Each such Mortgagee and Tax

Credit Equity Investor shall (insofar as the rights of the Agency are concerned) have the right at its option within the cure period provided to Owner to cure or remedy, or commence to cure or remedy, any such default and to add the cost thereof to the security interest debt and the lien of its security interest.

b. If the default described in Section 320.a shall be a default which can only be remedied or cured by such lender upon obtaining possession of the Leasehold, such Mortgagee shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within ninety (90) days after obtaining possession; provided that in the case of default which cannot with reasonable diligence be removed or cured, or the remedy or cure cannot be commenced within such 90-day period, such Mortgagee shall have such additional time as may be reasonably required to remedy or cure such default with diligence and continuity, but not to exceed one hundred eighty (180) days.

c. If the default described in Section 320.a shall be a default which can only be remedied or cured by the Tax Credit Equity Investor through the removal of its general partner in accordance with the Partnership Agreement, then such Tax Credit Equity Investor, after approval by the Agency Executive Director (which shall not be unreasonably withheld), shall proceed with the removal of the general partner with diligence and continuity and shall remedy or cure such default within ninety (90) days after obtaining the control of Owner; provided that in the case of default which cannot with diligence be remedied or cured, or the remedy or cure cannot be commenced within such ninety (90) day period, such Tax Credit Equity Investor shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity, but not to exceed one hundred eighty (180) days; and provided further that such Mortgagee shall not be required to remedy or cure any non-curable default of Owner.

d. Any Mortgagee who forecloses on its Permitted Mortgage, or any Mortgagee or Tax Credit Equity Investor who is assigned or otherwise succeeds to Owner's rights under this Agreement, shall have the right to undertake or continue the construction or completion of the Leasehold Improvements upon execution of a written agreement with the Agency by which such Mortgagee or Tax Credit Equity Investor expressly assumes Owner's rights and obligations under this Agreement, approval of which agreement shall not be unreasonably withheld by Agency. Any such Mortgagee or Tax Credit Equity Investor properly completing such improvements shall be entitled, upon written request made to the Agency, to a Release of Construction Covenants from the Agency.

Section 321 Failure of Mortgagee to Complete Improvements

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

Section 322 Right of the Agency to Cure Defaults

In the event of Owner's default or breach of a Permitted Mortgage prior to full reconveyance of the Agency Deed of Trust, and the Mortgagee has not commenced to complete the development, the Agency may cure the default at any time before completion by a Senior Lender of any foreclosure under its deed of trust securing the applicable Senior Loan. In such event, the Agency shall be entitled to reimbursement from Owner of all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the Leasehold and the Leasehold Improvements to the extent of such costs and disbursements. Any such lien shall be subordinate and subject to the Senior Loans.

Section 323 Right of the Agency to Satisfy Other Liens on the Property

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

Section 324 Release of Construction Covenants

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

b. The Release of Construction Covenants shall be in such form as to permit it to be filed in the Official Records.

c. If the Agency fails to deliver the Release of Construction Covenants within ten (10) days after written request from Owner, the Agency shall provide Owner with a written statement of its reasons (the "Statement of Reasons") within that ten (10)-day period. The statement shall also set forth the steps Owner must take to obtain the Release of Construction Covenants. If the reasons are confined to the immediate unavailability of specific items or materials for landscaping, or to so-called "punch list" items that the Agency has identified, the Agency will issue the Release of Construction Covenants upon the posting of a bond by Owner with the Agency in an amount representing the Agency's estimate of the cost to complete the work.

d. Such Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of Owner to any Mortgagee, or any insurer of a mortgage securing money loaned to finance the Leasehold Improvements, or any part thereof. Such Release of Construction Covenants is not notice of completion as referred to in California Civil Code Section 3093.

PART 4 USE OF THE LEASEHOLD

Section 401 Uses

a. Owner covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property, the Leasehold and the Leasehold Improvements (or any part thereof), that the Affordable Units shall be restricted by Owner for rental and occupancy by Low Income, Very Low Income and Extremely Low households at Affordable Rent for fifty-five (55) years from Completion, in accordance with the terms and conditions of this Agreement, the Agreement Affecting Real Property and the Housing Commission Regulatory Agreement. There shall be a minimum of 48 Affordable Units, of which a minimum of fourteen (14) units shall be Low Income units with Affordable Rent, a minimum of twenty-nine (29) units shall be Very Low Income units with Affordable Rent, and a minimum of five (5) units shall be Extremely Low Income units with Affordable Rent, all in accordance with the Schedule of Affordable Rents set forth in Exhibit B of the Agreement Affecting Real Property. No change in the use of the Leasehold or the Leasehold Improvements shall be permitted without the Agency's prior written approval.

b. The maximum incomes of all tenants eligible to rent an Affordable Unit shall be determined on the basis of the Area Median Income for San Diego County. Owner agrees that among Low Income, Very Low Income and Extremely Low Income households who are otherwise eligible to rent an Affordable Unit, Owner shall, subject to applicable federal and State fair housing requirements and CTCAC requirements, give preference to applicants who have been displaced by any redevelopment project within the City over other applicants meeting the same eligibility requirements.

c. The Agency and the Housing Commission, and their respective successors and assigns, shall have the right, but not the obligation, to monitor and enforce all covenants applicable to the Affordable Units. Owner agrees that it shall comply with any monitoring program set up by the Agency or the Housing Commission, or both, to enforce said covenants. In complying with such monitoring program, Owner or its agent shall prepare and submit to the Agency (or the Housing Commission), on an annual basis, an occupancy report, financial information and income verification documents for each tenant of an Affordable Unit, and all supporting documentation, on forms provided by Owner (or the Housing Commission), setting forth the required information for the preceding year. On an annual basis, Owner or its agent also shall submit to the Agency (or the Housing Commission) evidence of the continued eligibility for the Affordable Units with respect to each tenant of Low Income, Very Low Income and Extremely Low Income. The Agency (or the Housing Commission) shall review such reports within fourteen (14) days after receipt for certification of continuing affordability of the Affordable Units and eligibility of tenants. Owner shall pay such costs associated with said monitoring and enforcement efforts as customarily required by the Housing Commission.

d. Except for the Unrestricted Unit, no officer, employee, agent, official or consultant of Owner may occupy any of the Residential Units.

e. Owner shall either comply with the applicable IRS rules for over-income tenants or, in the absence of any applicable IRS rules, shall comply with the following rule: any tenant who initially qualified as a Low Income, Very Low Income or Extremely Low Income household, as applicable, and who no longer qualifies as a Low Income, Very Low Income or Extremely Low Income household, respectively, shall pay as rent an amount equal to 30 percent of the household income, and shall be given one (1) year to relocate from the Affordable Unit for which such tenant initially qualified.

f. During the Covenant Period, the Community Center shall be utilized for the benefit of occupants of the Residential Units in accordance with the parameters set forth in the Scope of Development.

Section 402 Maintenance of the Leasehold

Owner shall maintain the Leasehold and the Leasehold Improvements in accordance with the requirements of the Agreement Affecting Real Property.

Section 403 Obligation to Refrain from Discrimination

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

b. Notwithstanding Section 403.a, the provisions relating to discrimination on the basis of familial status shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code nor be construed to affect

Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall also apply to Section 403.a.

Section 404 Form of Nondiscrimination and Nonsegregation Clauses

Owner shall refrain from restricting the rental, sale or lease of the Residential Units on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry of any person. All such deeds, leases or contracts entered into after the Effective Date of this Agreement shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses.

a. In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (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.”

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

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (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.”

c. In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and 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.”

Section 405 Effect and Duration of Covenants

The covenants established in this Agreement shall run with the land and, without regard to technical classification and designation, be binding for the benefit and in favor of the Agency, its successors and assigns, and the City for such periods as set forth herein. Those certain covenants also contained in the Agreement Affecting Real Property shall remain in effect for the periods specified therein.

Section 406 Agreement Affecting Real Property

Concurrently with the Construction Closing, (i) the Parties shall execute and cause the Agreement Affecting Real Property to be filed in the Official Records against both the Leasehold and the Property, in substantially the same form attached to this Agreement as Attachment No. 6, which is incorporated herein by this reference; and (ii) the Agency shall execute and cause the Notice of Affordability Restrictions to be filed in the Official Records against both the Leasehold and the Property, consistent with CRL Section 33334.3(f)(3). To the extent necessary to allow recordation, and upon the Agency’s request, Owner shall execute and deliver to the Agency the Notice of Affordability Restrictions.

Section 407 Monitoring

a. The Parties acknowledge that this Agreement is subject to the provisions of CRL Section 33418, which provides in pertinent part:

“(a) An agency shall monitor, on an ongoing basis, any housing affordable to persons and families of low or moderate income developed or otherwise made available pursuant to any provisions of this part. As part of this monitoring, an agency shall require owners or managers of the housing to submit an annual report to the agency. The annual reports shall include for each rental unit the rental rate and the income and family size of the occupants . . . The income information required by this section shall be supplied by the tenant in a certified statement of a form provided by the agency.”

b. To satisfy the requirements of CRL Section 33418, prior to the Construction Closing, Owner shall enter into the Reporting and Monitoring Agreement with the Housing Commission, and Owner shall pay any fees required therein.

PART 5 DEFAULTS AND REMEDIES

Section 501 Defaults - General

a. Subject to the extensions of time set forth in Section 602, failure or delay by either Party to perform any term or provision of this Agreement constitutes a default under this Agreement. The Party who fails or delays (i.e., the defaulting Party) must commence to

cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

b. The non-defaulting Party shall give written notice of default to the defaulting Party, specifying the default complained of by the non-defaulting Party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by either Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either Party in asserting any of its rights and remedies shall not deprive either Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

c. If a monetary event of default occurs, before exercising any remedies hereunder, the non-defaulting Party shall deliver to the defaulting Party written notice of such default. The defaulting Party shall have a period of ten (10) calendar days after such notice is received or deemed received within which to cure the default prior to exercise of remedies by the non-defaulting Party.

d. Except as otherwise expressly provided herein, if a non-monetary event of default occurs, before exercising any remedies hereunder, the non-defaulting Party shall deliver to the defaulting Party written 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, the defaulting Party shall have such period to complete a cure before the exercise of remedies by the non-defaulting Party. Except as otherwise expressly provided herein, if the default is such that it is not reasonably capable of being cured within thirty (30) days, and the defaulting Party both (1) initiates corrective action within said period, and (2) diligently, continually, and in good faith works to effectuate a cure as soon as possible, then the defaulting Party shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the non-defaulting Party, but in no event shall such period exceed ninety (90) days from the date such notice is received or deemed received. In no event shall the non-defaulting Party be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default.

e. If Owner fails to take corrective action or cure a default within reasonable time, the Agency shall give Owner, the Senior Lender and the Tax Credit Equity Investor notice thereof, whereupon the Senior Lender and Tax Credit Equity Investor shall have the right to effectuate a cure within a reasonable time thereafter in accordance with the foregoing provisions. The Agency agrees to accept cures tendered by the Senior Lender and the Tax Credit Equity Investor within the cure periods provided in this Agreement or such longer period as may be reasonably approved by the Agency Executive Director. Additionally, in the event that the Senior Lender or the Tax Credit Equity Investor is precluded from curing a non-monetary default hereunder due to a bankruptcy, injunction or similar proceeding by or against Owner or the general partner of Owner, the Agency agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period in which the Senior Lender or the Tax Credit Equity Investor is so precluded from acting, not to exceed ninety (90) days, provided such Senior Lender and Tax

Credit Equity Investor are otherwise in compliance with the relevant cure provisions of this Agreement, including Section 320 hereof. In no event shall the Agency be precluded from exercising remedies if its rights become or are about to become materially jeopardized by any failure to cure a default.

Section 502 Institution of Legal Actions

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

Section 503 Applicable Law

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

Section 504 Acceptance of Service of Process

a. In the event that any legal action is commenced by Owner against the Agency, service of process on the Agency shall be made by personal service upon the Agency Executive Director or Chairman of the Agency, or in such other manner as may be provided by law. For purposes of the preceding sentence only, the term “Agency Executive Director” and “Chairman of the Agency” shall refer solely to the individual holding the Executive Director position or Chairmanship of the Agency, as the case may be, and not to any designee of such individual.

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

Section 505 Rights and Remedies Are Cumulative

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

Section 506 Damages

Subject to the notice and cure provisions of Section 501, if either Party defaults with regard to any of the provisions of this Agreement, then the non-defaulting Party shall serve written notice of such default upon the defaulting Party. If the default is not cured within the time provided in Section 501, then the defaulting Party shall be liable to the non-defaulting Party

for any damages caused by such default, and the non-defaulting Party may thereafter (but not before) commence an action for damages against the defaulting Party with respect to such default.

Section 507 Specific Performance

Subject to the notice and cure provisions of Section 501, if either Party defaults with regard to any of the provisions of this Agreement, then the non-defaulting Party shall serve written notice of such default upon the defaulting Party. If the default is not cured within the time provided in Section 501, then the non-defaulting Party, at its option, may thereafter (but not before) commence an action for specific performance of the terms of this Agreement pertaining to such default.

Section 508 Termination by Either Party

Either Party shall have the right, prior to the Construction Closing, to terminate this Agreement, by providing written notice to the other Party, in the event of a failure of any condition precedent to the occurrence of the Construction Closing as set forth in the Method of Financing, provided that such condition is for the benefit of and such failure is outside the control and without the fault of the Party seeking to terminate this Agreement, whereupon neither Party shall have any further rights against or liability to the other Party under this Agreement. Alternatively, the Party intended to be benefited by an unfulfilled condition precedent to the occurrence of the Construction Closing may elect, in its sole and absolute discretion, to provide a written waiver as to the timely or complete satisfaction of such condition.

Section 509 Termination by Owner

Prior to the Construction Closing, subject to the notice and cure provisions of Section 501, Owner shall have the right to terminate this Agreement, by providing written notice to the Agency, in the event of a default by the Agency pursuant to this Agreement. In addition, prior to the Construction Closing, Owner shall have the right to terminate this Agreement, by providing written notice to the Agency, if Owner is unable to secure either of the following types of financing for the Project, on or before February 29, 2012, despite Owner's diligent, good faith efforts to secure such financing: (i) the Low Income Housing Tax Credits (or the Tax Credit Equity Investor's purchase of Low Income Housing Tax Credits); or (ii) tax credit exchange funds administered through the American Recovery and Reinvestment Act of 2009.

Section 510 Termination by Agency

a. Subject to the notice and cure provisions of Section 501, the Agency shall have the right, prior to the Construction Closing, to terminate this Agreement in the event of a default by Owner or failure of any condition precedent to the occurrence of the Construction Closing which is within Owner's control, including but not limited to the following:

(1) a default by Owner hereunder or under any other agreement entered into in connection herewith, including but not limited to the following:

(a) Owner (or any successor in interest) assigns or attempts to assign this Agreement or any right therein, or transfers the Leasehold or the Leasehold Improvements (or any portion thereof or interest therein), except as permitted by this Agreement;

(b) there is substantial change in the ownership of Owner, or with respect to the identity of the parties in control of Owner, or the degree thereof contrary to the provisions of Section 107 hereof, provided that for purposes of this provision, a Permitted Transfer or changes in board membership from time to time shall not constitute a change in the ownership of Owner;

(c) Owner fails to submit any of the plans, drawings and related documents required by this Agreement on or before the applicable dates provided in the Schedule of Performance;

(d) Owner fails to submit an application to CTCAC by March 2010 for the Low Income Housing Tax Credit allocation, and until February 29, 2012, any subsequent application submission deadlines to CTCAC for the Low Income Housing Tax Credit allocation if Owner does not receive the Low Income Housing Tax Credit allocation in the prior allocation round;

(e) Owner fails to make diligent, good faith efforts to obtain the financing described in Section 205 hereof or fails to satisfy any other condition precedent to the occurrence of the Construction Closing as provided in the Method of Financing on or before the deadline established in the Schedule of Performance; or

(f) there is any other material default by Developer under the terms of this Agreement which is not cured within the time provided herein.

(2) Owner, having timely applied, fails to obtain the Low Income Housing Tax Credit allocation before February 29, 2012; or

(3) Owner is in default of any term or provision of the Housing Commission Loan Documents.

b. Subject to the notice and cure provisions of Section 501, the Agency shall have the right, after the Construction Closing but before the recordation of the Release of Construction Covenants, to terminate this Agreement, by providing written notice to Owner, in the event any of the following occur:

(1) a default by Owner hereunder or under any other agreement entered into in connection herewith, including but not limited to the following:

(a) Owner (or any successor in interest) assigns or attempts to assign this Agreement or any right therein, or transfers the Leasehold or the Leasehold Improvements (or any portion thereof or interest therein), except as permitted by this Agreement;

(b) there is substantial change in the ownership of Owner, or with respect to the identity of the parties in control of Owner, or the degree thereof contrary to the provisions of Section 107 hereof, provided that for purposes of this provision, a Permitted Transfer or changes in board membership from time to time shall not constitute a change in the ownership of Owner;

(c) Owner fails to commence construction of the Leasehold Improvements within the time provided in the Schedule of Performance, provided that Owner shall not have obtained an extension or postponement to which Owner may be entitled pursuant to Section 602 hereof; or

(d) Owner abandons or substantially suspends construction of the Leasehold Improvements for a period of at least sixty (60) consecutive days, provided that Owner has not obtained an extension or postponement to which Owner may be entitled pursuant to Section 602 hereof.

(2) Owner is in material default of any term or provision of the Housing Commission Loan Documents or any Senior Loan documents.

(3) Owner otherwise materially breaches this Agreement.

c. Notwithstanding anything to the contrary in this Agreement or any agreement executed in connection herewith, if this Agreement is terminated as provided in Section 510.b, then both of the following shall apply: (1) all outstanding amounts due under the Agency Note and Agency Deed of Trust, including accrued interest, shall become immediately due and payable by Owner to the Agency, and Owner shall pay all such amounts to the Agency within ten (10) days following such termination; and (2) subject to the rights of any Senior Lender, the Leasehold and the Property shall continue to be encumbered by the Agreement Affecting Real Property.

PART 6 GENERAL PROVISIONS

Section 601 Notices

Formal notices, demands and communications between the Parties shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the Parties set forth in Sections 105 and 106: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a “hard” copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or “kick-out” sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by mail.

Section 602 Enforced Delay: Extension of Time of Performance

a. Performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, third party litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the other Party, acts or failure to act of the City or any other public or governmental agency or entity (except that acts or failure to act of the Agency shall not excuse performance of the Agency), or any causes beyond the control and without the fault of the Party claiming an extension of time to perform. Notwithstanding the foregoing, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to a third-party challenge to either (i) any permit required for the construction and use of the Leasehold Improvements or (ii) compliance with CEQA or NEPA in connection with the Project, which challenge has not yet been resolved by settlement or final judgment.

b. An extension of time for any cause described in Section 602.a (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 the Party claiming such extension is sent to the other Party within thirty (30) calendar days after the Party claiming delay first obtains knowledge of the event giving rise to the delay. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the Party claiming such delay and interference delivers to the other Party written notice describing the event, its cause, when and how such Party obtained knowledge, the date and the event commenced, and the estimated resulting delay. Any Party claiming a Force Majeure Delay shall deliver such written notice within thirty (30) calendar days after it first obtains actual knowledge of the event giving rise to the delay.

c. Times of performance under this Agreement may also be extended in writing by the Agency Board, unless otherwise expressly permitted to be extended solely by the Agency Executive Director.

Section 603 Conflict of Interest

a. No member, official, or employee of the Agency or SEDC 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 represents and warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

Section 604 Nonliability of Agency Officials and Employees

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

Section 605 Inspection of Books and Records

Until full reconveyance of the Agency Deed of Trust, the Agency shall have the right at all reasonable times to inspect the books and records of Owner pertaining to the Property or the Leasehold as pertinent to the purposes of this Agreement, and such books and records shall be made available by Owner for the Agency's inspection at a location within the City.

Section 606 Approvals

a. Except as otherwise expressly provided in this Agreement, (i) approvals required of either Party in this Agreement, including the attachments hereto, shall not be unreasonably withheld or delayed; (ii) failure by either Party to approve a matter within the time provided for approval of the matter shall not be deemed a disapproval; and (iii) failure by either Party to disapprove a matter within the time provided for approval of the matter shall not be deemed an approval. All approvals shall be in writing.

b. Except as otherwise expressly provided in this Agreement, approvals required of the Agency shall be deemed granted by the written approval of the Agency's Executive Director. Notwithstanding the foregoing, the Agency Executive Director may, in his or her sole discretion, refer to the Agency Board any item requiring Agency approval; otherwise, "Agency approval" (or language of like import) shall mean and refer to approval by the Agency Executive Director. It is understood that, pursuant to the Agency/Housing Commission Agreement and the Reporting and Monitoring Agreement, the Agency will delegate to the Housing Commission certain responsibilities with respect to the monitoring and enforcement of (i) the development and use of the Leasehold Improvements and (ii) the occupancy of the Affordable Units by qualified, income-eligible Persons.

Section 607 No Real Estate Commissions

Neither Party shall be liable for any real estate commissions, brokerage fees or finder's fees which may arise from this Agreement. Each Party represents that it has engaged no broker, agent or finder in connection with this Agreement.

Section 608 Construction and Interpretation of Agreement

a. The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any Party. The Parties acknowledge and agree that this Agreement has been prepared jointly by the Parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each Party has been given the opportunity to independently review this

Agreement with legal counsel, and that each Party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement or any provision hereof, this Agreement shall not be interpreted or construed against the Party preparing it, and instead other rules of interpretation and construction shall be utilized.

b. If any term or provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefit by any Party hereunder, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the Parties that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement an enforceable clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible.

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

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

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

Section 609 Time of Essence

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

Section 610 No Partnership

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

Section 611 Compliance with Law

Owner agrees to comply with all statutes, ordinances, regulations and other legal requirements now in force, or which may hereafter be in force, of all municipal, county, State

and federal authorities, pertaining to the development and use of the Leasehold Improvements, as well as operations conducted thereon. The judgment of any court of competent jurisdiction, or the admission of Owner or any lessee or permittee in any action or proceeding against them, or any of them, whether the Agency be a party thereto or not, that Owner, lessee or permittee has violated any such legal requirements in the development and use of the Leasehold Improvements shall be conclusive of that fact as between the Parties.

Section 612 Binding Effect

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

Section 613 No Third Party Beneficiaries

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

Section 614 Authority to Sign

Owner hereby represents that the person or 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.

Section 615 Incorporation by Reference

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

Section 616 Counterparts

This Agreement may be executed by the Parties in multiple counterparts, which when taken together shall constitute one single instrument.

Section 617 Attorneys' Fees

If either Party initiates any litigation or other legal proceeding to interpret or enforce any provision of this Agreement, then the prevailing Party in such litigation or proceeding shall be entitled to recover its reasonable attorneys' fees and other legal expenses from the non-prevailing Party, in addition to any other damages or remedies to which the prevailing Party is entitled.

PART 7 ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

a. This Agreement is executed in duplicate originals, each of which is deemed to be an original. This Agreement, including all of the attachments appended hereto, constitutes the entire understanding and agreement of the Parties.

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

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

d. Except as otherwise expressly provided in this Agreement, the provisions of this Agreement shall remain in full force and effect with respect to the Leasehold and the Leasehold Improvements before and after the Construction Closing and continuing until Completion or full reconveyance of the Agency Deed of Trust, whichever occurs later.

PART 8 TIME FOR ACCEPTANCE OF AGREEMENT BY AGENCY

This Agreement, when executed by Owner and delivered to the Agency, must be authorized, executed and delivered by the Agency within sixty (60) days after the date of signature by Owner, as shown below in Owner's signature block. If the Agency has not authorized, executed and delivered to Owner the execution version of this Agreement within such 60-day period, then Owner may terminate this Agreement upon delivery of written notice to the Agency. In any event, Owner's termination right under the immediately preceding sentence shall not apply after the Agency has authorized, executed and delivered to Owner the execution version of this Agreement without the Agency having first received a written notice of termination from Owner. The effective date of this Agreement ("Effective Date") shall be the date on which this Agreement has been executed by the Agency, as shown below in the Agency's signature block.

[remainder of this page intentionally left blank]

[signatures on following page]

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

AGENCY:

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

Dated: _____

By: _____
Janice L. Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY:


JAN I. GOLDSMITH
Agency General Counsel

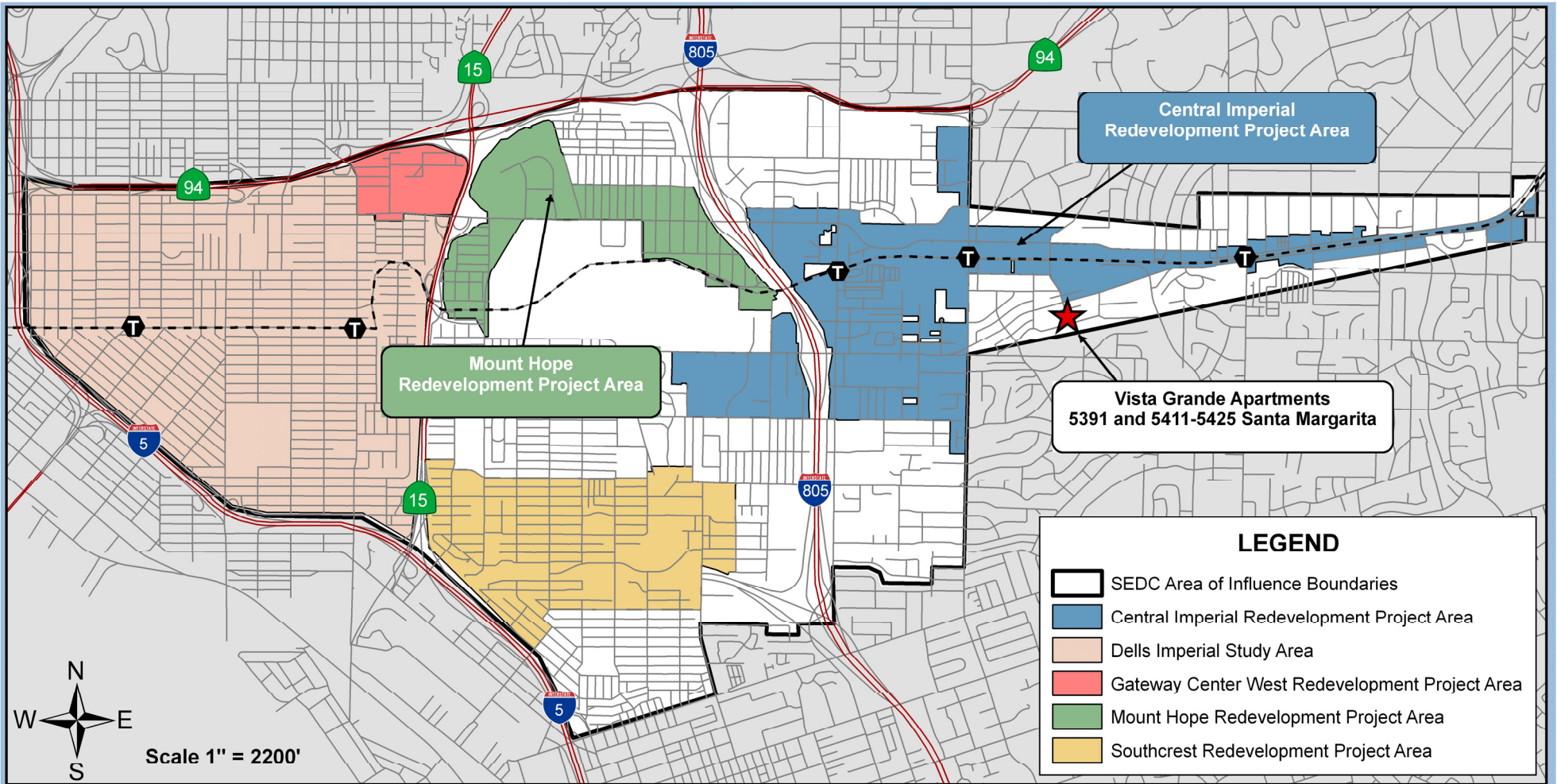
By: _____
Kevin Reisch
Deputy General Counsel

OWNER:

**WAKELAND HOUSING AND
DEVELOPMENT CORPORATION,**
a California nonprofit corporation

Dated: February 9, 2010

By: 
Kenneth L. Sauder
President



January 2010

Site Map
Vista Grande Apartments
5391 and 5411-5425 Santa Margarita Street
San Diego, CA 92114

Attachment
No. 1

ATTACHMENT NO. 2

LEGAL DESCRIPTION OF THE PROPERTY

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

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

ATTACHMENT NO. 3

METHOD OF FINANCING

This Method of Financing is attached to the Owner Participation Agreement (the “OPA”) entered into by and between the Redevelopment Agency of the City of San Diego (the “Agency”) and Wakeland Housing and Development Corporation, a California nonprofit corporation (“Owner”), pertaining to the rehabilitation of the existing 49-unit Vista Grande apartment complex located within SEDC’s area of influence, as described in the OPA. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA.

The Sources of Financing for the Project will include a combination of institutional loans, the Agency Loan, the Housing Commission Loan and Owner Equity derived from the syndication of the Low Income Housing Tax Credits (or a grant from CTCAC in lieu of tax credit equity as permitted under Section 205.a of the OPA).

The Agency Loan shall be in an amount not to exceed \$781,073, and shall be disbursed in accordance with the Disbursement Agreement (Attachment No. 16 to the OPA), and based upon Agency’s receipt of invoices and other information and documentation requested or required by the Agency Executive Director. The Agency Loan shall be repaid from “Residual Receipts” (as defined in the Agency Note), to the extent such Residual Receipts are available and allocable to the Agency in accordance with the Agency Note and this Method of Financing.

It is anticipated that, before the Construction Closing, there may be relatively minor changes in the estimated amount of Rehabilitation Costs, the estimated amount of Sources of Financing, or other figures presently reflected in the Project Budget. Accordingly, the Agency Executive Director shall have the authority to make reasonable written modifications to this Method of Financing that may be requested by Owner or any Senior Lender, provided that any such modification does not (i) adversely affect the receipt of any benefit or right of the Agency under the OPA (including any attachments thereto), including without limitation subordination of the affordability covenants in the OPA and the Agreement Affecting Real Property, (ii) increase any Agency obligation or liability under the OPA (including any attachments thereto), or (iii) result in an increase of greater than ten percent (10%) in the amount by which the Agency Loan is subordinated to any Senior Loan, or otherwise result in a greater subordination of the Agency Loan than permitted by the OPA and this Method of Financing. Upon the reasonable request of the Tax Credit Equity Investor or any Senior Lender, the Agency Executive Director shall execute from time to time such reasonable modifications, interpretations and estoppel certificates to the extent they are consistent with the terms of the OPA (including, without limitation, this Method of Financing).

1. Total Acquisition and Rehabilitation Costs. The Parties estimate that the aggregate cost of the Housing Commission’s acquisition of the Property and Owner’s completion of the Leasehold Improvements will be approximately \$13,882,293 during the construction financing period and \$14,834,977 during the permanent financing period. The Sources of Financing during the construction financing period and the permanent financing period are set

forth in Section 2 of this Method of Financing.

2. Sources of Financing. The Housing Commission will acquire the Property with its own funds, and Owner (or its successor or assignee) will acquire the Leasehold from the Housing Commission. The Parties anticipate that the costs of acquiring the Property and completing the Leasehold Improvements (collectively, “Rehabilitation Costs”) shall be financed with a combination of loans and equity, as set forth in the following chart and as described below, which chart shall be updated if the costs of developing and constructing the Leasehold Improvements change, or if the financing changes, all subject to the Agency’s approval:

Source of Funds	Construction	Permanent
Tax Credit Equity (4% plus 9% credits)	\$1,350,168	\$6,750,839
Institutional Loan	\$7,939,052	\$2,871,942
Deferred Developer Fee	\$0	\$300,000
Project Income	\$0	\$319,123
Housing Commission Loan	\$2,967,000	\$2,967,000
Agency Loan	\$781,073	\$781,073
Housing Commission’s Property Purchase	\$845,000	\$845,000
TOTALS	\$13,882,293	\$14,834,977

2.1. CONSTRUCTION PERIOD FINANCING

- a. Construction Loan. The Construction Loan in the original principal aggregate amount of approximately \$7,939,052 will be used to finance a portion of the Rehabilitation Costs and will be repaid from a portion of the Permanent Sources as set forth in Section 2.2 herein.
- b. Housing Commission Loan. The Housing Commission Loan in the original principal aggregate amount not to exceed \$2,967,000 will be used to finance a portion of the Rehabilitation Costs.
- c. Agency Loan. The Agency Loan in the original principal aggregate amount not to exceed \$781,073 will be used to finance a portion of the Rehabilitation Costs, subject to the following:
 - (1) The Agency Loan proceeds shall be used solely for the purpose of paying a portion of the Rehabilitation Costs attributable to the acquisition and rehabilitation of the Affordable Units and the development and construction of the Community Center that will exclusively serve and benefit occupants of the Affordable Units, as identified in the Project Budget (Attachment No. 7 to the OPA).

- (2) Upon satisfaction of the conditions precedent to the Construction Closing set forth herein at Section 7 below, \$702,965.70 of the Agency Loan (i.e., 90% of the maximum loan balance) shall be disbursed prior to Completion as set forth in the disbursement schedule attached as Exhibit B to the Disbursement Agreement, and the balance of \$78,107.30 (the 10% “Retention” under the Disbursement Agreement) shall be disbursed upon completion of all conditions precedent as set forth in the Disbursement Agreement and Section 324 of the OPA.
- (3) The term of the Agency Loan shall be fifty-five (55) years from the Occupancy Date (as defined in the Agency Note);
- (4) The Agency Loan shall be secured by the following documents (collectively, the “Security Instruments”): the Agency Deed of Trust (Attachment No. 9 to the OPA); the Assignment of Rents (Attachment No. 11 to the OPA); the Assignment of Agreements (Attachment No. 12 to the OPA); and the UCC-1 Financing Statement (Attachment No. 14 to the OPA). The Security Instruments shall be subject to the Agency/Housing Commission Agreement (Attachment No. 22 to the OPA) and subordinate to the Construction Loan, the Permanent Loan, and any deed of trust securing any Senior Loan and any regulatory agreement to be recorded in connection with the Low Income Housing Tax Credits.
- (5) The outstanding balance of the Agency Loan shall bear simple interest at the rate of three percent (3.0%) per annum.
- (6) Except as otherwise provided in the Agency Note, the Agency Loan shall be repaid, to the extent of the “Public Lender’s Share of Residual Receipts” (as defined in the Agency Note), which is equal to 50% of the total Residual Receipts. The Agency’s Share of Residual Receipts shall equal the Agency’s pro rata share of the Public Lenders’ Share of Residual Receipts based upon the percentage equal to the outstanding balance of the Agency Loan divided by the total outstanding balance of all public agency loans provided for development of the Leasehold Improvements.
- (7) The Agency Loan shall be subject to repayment or reduction upon the closing of the Permanent Loan (whether by conversion of the Construction Loan to a Permanent Loan, refinancing of the Construction Loan, recordation of a Permanent Loan Deed of Trust or otherwise) in an amount equal to the Agency’s proportional share of any “Cost Savings” and/or in an amount equal to any

“Additional Proceeds” (as provided, respectively, in Sections 2.1.f and 2.2.g below).

- (8) At the Construction Closing, Owner’s obligation to repay the Agency Loan (together with accrued interest) shall be evidenced by the Agency Note, in the principal amount of \$781,073.
 - (9) If the OPA is terminated pursuant to Section 510 of the OPA, all outstanding amounts due under the Agency Note, including accrued interest, shall become immediately due and payable by Owner to the Agency, and Owner shall pay all such amounts to the Agency within ten (10) days following such termination.
- d. Gap Assistance. Notwithstanding any other provisions of this Agreement, the Parties acknowledge that the Agency Loan is intended to be gap assistance, not to exceed the amount needed to bridge the gap between the total Rehabilitation Costs (as defined in the OPA) and the maximum loans obtained by Owner plus Owner’s Equity, but in any event not to exceed the respective dollar amounts set forth in this Method of Financing. In the event that both the actual amount of the Rehabilitation Costs is less than the total amount of Rehabilitation Costs set forth in the final Agency-approved Project Budget, and the permanent Sources of Financing for the Rehabilitation Costs are greater than the actual amount of the Rehabilitation Costs, then the Cost Savings (as defined below) shall be applied to reduce the principal amount of the Agency Loan as provided in Section 2.1.f below, and the Additional Proceeds (as defined below) shall be applied to repay the Agency Loan, as provided in Section 2.2.g below. Except as otherwise provided by the OPA (including Section 204.f thereof), the Agency Deed of Trust shall not be subordinated to such increased amount of any construction and permanent Sources of Financing beyond the sources and respective amounts allowed by the OPA and this Method of Financing, without the prior written approval of the Agency Board.
- e. Owner Equity. Equity from Owner (the “Owner Equity”) will be used to finance a portion of the Rehabilitation Costs and will consist of approximately \$1,350,168, to be provided by the Tax Credit Equity Investor, derived from Low Income Housing Tax Credits. Owner shall be responsible for providing any additional funds which may be needed to pay for cost overruns and contingencies not otherwise funded by the construction Sources of Financing described above.
- f. Cost Savings. In the event actual Rehabilitation Costs, as determined by a cost certification performed not later than six (6) months following Completion of the Project, at Owner’s expense, by an independent certified public accountant acceptable to the Agency (or its authorized

designee), are less than the total amount of Rehabilitation Costs set forth in the final Agency-approved Project Budget, then fifty percent (50%) of such Cost Savings shall be used to pay the Deferred Developer Fee and the other fifty percent (50%) of such Cost Savings shall be paid to, or shall reduce the respective funding contributions of, each of the following entities in proportion to the pro rata share of their respective total funding contribution or financial commitment to the total Rehabilitation Costs: (i) the Agency, to reduce the principal amount of the Agency Loan; (ii) the Housing Commission, to reduce the principal amount of the Housing Commission Loan, provided that, upon the Construction Closing, the Agency and the Housing Commission enter into the Agency/Housing Commission Agreement; (iii) CTCAC, in the event CTCAC approves a grant of tax credit exchange funds in lieu of tax credit equity; and (iv) the Permanent Lender, to reduce the principal amount of the Permanent Loan. The allocation of Cost Savings described in this paragraph shall not apply in favor of the Agency, the Housing Commission, CTCAC or the Permanent Lender, or shall be adjusted as reasonably necessary, to the extent that such allocation is prohibited by any established federal or State law, regulation or policy governing the use of any Sources of Financing issued by federal or State agencies or will cause an adverse effect under any established federal or State law, regulation or policy with respect to the calculation of the “tiebreaker” score attributable to the application submitted by Owner to CTCAC seeking an allocation of Low Income Housing Tax Credits toward the Project.

2.2 PERMANENT SOURCES OF FINANCING

- a. Permanent Loan. The Permanent Loan from an institutional lender in the original principal aggregate amount of approximately \$2,871,942, secured by one or more senior priority deeds of trust, will be one of the permanent Sources of Financing for the Project.
- b. Housing Commission Loan. The Housing Commission Loan in the original principal aggregate amount not to exceed \$2,967,000 will be one of the permanent Sources of Financing.
- c. Agency Loan. The Agency Loan in the principal amount not to exceed \$781,073, subject to adjustment to reflect any Cost Savings described in Section 2.1.f above, or Additional Proceeds described in Section 2.2.g below, will be one of the permanent Sources of Financing.
- d. Tax Credit Equity. The amount of approximately \$6,750,839, to be provided by the Tax Credit Equity Investor, derived from Low Income Housing Tax Credits, will be one of the permanent Sources of Financing.

- e. Deferred Developer Fee. Owner agrees to defer its receipt of a portion of the Developer Fee, in the amount of \$300,000 (the “Deferred Developer Fee”), which amount is subject to adjustment by the Agency Executive Director in accordance with the Agency Note. The Deferred Developer Fee constitutes that portion of the Developer Fee to be paid to Owner from operating revenues, before calculating Residual Receipts, with the balance of the Developer Fee in the amount of \$830,000 payable to Owner during construction of the Project, in accordance with the following schedule of disbursements or pursuant to the Construction Lender’s schedule of disbursements, it being agreed that the schedule of disbursement to be followed for each milestone set forth below shall be whichever schedule of disbursement (Agency’s or Construction Lender’s) is more restrictive at each such milestone such that the following schedule of disbursements is the maximum disbursement of fees at each milestone:
- i. Up to 20% upon Construction Closing;
 - ii. Up to 30% no sooner than 50% of disbursement of the Agency Loan in accordance with the Disbursement Agreement (Attachment No. 16 to the OPA);
 - iii. Up to 25% no sooner than 75% of disbursement of the Agency Loan in accordance with the Disbursement Agreement (Attachment No. 16 to the OPA); and
 - iv. The balance upon Completion.
- f. Cost Overruns. Owner shall be responsible for providing any additional funds which may be needed to pay for cost overruns and contingencies not otherwise funded by the permanent Sources of Financing described above.
- g. Additional Proceeds. In the event and to the extent any of the Sources of Financing for the Project exceed the amounts shown in this Method of Financing and the Project Budget, then the resulting Additional Proceeds shall first be used to pay for any increased costs of the Project as set forth in a revised Project Budget approved in writing by the Agency Executive Director for which there are no other Sources of Financing, and thereafter, fifty percent (50%) of such Additional Proceeds shall be used to pay the Deferred Developer Fee and the other fifty percent (50%) of such Additional Proceeds shall be used to reduce or repay the Agency Loan, and provided that, upon the Construction Closing, the Housing Commission and the Agency enter into that certain Agency/Housing Commission Agreement, the applicable portion of such remaining Additional Proceeds shall be used to reduce or repay the Housing Commission Loan and the Agency Loan in proportion to their respective

original principal balances. Based on the anticipated original principal balances of such two loans, out of the 50% of Additional Proceeds allocated to the Agency and the Housing Commission, 20.84% of the such Additional Proceeds shall be paid to the Agency to reduce the principal amount of the Agency Loan and 79.16% of such Additional Proceeds shall be paid to the Housing Commission to reduce the principal amount of the Housing Commission Loan. Owner shall make any payment of Additional Proceeds to the Agency within thirty (30) days following written request from the Agency or its authorized designee. Additional Proceeds shall be deemed to exist to the extent Owner obtains (i) a Permanent Loan in a principal amount in excess of the estimated amount of the Permanent Loan shown in the Sources of Financing table in Section 2 above, (ii) any additional grant funds (including, without limitation energy efficiency rebates), (iii) equity raised from the sale of Low Income Housing Tax Credits in excess of the estimated amount of the Low Income Housing Tax Credits shown in the Sources of Financing table in Section 2 above, or (iv) proceeds from the refinancing of the initial Permanent Loan in excess of (y) the amount needed to pay in full the then-current balance of the Permanent Loan, plus (z) any amount actually used by Owner to repair, maintain, upgrade, renovate or perform similar work on the Leasehold or Project in a manner consistent with the terms and conditions of the OPA and Agreement Affecting Real Property as reasonably determined by the Agency Executive Director. The allocation of Additional Proceeds described in this paragraph shall not apply in favor of the Agency or the Housing Commission, or shall be adjusted as reasonably necessary, to the extent that such allocation is prohibited by any established federal or State law, regulation or policy governing the use of any Sources of Financing issued by federal or State agencies or will cause an adverse effect under any established federal or State law, regulation or policy with respect to the calculation of the “tiebreaker” score attributable to the application submitted by Owner to CTCAC seeking an allocation of Low Income Housing Tax Credits toward the Project.

3. Project Budget. The Parties anticipate that all Rehabilitation Costs shall be as set forth in the Project Budget attached to the OPA as Attachment No. 7, and as may be amended pursuant to Section 7.f of this Method of Financing (the “Project Budget”). Any change order in excess of Fifty Thousand Dollars (\$50,000) or any amendment to the total Project Budget in any amount (each a “Revision”) shall require the approval of the Agency Executive Director in addition to any approval required by any Senior Lender; provided that the principal amount of the Agency Loan, or the subordination thereof to any Senior Loan, shall not be increased beyond the amount permitted by this Method of Financing without the express approval of the Agency Board in its sole and absolute discretion. Except as provided in the immediately preceding sentence, the Agency Executive Director 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, the Agency receives such explanation 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 Rehabilitation 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 without greater subordination of the Agency Loan, except as expressly permitted by the OPA or this Method of Financing or as otherwise approved by the Agency Board, and (ii) the requested increase in the Project Budget is to be used to pay approved Rehabilitation 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 period financing described in Section 2.1, above, shall be sufficient at all times to pay all Rehabilitation Costs as set forth in the most recently approved Project Budget, and the sum of the sources of permanent financing described in Section 2.2, above, shall be at least equal at all times to the sum of the sources of construction financing plus all Rehabilitation Costs. Within the time provided therefor in the Schedule of Performance (Attachment No. 5 to the OPA), Owner shall submit, for approval by the Agency Executive Director, evidence of such financing as set forth in Section 205.a of the OPA. The Agency Executive Director shall not unreasonably withhold his or her approval. Owner shall provide written certification to the Agency that such financing documents are correct copies of the actual documents to be executed by Owner on or before the Construction Closing Date. To the extent that the sum of the sources of funds described in Section 2.1 above is insufficient to pay all Rehabilitation Costs, Owner shall demonstrate the availability prior to the Construction Closing of increased Owner's Equity or other funds at least equal to the shortfall.

5. Subordination. The Agency Deed of Trust shall be subordinate to the Construction Loan, the Permanent Loan, and any deed of trust securing any Senior Loan and any regulatory agreement to be recorded in connection with the Low Income Housing Tax Credits, and also shall be subject to the Housing Commission Loan and the Housing Commission Ground Lease (subject to the Agency/Housing Commission Agreement attached to the OPA as Attachment No. 22). The Agency Executive Director shall execute such subordination agreements as may be consistent with this Method of Financing and the OPA to subordinate the Agency Deed of Trust to the lien of the deed of trust securing any Construction Loan, Permanent Loan or Senior Loan, provided such subordination agreements substantially conform in form and substance to the

form of Subordination Agreement attached to the OPA as Attachment No. 10. Any modifications to this Method of Financing and the OPA that do not substantially conform in a substantive manner with Attachment No. 10 of the OPA shall be submitted to the Agency Board for its approval.

6. No Subordination of Affordability Covenants. Notwithstanding anything to the contrary herein or in the OPA, the affordability covenants in the Agreement Affecting Real Property (Attachment No. 6) shall be senior to the security instruments for all Senior Loans, including the Permanent Loan Deed of Trust.

7. Conditions Precedent to Construction Closing. The Construction Closing and disbursement of any portion of the Agency Loan are conditioned upon the provisions of the Disbursement Agreement and the occurrence of each of the conditions set forth below on or prior to the scheduled Construction Closing Date as set forth in the Schedule of Performance (Attachment No. 5 to the OPA). Except as otherwise expressly provided herein, each such condition shall be for the sole benefit of the Agency, and full satisfaction of any condition may be waived only through a written instrument signed by the Agency. When all conditions precedent have been satisfied to the Agency Executive Director's satisfaction, the Agency Executive Director shall execute and submit to the escrow agent for the Construction Closing a certificate stating that all conditions precedent to recording of the documents have been satisfied or waived, if such be the case.

- a. Leasehold. Owner shall have accepted the Housing Commission's conveyance of the Leasehold.
- b. Title Insurance Policy. The Title Company shall be irrevocably committed to issue the Title Policy insuring the Agency Deed of Trust as a third lien on the Leasehold subordinate only to the lien of the Construction Loan and Housing Commission Loan Deed of Trust. Owner shall pay the cost of any premiums for the Title Policy.
- c. Recording Instructions. The escrow agent for the Construction Closing shall have approved such supplemental recording instructions as may have been prepared on behalf of the Agency.
- d. Determination of Principal Note Amount. The Agency and Owner shall have agreed upon the principal amount of the Agency Note.
- e. Final Construction Drawings. Owner shall have submitted to the Agency, and the Agency or its authorized designee shall have approved, Final Construction Drawings for the Project, to such Final Construction Drawings are required under Section 306 of the OPA.
- f. Project Budget. Owner shall have delivered to the Agency, and the Agency or its authorized designee shall have approved, a final Project Budget or any Revisions to the final Project Budget attached to the OPA.

which have been approved by the Agency Executive Director, demonstrating to the satisfaction of the Agency the availability of sufficient funds to pay all Rehabilitation Costs.

- g. Construction Contract. Owner shall have delivered to the Agency, and the Agency or its authorized designee shall have approved, a general construction contract between Owner and a licensed general contractor, covering all construction required by the OPA and the approved Final Construction Drawings, in an amount that is consistent with the final Project Budget, together with a construction schedule showing a detailed trade-by-trade breakdown of the estimated periods of commencement and completion of construction and complete fixturization of the Project, demonstrating that Completion of the Project will occur within the time provided in the Schedule of Performance .
- h. Evidence of Financing. Owner shall have submitted to the Agency, and the Agency or its authorized designee shall have approved, the evidence of financing as set forth in Section 205 of the OPA, and all documents required to be executed in connection with such financing shall have been duly executed, acknowledged and delivered in accordance with the OPA.
- i. Relocation Plan. The Relocation Plan shall have been approved by the City Council and the Agency Board or, alternatively, the Agency Executive Director and Agency General Counsel shall have determined that the approval of a Relocation Plan is not required for the Project under Relocation Laws.
- j. Work Force Report/EO Plan and Report. Owner shall have prepared and delivered to the Agency, and the Agency or its authorized designee shall have approved, its Work Force Report or Equal Opportunity Plan, and Initial Equal Opportunity Report, to the extent required by the OPA.
- k. Permits. Owner shall have delivered to the Agency a list of all permits required for the construction of the Leasehold Improvements, and shall have demonstrated that all variances, entitlements and approvals (if any) have been obtained and that all conditions for the issuance of all necessary permits have been satisfied (with the exception of payment of fees, which payment is provided for in the approved Project Budget). If only an excavation, grading or foundation permit is to be issued at the Construction Closing, Owner shall have delivered to the Agency a “will issue” letter from the City evidencing City’s commitment to issue building permits for the Project. The disbursement of the Agency Loan is subject, among other conditions, to the issuance of all building permits required by the City to allow Owner’s development and construction of the Leasehold Improvements. To the extent that Owner will complete the Leasehold

Improvements in phases on a building-by-building basis, the Agency Executive Director may, acting in its reasonable discretion, waive the requirement for issuance of certain applicable permits before the Construction Closing, so long as the permits to be issued at a later date are ministerial in nature and Owner represents and warrants to the Agency that there are no material impediments to the future issuance of such permits to the best of Owner's knowledge as of the time of the Construction Closing.

- l. Agency/Housing Commission Agreement. The Housing Commission and the Agency shall have executed the Agency/Housing Commission Agreement in substantially the same form as Attachment No. 22 to the OPA, and the fully executed Agency/Housing Commission Agreement, or a memorandum thereof, shall have been recorded against the fee title to the Property or, at a minimum, placed in escrow for such purpose.
- m. No Default. Owner shall not be in default under any provision of the OPA or any agreement executed in connection therewith or the Housing Commission Loan Documents.
- n. Owner's Formation Documents. Owner shall have delivered to the Agency sufficient documentation relating to the corporate, partnership, limited liability or other similar status of Owner and its general partner(s), including, without limitation and as applicable: limited partnership agreements and any amendments thereto; articles of incorporation; Limited Liability Company Articles of Incorporation (LLC-1); Statement of Information and Operating Agreement (including any amendments thereto); copies of all resolutions or other necessary actions taken by such entity to authorize the execution of the OPA and related documents; a certificate of status issued by the California Secretary of State; and a copy of any Fictitious Business Name Statement, if any, as published and filed with the Clerk of San Diego County.
- o. Insurance. Owner shall have submitted to the Agency, and the Agency shall have approved, evidence of the insurance policies required by the OPA, naming as additional insureds the following:

"The City of San Diego, the Redevelopment Agency of the City of San Diego, Southeastern Economic Development Corporation, and their respective officers, employees, contractors and agents."
- p. Documents. The Agency, Owner and other parties, as appropriate, shall have executed, and filed or recorded, as appropriate, the following documents in accordance with the OPA:

- (1) Agreement Affecting Real Property (to be recorded against both the Leasehold and the fee title to the Property);
- (2) Notice of Affordability Restrictions (to be recorded against both the Leasehold and the fee title to the Property);
- (3) Agency Note;
- (4) Agency Deed of Trust;
- (5) Assignment of Rents;
- (6) Assignment of Agreements;
- (7) Environmental Indemnity;
- (8) UCC-1 Financing Statement;
- (9) Subordination Agreement;
- (10) Disbursement Agreement;
- (11) Reporting and Monitoring Agreement; and
- (12) Agency/Housing Commission Agreement (to be recorded against the fee title to the Property)

ATTACHMENT NO. 4

SCOPE OF DEVELOPMENT

This Scope of Development is attached to the Owner Participation Agreement (the “OPA”) entered into by and between the Redevelopment Agency of the City of San Diego (the “Agency”) and Wakeland Housing and Development Corporation, a California nonprofit corporation (“Owner”). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA.

Project Description:

The Project involves Owner’s rehabilitation of the existing 49-unit Vista Grande apartment complex located within SEDC’s area of influence. Upon completion of the rehabilitation work, the apartment complex will consist of 48 income-restricted rental units, one manager’s unit at market rent, and various related amenities and improvements. The Housing Commission owns or imminently will own the Property on which the apartment complex is situated. The Housing Commission and Owner will enter into the Housing Commission Ground Lease, by which the Housing Commission, as owner of fee title to the Property, will grant the Leasehold in Owner’s favor for a period of 65 years. During the term of the Housing Commission Ground Lease, Owner will own the Leasehold Improvements (consisting of the Leasehold and all existing and future improvements on the Property), except that the Housing Commission will have the option to purchase the Leasehold Improvements at the end of the tax credit compliance period applicable to Owner’s use of Low Income Housing Tax Credits for the rehabilitation work.

Owner shall cause the timely completion of substantial rehabilitation work at the Property, consistent with the work recommended in the Physical Needs Assessment for the Property dated May 20, 2009, prepared by EMG. The Leasehold Improvements will include, but will not be limited to, the following components: (i) improvements to the interior of the 49 Residential Units, including kitchen and bathroom remodeling, insulation, energy-efficient door and window replacements, ceiling fans, floor coverings, appliances, water-efficient plumbing fixtures, painting, and free internet access; (ii) improvements to exterior components, including painting of building exteriors, installation of a new access gate, additional landscaping, re-roofing, improved site drainage and walkway repairs; (iii) renovation and reconfiguration of the existing, two-story building located at 5411 Santa Margarita Street into a building of the same total square footage containing, among other things, the ADA-accessible Community Center comprising approximately 1,740 square feet of space on the first floor (including a community room, a kitchen, a laundry facility, a computer center with free internet access and a leasing/property management office) and two 2-bedroom units on the second floor, one of which will include a “great room” and will be used by the on-site property manager; (iv) construction of an outdoor/patio area adjoining the Community Center; (v) installation of an energy efficient system in the building that contains the Community Center; (vi) incorporation of accessibility improvements at the Property, including improvements to the playground area and the large sloped open space area, upgrade of ground level units equal to 5% of the total units for handicapped accessibility and upgrade of ground level units equal to an additional 2% of the total units to allow accessibility for individuals with sight and hearing impairments;

(vii) resurfacing and striping of the parking lot to include three handicapped accessible spaces; (viii) replacement of all staircases at the Property; (ix) installation of an enhanced security system based on input from the Police Department as well as a possible community substation for the Police Department within the Project Site; (x) completion of mold remediation work as needed; and (xi) resurfacing and re-striping of the existing on-site surface parking lot areas. The accessibility upgrades to 5% of the total units for handicapped accessibility, as described in clause (vi) of the immediately preceding sentence, shall involve Owner's commercially reasonable efforts to incorporate Universal Design components, consistent with Section 304.c of the OPA.

The Community Center shall be utilized exclusively for the benefit of residents of the Affordable Units. The building in which the Community Center is to be located will utilize materials that increase energy efficiency by at least 15% above the current, baseline level.

To the extent commercially reasonable, Owner shall seek to maximize opportunities for energy efficiency, water efficiency, and improved air quality in the Project, such as the following components and improvements:

Energy efficiency:

- All EnergyStar appliances – dishwashers, ceiling fans, common area washers/dryers
- Tankless water heaters
- New roof with insulation
- Energy efficient windows
- Insulated exterior doors
- High-efficacy lighting, interior and exterior
- Solar heating or electrical system to offset a portion of the common area heating or electrical uses

Water efficiency:

- High-efficacy irrigation combined with drought-tolerant plantings
- Low water use fixtures, including faucets, showerheads, toilets, and tankless water heaters

Non-toxic materials and improved air quality:

- No or low-VOC mixtures for all paints, adhesives, and finishes
- Non-toxic flooring – reduced use of carpet, GreenLabel+ carpet specified where used, and low-VOC flooring specified in all other cases
- Improved kitchen ventilation
- Automatic humidity sensors/ventilators in all bathrooms
- Paperless drywall and polystyrene baseboard in all wet areas
- “Green” termite and ant control protocols
- “Green” landscape protocols – relying on natural and organic fertilizers, weed control, and pesticides, etc.

Affordable Housing:

The 49 Residential Units will include one (1) Unrestricted Unit (two-bedroom) to be used by the resident manager of the Project; fourteen (14) Affordable Units to be rented to and occupied by Low Income households at an Affordable Rent; twenty-nine (29) Affordable Units to be rented to and occupied by Very Low Income households at an Affordable Rent; and five (5) Affordable Units to be rented to and occupied by Extremely Low Income households at an Affordable Rent. More specifically, the 48 Affordable Units will consist of: 2 two-bedroom units (1 for a Very Low Income household and 1 for an Extremely Low Income household); 1 three-bedroom unit (for a Very Income household); and 45 four-bedroom units (14 for Low Income households, 27 for Very Low Income households, and 4 for Extremely Low Income households).

Project Approvals and Construction Standards:

Owner shall obtain all permits and entitlements as may be necessary for completion of the Leasehold Improvements, and shall comply with all applicable local, State and federal laws and regulations in connection with the performance of all work on the Property. Without limiting the generality of the immediately preceding sentence, (i) the Project shall comply with the City's building code and all other applicable local codes, construction standards, ordinances and zoning ordinances in effect at the time of Completion, (ii) the Project shall be conducted in a decent, safe and sanitary manner, and (iii) the Project shall comply with the following regulations, to the extent such regulations apply to the Project: (a) the accessibility requirements set forth at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. section 794); and (b) the design and construction requirements for covered multi-family dwellings (defined at 24 CFR 100.201), as such requirements are set forth at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. sections 3601-3619).

Owner shall be responsible for payment of all fees required by the City or other public agency in connection with the Leasehold Improvements.

To the extent commercially reasonable, Owner shall ensure that the Leasehold Improvements comply with the Multi-Family Development Guidelines Update dated September 2009, approved by the Agency Board pursuant to Resolution No. R-04461 effective November 24, 2009, and generally implemented by SEDC staff in connection with development projects located within SEDC's area of influence that seek the Agency's financial assistance. Owner shall coordinate reasonably with SEDC staff in an effort to achieve compliance with such guidelines.

The Parties agree to consider in good faith written changes to this Scope of Development to the extent necessary to conform to any requirements imposed by other regulatory or permitting authorities. The Agency Executive Director is permitted to make such changes on behalf of the Agency without further or additional review or consideration by the Agency Board.

Construction Drawings:

To the extent required by Section 306 of the OPA, Owner shall submit to Agency, for approval by the Agency Executive Director, 50% Construction Drawings and Specifications and Final Construction Drawings and Specifications which implement the design and intent of the OPA and this Scope of Development.

Development Identification Signs:

Prior to commencement of any work on the Property, Owner shall prepare and install, at Owner's cost and expense, at least one sign on the Property 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 design of the sign as well as its proposed location shall be submitted to the Agency Executive Director for review and written approval prior to installation. Owner shall obtain a current roster of Agency members before any sign is manufactured. The sign shall at a minimum include:

- Illustration of the development
- Development name
- Owner
- The text:

A project of the Redevelopment Agency of the City of San Diego

Mayor Jerry Sanders

Council Members: Sherri Lightner
 Kevin Faulconer
 Todd Gloria
 Tony Young
 Carl DeMaio
 Donna Frye
 Marti Emerald
 Ben Hueso

- Completion Date _____
- For Information, Call _____

ATTACHMENT NO. 5

SCHEDULE OF PERFORMANCE

I. FINANCING COMMITMENTS AND CLOSING

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| 1. <u>Tax Credits</u> . Owner shall demonstrate to the Agency that it has timely applied to the California Tax Credit Advisory Committee (“TCAC”) for a Four Percent Tax Credit allocation and a Nine Percent Tax Credit allocation for the Project. | Every round starting from the March 2010 round and, to the extent unsuccessful, continuing until February 29, 2012. |
| 2. <u>Conditions Precedent to Construction Closing</u> . Owner shall satisfy all conditions precedent to the Construction Closing as set forth in the OPA and in <u>Section 7</u> of the Method of Financing. | Not later than five (5) calendar days prior to the scheduled Construction Closing date. |
| 3. <u>Construction Closing</u> . The Construction Closing shall occur. | Following satisfaction all of conditions precedent to disbursement of the Agency Loan as set forth in the OPA and in Section 7 of the Method of Financing, but in any event no later than February 29, 2012. |
| 4. <u>Evidence of Financing</u> . Owner shall submit to the Agency evidence of financing described in the Method of Financing and <u>Section 205.a</u> of the OPA. | Not later than thirty (30) calendar days prior to the scheduled Construction Closing date, but in any event no later than February 14, 2012. |
| 5. <u>Approval of Financing</u> . The Agency shall approve or disapprove the evidence of financing described in the Method of Financing and <u>Section 205.a</u> of the OPA. | Within ten (10) calendar days after the Agency receives complete submission of evidence of financing. |

II. REHABILITATION WORK

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| 6. <u>Submission - Architect, Landscape Architect and Civil Engineer</u> . Owner shall submit to the Agency for approval the name and qualifications of its Architect, Landscape Architect and Civil Engineer. | Not later than twenty (20) calendar days prior to the scheduled Construction Closing Date. |
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| 7. <u>Approval - Architect, Landscape Architect and Civil Engineer.</u> The Agency shall approve or disapprove the Architect, Landscape Architect and Civil Engineer. | Within ten (10) calendar days after the Agency receives submission of Architect, Landscape Architect and Civil Engineer. |
| 8. <u>Submission – Basic Concept / Schematic Drawings.</u> Owner shall submit to Agency for approval the Basic Concept/Schematic Drawings and related documents, to the extent required by <u>Section 304</u> of the OPA. | Upon Owner’s submittal of the OPA. |
| 9. <u>Approval – Basic Concept / Schematic Drawings.</u> The Agency shall approve or disapprove the Basic Concept/Schematic Drawings and related documents. | Upon the Agency’s approval of the OPA. |
| 10. <u>Submission - Preliminary Landscaping and Grading Plans for the Property.</u> Owner shall submit to Agency for approval the preliminary landscaping and grading plans for the Property, to the extent required by <u>Section 305</u> of the OPA. | Not later than sixty (60) days following the award of Low Income Housing Tax Credits for the Project, but in any event no later than sixty (60) calendar days prior to the scheduled Construction Closing Date. |
| 11. <u>Approval – Preliminary Landscaping and Grading Plans for the Property.</u> The Agency shall approve or disapprove the preliminary landscaping and grading plans for the Property. | Within twenty (20) calendar days after Owner’s submittal. |
| 12. <u>Submission - Final Landscaping and Grading Plans for the Property.</u> Owner shall submit to the Agency for approval the final landscaping and grading plans for the Property, to the extent required by <u>Section 305</u> of the OPA. | Within (30) calendar days after the Agency’s approval of the preliminary landscaping and grading plans for the Property. |
| 13. <u>Approval – Final Landscaping and Grading Plans for the Property.</u> The Agency shall approve or disapprove the final landscaping and grading plans for the Property. | Within twenty (20) calendar days after Owner’s submittal, but in any event no later than the scheduled Construction Closing Date. |

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| <p>14. <u>Submission - 50% Complete Drawings and Specifications.</u> Owner shall prepare and submit to the Agency for approval the 50% Complete Drawings and Specifications, to the extent required by <u>Section 306</u> of the OPA.</p> | <p>Not later than ninety (90) days following the award of Low Income Housing Tax Credits for the Project.</p> |
| <p><u>Note:</u> These drawings will be submitted in normal increments as they are completed.</p> | |
| <p>15. <u>Approval – 50% Complete Drawings and Specifications.</u> The Agency shall approve or disapprove the 50% Complete Drawings and Specifications.</p> | <p>Within thirty (30) calendar days after Owner’s submittal.</p> |
| <p><u>Note:</u> These drawings will be approved in increments as they are submitted.</p> | |
| <p>16. <u>Submission - Final Construction Drawings and Specifications.</u> Owner shall prepare and submit to the Agency for approval the Final Construction Drawings and Specifications, to the extent required by <u>Section 306</u> of the OPA.</p> | <p>Not later than one hundred and fifty (150) days following the award of Low Income Housing Tax Credits for the Project, but in any event no later than thirty (30) calendar days prior to the scheduled Construction Closing Date.</p> |
| <p><u>Note:</u> These drawings will be submitted in normal increments as they are completed.</p> | |
| <p>17. <u>Approval - Final Construction Drawings and Specifications.</u> The Agency shall approve or disapprove the Final Construction Drawings and Specifications.</p> | <p>Within thirty (30) calendar days after Owner’s submittal, but in any event no later than the scheduled Construction Closing Date.</p> |
| <p><u>Note:</u> These drawings will be approved in increments as they are submitted.</p> | |
| <p>18. <u>Equal Opportunity Contracting Program.</u> Owner shall contact the City’s Equal Opportunity Contracting Program and determine compliance with applicable laws and regulations.</p> | <p>Letter of compliance stating Owner’s compliance with applicable laws and regulations shall be submitted to the Agency at least ten (10) calendar days before the scheduled Construction Closing Date.</p> |
| <p>19. <u>Commencement of Construction.</u> Owner shall commence construction of the</p> | <p>Within thirty (30) calendar days following the Construction Closing</p> |

Leasehold Improvements.	Date.
20. <u>Completion of Construction</u> . Owner shall complete construction of the Leasehold Improvements.	On or before eighteen (18) months following commencement of construction.
21. <u>Occupancy</u> . The Project shall reach at least 95% occupancy.	Within nine (9) months after completion of construction.
22. <u>Issuance of Release of Construction Covenants</u> . The Agency shall issue a Release of Construction Covenants for the Leasehold Improvements.	After Completion and in accordance with <u>Section 324</u> of the OPA.

NOTES:

- A. Deadlines set forth in this Schedule of Performance are subject to the enforced delay provisions set forth in Section 602 of the OPA.
- B. Extensions of time may be approved in writing to the extent permitted under Section 309 of the OPA.
- C. The descriptions of items of performance and deadlines in this Schedule of Performance are not intended to supersede more complete descriptions in the text of the OPA. In the event of any conflict between the text of the OPA and this Schedule of Performance, the text of the OPA shall govern.

ATTACHMENT NO. 6
FORM OF AGREEMENT AFFECTING REAL PROPERTY

OFFICIAL BUSINESS
Document entitled to free
recording per California Government
Code Section 27383

Recording Requested by and
When Recorded Return to:

Redevelopment Agency of the
City of San Diego
c/o Southeastern Economic
Development Corporation
4393 Imperial Avenue, Suite 200
San Diego, California 92113
Attn: Project Manager, Central Imperial

Space above this line for Recorder's use only

AGREEMENT AFFECTING REAL PROPERTY
(INCLUDING RENTAL RESTRICTIONS)

THIS AGREEMENT AFFECTING REAL PROPERTY ("Agreement") is entered into as of _____, 20___, by and among the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic ("Agency"), the SAN DIEGO HOUSING COMMISSION, a public agency ("Fee Owner"), and _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership ("Leasehold Owner"). Fee Owner and Leasehold Owner are referred to collectively as the "Owner" in this Agreement.

A. Fee Owner owns fee title to that certain real property (the "Property") 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-1. Pursuant to a long-term, 65-year ground lease with Fee Owner ("Ground Lease"), Leasehold Owner owns a leasehold estate ("Leasehold") in the Property, as legally described in the "Legal Description" attached hereto and incorporated herein as Exhibit A-2. Leasehold Owner has granted to Fee Owner a contractual right to purchase the improvements constructed on the Leasehold ("Leasehold Improvements") during the effectiveness of this Agreement. If Fee Owner exercises such contractual right, the Ground Lease will be terminated and the Leasehold will be eliminated. As a result, this Agreement is being filed in the Official Records of the San Diego County Recorder's Office ("Official Records") against both the Property and the Leasehold.

B. The Property is presently improved with the 49-unit Vista Grande apartment complex and is located within the area of influence of Southeastern Economic Development Corporation and in close proximity to the Central Imperial Redevelopment Project Area and the Mount Hope Redevelopment Project Area (collectively, the "Project Areas") in the City of San Diego.

C. The Agency and Leasehold Owner (or its predecessor in interest) have entered into that certain Owner Participation Agreement, dated as of _____, 2010 (the "OPA"), which is incorporated herein by this reference. OPA as used herein shall mean, refer to and include the OPA, as well as any riders, exhibits, addenda, implementation agreements, amendments, or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA. All references in this Agreement to the "CRL" shall mean California Community Redevelopment Law (California Health and Safety Code Sections 33000 *et seq.*), as amended from time to time.

D. Pursuant to the OPA, the Agency has agreed to disburse to Leasehold Owner a residual receipts loan in an amount not to exceed \$781,073 to provide part of the financing for the completion of the Project, which involves the acquisition and rehabilitation of the apartment complex on the Property. Upon completion of the rehabilitation work, the apartment complex will consist of 48 Affordable Units, one Unrestricted Unit (to be occupied by the on-site manager), and various related amenities and improvements. The Affordable Units shall be restricted in terms of rental rate and occupancy as set forth herein.

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

1. Covenant Period. For purposes of this Agreement, the "Occupancy Date" shall mean the date on which the earlier of the following events has occurred: (i) the recordation of the Notice of Completion for the entire Project; or (ii) the issuance and recordation of the Release of Construction Covenants. Unless otherwise specified, any restrictions and covenants regarding use, operation and maintenance set forth in this Agreement shall remain in full force during the period commencing on the date that this Agreement is filed in the Official Records and continuing until the date which is fifty-five (55) years after the Occupancy Date (the "Covenant Period"). Any restrictions and covenants regarding use, operation and maintenance set forth in this Agreement that pertain to both the Property as well as the Leasehold and the Leasehold Improvements shall be construed as applying solely to Leasehold Owner during the portion of the Covenant Period that Leasehold Owner, or its successor or assign, owns the Leasehold and the Leasehold Improvements, and solely to Fee Owner during the portion (if any) of the Covenant Period that the Leasehold no longer exists by virtue of Fee Owner having exercised its contractual right to purchase the Leasehold Improvements. If the Leasehold is eliminated during the Covenant Period, the term "Property" for purposes of this Agreement shall refer collectively to the fee title to the underlying real property and the Leasehold Improvements situated thereon.

2. Completion of Leasehold Improvements. Leasehold Owner, together with its successors and assigns, shall complete or cause the completion on the Property, within the time

required in the OPA, the Leasehold Improvements consisting of, among other things, the rehabilitation of a 49-unit housing development with 48 Affordable Units that are operated as rental housing made affordable to Low Income, Very Low Income and Extremely Low Income households, all as more specifically provided in the OPA (including the Scope of Development) and this Agreement. Following Completion of the Leasehold Improvements in accordance with the OPA, the Agency shall file a Release of Construction Covenants in the Official Records against the Leasehold in accordance with Section 324 of the OPA. After the Release of Construction Covenants has been filed in the Official Records, the covenants contained in this Section 2, relating only to the development and construction of the Leasehold Improvements, shall terminate and be of no further force and effect with respect to the Leasehold.

3. Use Restrictions. Owner, together with its successors and assigns, covenants and agrees to use the Property, the Leasehold and the Leasehold Improvements, and any interest therein or part thereof, only for the uses specified in the OPA (including the Scope of Development) and this Agreement, specifically including the following uses:

(a) Owner, together with its successors and assigns, shall only use the Property, the Leasehold and the Leasehold Improvements, or any interest therein or part thereof, for residential rental uses, the Community Center, and related improvements and amenities. The residential rental uses shall consist of 49 units, including 3 two-bedroom units (1 for a Very Low Income household, 1 for an Extremely Low Income household, and 1 for the Unrestricted Unit); 1 three-bedroom unit (for a Very Income household); and 45 four-bedroom units (14 for Low Income households, 27 for Very Low Income households, and 4 for Extremely Low Income households). The Community Center shall be utilized for the benefit of residents of the Affordable Units in accordance with the parameters set forth in the Scope of Development (Attachment No. 4 to the OPA). There shall be no change in the use of the Property, the Leasehold or the Leasehold Improvements without the Agency's prior written approval.

(b) Owner, together with its successors and assignees, shall restrict the Affordable Units for rental and occupancy by Low Income, Very Low Income and Extremely Low Income households at an Affordable Rent in accordance with the terms and conditions of the OPA and this Agreement. There shall be one (1) Unrestricted Unit (two-bedroom) to be used by the resident manager of the Project. In accordance with the Schedule of Affordable Rents attached hereto as Exhibit B and incorporated herein by this reference, a minimum of fourteen (14) Affordable Units shall be Low Income units with Affordable Rent, a minimum of twenty-nine (29) Affordable Units shall be Very Low Income units with Affordable Rent, and a minimum of five (5) Affordable Units shall be Extremely Low Income units with Affordable Rent.

(c) Owner, together with its successors and assignees, shall determine the maximum incomes of residential tenants eligible to rent the Affordable Units on the basis of Area Median Income or CTCAC Area Median Income, as applicable. For purposes of this Agreement, (i) "Area Median Income" or "AMI" means the median family income for San Diego County as annually estimated by the U.S. Department of Housing and Urban Development and published by the California Department of Housing and Community Development; (ii) "CTCAC Area Median Income" or "CTCAC AMI" means the area median

income for San Diego County determined in accordance with 26 USC Section 142(g)(2)(C); and (iii) “adjusted for family size appropriate to the unit” means the number of bedrooms in the unit plus one (1). Further, “Affordable Rent” means annual rent (including a reasonable utility allowance) which does not exceed the following amounts: (a) for a Low Income household at fifty percent (50%) CTCAC Area Median Income, the product of thirty percent (30%) times fifty percent (50%) of CTCAC Area Median Income, adjusted for family size appropriate to the unit; (b) for a Very Low Income household at fifty percent (50%) Area Median Income, the product of thirty percent (30%) times fifty percent (50%) of Area Median Income, adjusted for family size appropriate to the unit; (c) for a Very Low Income household at forty-five percent (45%) CTCAC Area Median Income, the product of thirty percent (30%) times forty-five percent (45%) of CTCAC Area Median Income, adjusted for family size appropriate to the unit; and (d) for an Extremely Low Income household, the product of thirty percent (30%) times thirty percent (30%) of Area Median Income, adjusted for family size appropriate to the unit. To account for the fact that CTCAC rents (based on CTCAC Area Median Income) are anticipated to be higher than CRL rents (based on Area Median Income) with respect to the Low Income and Very Low Income households occupying Affordable Units, the following additional provisions shall apply to the determination of Affordable Rent hereunder: (y) in no event shall the Affordable Rent for Low Income households exceed the product of thirty percent (30%) times sixty percent (60%) of Area Median Income, adjusted for family size appropriate to the unit; and (z) in no event shall the Affordable Rent for Very Low Income households exceed the product of thirty percent (30%) times fifty percent (50%) of Area Median Income, adjusted for family size appropriate to the unit.

(d) Among the Low Income, Very Low Income and Extremely Low Income households who are otherwise eligible to rent the Affordable Units, Owner, together with its successors and assigns, shall make reasonable efforts to give first priority, over other eligible persons, to those persons who have been occupying a residential unit at the Property at the time of commencement of the Leasehold Improvements and to give second priority, over other eligible persons, to those persons who have been displaced by any redevelopment project within the City of San Diego.

(e) The Agency and Fee Owner, and their respective successors and assigns, shall have the right, but not the obligation, to monitor and enforce the covenants contained in this Section 3 during the period of time that the Leasehold remains in effect. Leasehold Owner covenants that Leasehold Owner, together with its successors and assigns, shall comply with any monitoring program set up by the Agency or Fee Owner to enforce said covenants. In complying with such monitoring program, Leasehold Owner or its agent shall prepare and submit to the Agency (or Fee Owner), on an annual basis, an occupancy report, financial information and income verification documents for each tenant of an Affordable Unit, and all supporting documentation, on forms provided by Leasehold Owner (or Fee Owner), setting forth the required information for the preceding year. On an annual basis, Leasehold Owner or its agent also shall submit to the Agency (or Fee Owner) evidence of each Low Income, Very Low Income and Extremely Low Income tenant’s continuing eligibility as required by this Agreement pursuant to the CRL for the Affordable Units. The Agency (or Fee Owner) shall review such reports for certification of continuing affordability of Affordable Units and eligibility of tenants.

Leasehold Owner shall pay such costs associated with said monitoring and enforcement efforts as required by Fee Owner.

(f) The Agency, together with its successors and assigns, shall have the right, but not the obligation, to monitor and enforce the covenants contained in this Section 3 during the portion (if any) of the Covenant Period in which the Leasehold no longer exists.

(g) No officer, employee, agent, official or consultant of Owner may occupy any of the Affordable Units.

(h) Owner shall comply with the applicable IRS rules for over-income tenants or, in the absence of any applicable IRS rules, shall comply with the following rule: any tenant who initially qualified as a Low Income, Very Low Income or Extremely Low Income household, as applicable, and who no longer qualifies as a Low Income, Very Low Income or Extremely Low Income household, respectively, shall pay as rent an amount equal to thirty percent (30%) of the household income, and shall be given one (1) year to relocate from the Affordable Unit for which such tenant initially qualified.

(i) Notwithstanding anything to the contrary contained in this Agreement, Owner shall not be required to terminate tenancies to the extent it would violate Section 42 of the Internal Revenue Code of 1986, as amended, while such section is applicable to the Project.

(j) Owner shall adopt written selection policies and criteria that meet the following requirements:

(1) Are consistent with the purpose of providing housing for Low Income, Very Low Income 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 both the selection of tenants from a written waiting list in the chronological order of their satisfaction of all eligibility requirements, insofar as is practicable, and the prompt written notification to any rejected applicant of the grounds for any rejection.

(4) To the extent permitted by law, provide priority to certain persons in the selection of otherwise eligible tenants in accordance with Section 3(d); and

(5) Carry out the affirmative marketing procedures of the City, to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market area.

4. Maintenance.

(a) Owner hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property, the Leasehold and the Leasehold Improvements, or any portion thereof, that Owner, together with its successors and assigns, shall maintain the Property, the Leasehold and the Leasehold Improvements, as well as the Project, in the same aesthetic and sound condition (or better), reasonable wear and tear excepted, as the condition of the Property, the Leasehold and the Leasehold Improvements that exists at the time the Agency files a Release of Construction Covenants in the Official Records pursuant to the OPA. This standard for the quality of maintenance of the Property, the Leasehold and the Leasehold Improvements shall be met whether or not a specific item of maintenance is listed below. 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 on-site walks and paved areas and public sidewalks adjacent to the site, 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; and maintaining security devices in good working order.

(b) If the Agency gives written notice to Owner that the maintenance or condition of the Property, the Leasehold or the Leasehold Improvements, or any portion thereof or any other improvements thereon, does not comply with this Agreement, Owner shall correct, remedy or cure the deficiency within thirty (30) days following the date of such notice, unless the notice states that the deficiency is an urgent matter relating to public health and safety, in which case, Owner shall cure such deficiency within forty-eight (48) hours following the date of the notice. Notwithstanding the foregoing, in the event any deficiency of a non-urgent nature is not reasonably capable of being cured within the 30-day time limit set forth in the immediately preceding sentence, Owner shall have such additional period of time to complete a cure as is reasonably necessary, provided that Owner has commenced the cure within the 30-day period (to the extent feasible) and diligently proceeds to cure such deficiency. If Owner fails to cure any such deficiencies within the applicable period described above, the Agency shall have, in addition to any other rights and remedies hereunder, the right to maintain the Property, the Leasehold or the Leasehold Improvements, or any portion thereof or any other improvements thereon, or to contract for the correction of any deficiencies, and Owner shall be responsible for payment of all such costs actually and reasonably incurred by the Agency and such payment shall constitute a lien on the Property or the Leasehold (as applicable) until paid by Owner pursuant to California Civil Code Section 2881.

5. No Discrimination. Owner herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through them, and 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 Property, the Leasehold or the Leasehold Improvements, 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, the Leasehold or the Leasehold Improvements.

6. Nondiscrimination Clauses. Owner hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property, the Leasehold and the Leasehold Improvements, or any portion thereof, that Owner, together with its successors and assigns, shall refrain from restricting the rental, sale, or lease of the Property, the Leasehold and the Leasehold Improvements 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, the Leasehold and the Leasehold Improvements, or any portion thereof, shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (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.”

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

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (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.”

(c) In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section

12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and 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.”

7. Management. Owner shall be responsible for the operation of the Project 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 Project on Owner’s behalf. The Agency shall have the right to review and approve in writing any such entity and/or its management agreement prior to its selection by 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.

8. Covenants Running with the Land.

(a) In accordance with California Civil Code Section 1461 *et seq.*, all conditions, covenants and restrictions contained in this Agreement shall be covenants running with the land. The parties acknowledge and agree that the conditions, covenants and restrictions directly benefit the Property, the Leasehold and the Leasehold Improvements and benefit property that the Agency or the City, or both, owns or will own (including, without limitation, underlying interests in streets) within the Project Areas 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 the Agency, the City and their respective successors and assigns and any property that the Agency or the City, or both, owns or will own (including, without limitation, underlying interests in streets) within the Project Areas, against Owner, its successors and assigns, to or of the Property, the Leasehold and the Leasehold Improvements, or any portion thereof or any interest therein, and any party in possession or occupancy of the Property, the Leasehold and the Leasehold Improvements or any portion thereof. The Agency and the City (and Fee Owner to the extent provided in this Agreement) 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 (and Fee Owner to the extent provided in this Agreement), without regard to whether the Agency or the City has been, remains, or is an owner of any land or interest therein in the Property or the Project Areas. Except as provided in the immediately preceding sentence, the covenants, conditions and restrictions contained in this Agreement shall neither benefit nor be enforceable by any owner of real property within or outside the Project Areas or any person or entity having any interest in any such real property, other than the Agency and the City.

(b) In addition to the authority provided under California Civil Code Section 1461 *et seq.*, the parties hereto acknowledge and agree that the CRL (including, without limitation, CRL Sections 33435, 33436, 33437, and 33439) provides legal authority, separate and apart from California Civil Code Section 1461 *et seq.*, for establishing the covenants running with the land set forth herein. The Agency deems the covenants, conditions and restrictions in this Agreement to be necessary to prevent speculation and to carry out the purposes of the CRL.

(c) Pursuant to CRL sections 33413(c)(5) and 33334.3(f)(1)(A), the Agency is required to record affordability covenants, conditions and restrictions against the Property, the Leasehold and the Leasehold Improvements as contained in this Agreement.

9. Self-Cure of Breach. The Agency and the City (including Fee Owner to the extent provided in this Agreement) shall each have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

10. 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 OPA.

11. Notice and Opportunity to Cure.

(a) Prior to exercising any remedies hereunder, the Agency or the City, as applicable, shall give Owner notice of such default. Unless a different period is provided herein, if the default is reasonably capable of being cured within thirty (30) days, Owner shall have such period to accomplish a cure prior to exercise of remedies by the Agency or the City. Unless a different period is provided herein, 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 such 30-day period, and (b) diligently, continually, and in good faith works to accomplish 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 the Agency or the City; provided, however that in no event shall the Agency or the City be precluded from exercising remedies (i) if the Property or the Leasehold becomes or is about to become materially jeopardized by any failure to cure a default or (ii) as to Leasehold Owner only, if the default is not cured within ninety (90) days after the first notice of default is given.

(b) After Leasehold Owner gives written notice to the Agency that the Tax Credit Equity Investor has been admitted to Owner, the Agency shall send to the Tax Credit Equity Investor a copy of all notices of default of Owner at the address for the Tax Credit Equity Investor as provided by written notice to the Agency by Owner. The Tax Credit Equity Investor may take such action, including removing and replacing the general partner of Owner with a substitute general partner, who shall accomplish a cure within the cure period provided in this Section 11; provided, however that in no event shall the Agency or the City be precluded from exercising remedies (i) if the Property or the Leasehold becomes or is about to become materially jeopardized by any failure to cure a default or (ii) as to period of ownership of

Leasehold Owner only, if the default is not cured within ninety (90) days after the first notice of default is given. The Agency and the City agree to accept cures tendered by the Tax Credit Equity Investor within the cure periods provided herein.

12. Enforcement. If a violation of any of the covenants or provisions of this Agreement remains uncured after the respective time period set forth in this Agreement, the Agency and the City (and Fee Owner to the extent provided in this Agreement), and their respective successors and assigns, without regard to whether the Agency or the City (and Fee Owner to the extent provided in this Agreement) is an owner of any land or interest therein to which these covenants relate, may each 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.

13. 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.

14. 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.

[remainder of page left intentionally blank]

[signatures begin on following page]

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

AGENCY:

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: _____

Kevin Reisch
Deputy General Counsel

[signatures continue on following page]

FEE OWNER:

SAN DIEGO HOUSING COMMISSION

Date: _____

By: _____

Richard C. Gentry
President and Chief Executive Officer

APPROVED AS TO FORM:

CHRISTENSEN & SPATH LLP

By: _____

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

LEASEHOLD OWNER:

[WAKELAND ENTITY],
a California limited partnership

Dated: _____

By: _____

NOTARY ACKNOWLEDGMENT FORM FOR REDEVELOPMENT AGENCY

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

NOTARY ACKNOWLEDGMENT FORM FOR FEE OWNER (HOUSING COMMISSION)

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

NOTARY ACKNOWLEDGMENT FORM FOR LEASEHOLD OWNER

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A-1

LEGAL DESCRIPTION OF PROPERTY

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

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

EXHIBIT A-2

LEGAL DESCRIPTION OF LEASEHOLD

A leasehold estate in that land situated in the City of San Diego, County of San Diego, State of California as follows: [need to verify legal description for Leasehold with Title Company]

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

EXHIBIT B

SCHEDULE OF AFFORDABLE RENTS

<u>Unit Type/Number</u>	<u>Income Requirements – adjusted for family size appropriate to the unit</u>	<u>Maximum Monthly Rent – including parking fees and the applicable utility allowances most recently published by the San Diego Housing Commission</u>
Two-Bedroom Units		
1	Extremely Low Income household	1/12 x 30% x 30% AMI
1	Very Low Income households at 45% CTCAC AMI	1/12 x 30% x 45% CTCAC AMI
1	On-site manager’s unit	Unrestricted
Three-Bedroom Units		
1	Very Low Income household at 50% AMI	1/12 x 30% x 50% AMI
Four-Bedroom Units		
4	Extremely Low Income households	1/12 x 30% x 30% AMI
7	Very Low Income households at 45% CTCAC AMI	1/12 x 30% x 45% CTCAC AMI
20	Very Low Income households at 50% AMI	1/12 x 30% x 50% AMI
14	Low Income households at 50% CTCAC AMI	1/12 x 30% x 50% CTCAC AMI

NOTE 1: Overall, at least fourteen (14) Affordable Units shall be Low Income units with Affordable Rent, at least twenty-nine (29) Affordable Units shall be Very Low Income units with Affordable Rent, and at least five (5) Affordable Units shall be Extremely Low Income units with Affordable Rent.

NOTE 2: To account for the fact that CTCAC rents (based on CTCAC Area Median Income) are anticipated to be higher than CRL rents (based on Area Median Income) with respect the Low Income and Very Low Income households occupying Affordable Units, the following provisions shall apply to the determination of Affordable Rent hereunder: (i) in no event shall the Affordable Rent for Low Income households exceed the product of thirty percent (30%) times sixty percent (60%) of Area Median Income, adjusted for family size appropriate to the unit; and (ii) in no event shall the Affordable Rent for Very Low Income households exceed the product of thirty percent (30%) times fifty percent (50%) of Area Median Income, adjusted for family size appropriate to the unit.

ATTACHMENT NO. 7

PROJECT BUDGET

Vista Grande Apartments

COST ITEM	AMOUNT
ACQUISITION	\$6,615,000
<i>Land</i>	\$845,000
<i>Buildings</i>	\$5,770,000
REHABILITATION	\$5,202,114
<i>Hard Costs</i>	\$4,076,890
<i>Indirect Costs</i>	\$652,304
<i>Contingency (10%)</i>	\$472,920
LOAN FEES AND LENDER- REQUIRED INSURANCE	\$665,529
<i>Construction</i>	\$617,033
<i>Permanent</i>	\$48,496
FEES AND PERMITS	\$437,000
<i>Architectural</i>	\$90,000
<i>Surveys, Soil & Engineering</i>	\$130,000
<i>Legal, Permit & Audit</i>	\$217,000
SOFT COSTS	\$1,915,334
<i>Relocation</i>	\$375,800
<i>Operating Reserves</i>	\$122,512
<i>Others/Misc</i>	\$1,348,202
<i>Contingency (5%)</i>	\$68,820
TOTAL PROJECT COST	\$14,834,977

ATTACHMENT NO. 8
FORM OF AGENCY NOTE

RESIDUAL RECEIPTS PROMISSORY NOTE
SECURED BY DEED OF TRUST

3.0% Interest
\$781,073

San Diego, California
_____, 20____

FOR VALUE RECEIVED, _____ **[Wakeland Vista Grande Apartments, L.P.]**, a California limited partnership (“Borrower”), hereby promises to pay to the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (“Agency”), a public body, corporate and politic, or order, the maximum principal amount of Seven Hundred Eight-One Thousand and Seventy-Three Dollars (\$781,073), to the extent such amount is disbursed from the Agency to Borrower from time to time (the “Agency Loan”). This Promissory Note is given pursuant to that certain Owner Participation Agreement dated as of _____, 2010, between Borrower or its predecessor in interest (“Owner” therein) and the Agency (the “OPA”). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA.

This Promissory Note evidences the Agency Loan to Borrower, which provides part of the financing for the acquisition, development and rehabilitation of certain improvements located on Borrower’s leasehold interest in that certain real property in the City of San Diego legally described in the Agency Deed of Trust securing this Promissory Note (the “Property”). The obligation of Borrower to the Agency hereunder is subject to the terms of the OPA, this Promissory Note and the following instruments: the Agreement Affecting Real Property; the Agency Deed of Trust; the Assignment of Rents; the Assignment of Agreements; the Environmental Indemnity; and the UCC-1 Financing Statement. Such documents are public records on file in the Agency’s offices, and the provisions of such documents are incorporated herein by this reference. Borrower shall pay interest at the rate, in the amount and at the time hereinafter provided.

1. Definitions. In addition to the defined terms contained in the OPA, the following terms shall have the following meanings:

“Agency’s Share of Residual Receipts” shall mean the Agency’s pro rata share of the Public Lenders’ Share of Residual Receipts based upon the percentage equal to the outstanding balance of the Agency Loan divided by the total outstanding balance of all public agency loans provided for acquisition and development of the Leasehold Improvements, which include the Agency Loan and the Housing Commission Loan. Assuming that the proceeds of the Agency Loan and the Housing Commission Loan are disbursed to Borrower on a pro rata basis, and further assuming that the maximum principal amounts of the Agency Loan and the Housing

Commission Loan are \$781,073 and \$2,967,000, respectively, the Agency's pro rata share of the Public Lenders' Share of Residual Receipts shall be 20.84%, subject to potential future adjustment in accordance with Section 2 of the Agency/Housing Commission Agreement attached to the OPA as Attachment No. 22.

"Annual Financial Statement" shall mean the annual audited financial statement of Gross Revenue and Operating Expenses and balance sheet for the Leasehold Improvements, prepared at Borrower's expense, by an independent certified public accountant reasonably acceptable to the Agency Executive Director, 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 Borrower or its general partner or any of its other partners for the purpose of managing the affairs of Borrower's partnership and any fee paid to the Tax Credit Equity Investor for the purpose of managing the affairs of the Tax Credit Equity Investor, not to exceed the aggregate amount of \$17,500 per year in the first year after the date of this Promissory Note (i.e., Year 1), with such maximum aggregate amount to increase by three percent (3.0%) per year up to and including Year 15. In Year 16, the otherwise applicable Asset Management Fee shall be subject to a one-time reduction of 28.57% to reflect the assumed departure of the Tax Credit Limited Partnership at the end of the tax credit compliance period and the assumed takeover of operations by a single entity, and the Asset Management Fee shall be increased thereafter by three percent (3%) per year up to and including Year 55. Notwithstanding the foregoing, the Agency Executive Director shall have the right, in his or her sole discretion and upon a reasonable justification presented by Borrower based upon then prevailing circumstances, to allow an increase of the Asset Management Fee in Year 1 such that the Asset Management Fee in Year 1 equals an aggregate amount not to exceed \$25,000 (i.e., an administrative approval of an increase not to exceed \$7,500 in the otherwise applicable amount), provided that the Housing Commission concurs with such increase. Any administrative increase granted under the immediately preceding sentence shall be subject to the above-described one-time reduction of 28.57% in Year 16.

"Deferred Developer Fee" shall mean that portion of the Developer Fee equal to \$300,000 of the Developer Fee (or such other amount as shall be determined after project stabilization under the Partnership Agreement governing Borrower, subject to the approval of the Agency Executive Director), 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 the issuance of Low Income Housing Tax Credits, from revenue of the Project remaining after payment of Operating Expenses, prior to the payment of any Residual Receipts hereunder, and consistent with the timing for application of any "Cost Savings" as set forth in Section 10(a) of this Promissory Note and any "Additional Proceeds" as set forth in Section 10(b) of this Promissory Note.

"Gross Revenue" with respect to a particular calendar year, shall mean all revenue, income, receipts, and other consideration actually received from operation or leasing of the Project. "Gross Revenue" shall include, but not be limited to, all of the following: all rents, fees and charges paid by tenants, Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any

other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Project; and condemnation awards for a taking of part or all of the Project for a temporary period. "Gross Revenue" shall also include the fair market value of any goods or services provided in consideration for the leasing or other use of any portion of the Project, except that the value of services provided by the on-site property manager shall not be treated as "Gross Revenue" if no more than one dwelling unit is leased to or otherwise used by the on-site manager. "Gross Revenue" shall not include tenants' security deposits, proceeds from the Agency Loan, proceeds from the Housing Commission Loan, or proceeds from any other loan, capital contributions or similar advances, or interest that is earned on and allocated to reserve accounts. The calculation of annual Gross Revenue shall be subject to the reasonable approval of the Agency Executive Director.

"Occupancy Date" shall mean the date on which the earlier of the following events has occurred: (i) the recordation of the Notice of Completion for the entire Project; or (ii) the issuance and recordation of the Release of Construction Covenants.

"Operating Expenses" with respect to a particular calendar year shall mean the installments of annual rent for the Leasehold paid by Borrower to the Housing Commission pursuant to the Housing Commission Ground Lease, together with the following costs reasonably and actually incurred for operation and maintenance of the Project to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles: Asset Management Fee, property and other taxes and assessments imposed on the Project; premiums for property damage and liability insurance; utility services not paid for directly or reimbursed by tenants, including but not limited to water, sewer, trash collection, gas and electricity; resident services costs (to the extent consistent with CTCAC requirements); maintenance and repair including but not limited to pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial, supplies, and similar customary utility services; any annual lease payment, license or certificate of occupancy fees required for operation of the Project; general administrative expenses including but not limited to advertising and marketing, security services and systems, professional fees for legal, audit, accounting and tax returns for the limited partnership, and similar customary administrative expenses; property management fees and reimbursements including on-site manager expenses, not to exceed \$80 per unit per month in the first year with annual increases thereafter in proportion to the increases in Affordable Rent for the Project and pursuant to a management contract approved by the Agency Executive Director; cash deposited into a reserve for capital replacements or improvements and an operating reserve in such reasonable amounts as approved by the Agency Executive Director or required by the Senior Lender or Tax Credit Equity Investor; and debt service payments (excluding debt service due from residual receipts or surplus cash of the Project) on loans associated with the Project and approved by the Agency. "Annual Operating Expenses" shall not include the following: any depreciation, amortization, depletion or other non-cash expenses or any amount expended from a reserve account. The calculation of annual Operating Expenses shall be subject to the reasonable approval of the Agency Executive Director.

“Public Lenders’ Share of Residual Receipts” shall mean fifty percent (50%) of Residual Receipts in Years 1 through 55, to be shared on a pro rata basis among the public lenders (which include the Agency and the Housing Commission) providing loans to Borrower for acquisition and development of the Leasehold Improvements.

“Residual Receipts” shall mean (a) the Gross Revenue minus (b) the Operating Expenses, calculated on a 12-month basis, minus (c) the outstanding balance, if any, of the Deferred Developer Fee. All calculations of Residual Receipts shall be subject to verification and approval by the Agency Executive Director.

“Year” shall mean each calendar year, beginning on the Occupancy Date. For example, Year 1 begins on the Occupancy Date and ends on the date immediately preceding the first anniversary from the Occupancy Date.

2. Evidence of Obligation. This Promissory Note evidences Borrower’s obligation to the Agency for the repayment of the Agency Loan. The term of this Promissory Note (“Term”) shall commence on the effective date of this Promissory Note as shown at the top right corner of page 1 hereof, which signifies the date of initial disbursement of funds hereunder, and shall remain in effect until fifty-five (55) years after the Occupancy Date.

3. Where and How Payable. This Promissory Note is payable at the principal office of the Agency, c/o Southeastern Economic Development Corporation, 4393 Imperial Avenue, Suite 200, San Diego, California 92113, 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 Promissory Note shall be secured by the Agency Deed of Trust, the Assignment of Rents, the Assignment of Agreements, and the UCC-1 Financing Statement.

5. Interest. Except in a hereinafter defined Event of Acceleration described in Section 7, this Promissory Note shall bear interest at the rate of three percent (3%) per annum, simple interest, which shall begin to accrue from the date or dates of disbursement of the principal amount of this Promissory Note or any portion thereof.

6. Payments. Except in an Event of Acceleration, no payments shall be due and payable under this Promissory Note except to the extent of (a) the Agency’s Share of Residual Receipts as described in Section 8, and (b) the Agency’s share of any Cost Savings or Additional Proceeds as described in Section 10.

7. Due Upon Event of Acceleration. The entire unpaid principal balance of this Promissory Note and any accrued but unpaid interest shall be due and payable immediately upon the occurrence of any one of the following events (each an “Event of Acceleration”):

- (a) The conveyance of the Leasehold Improvements to the Housing Commission based upon the exercise of the Housing Commission Option to Purchase or otherwise (in which event, Borrower shall not be deemed in default under this Promissory Note, but the Housing Commission shall be

obligated to pay the above-specified amount to the Agency as required by Section 4(a) of the Agency/Housing Commission Agreement attached to the OPA as Attachment No. 22, and Borrower shall notify the Agency at least five (5) business days in advance of the closing of the Housing Commission's acquisition of the Leasehold Improvements), provided that no Event of Acceleration shall occur if the Housing Commission elects to assume the entire balance of the Agency Loan in connection with its acquisition of the Leasehold Improvements pursuant to Section 4(b) of the Agency/Housing Commission Agreement;

- (b) The sale, transfer, assignment, refinance or other conveyance of the Leasehold, or any portion thereof or interest therein, without the prior written approval of the Agency, except as otherwise permitted in the OPA;
- (c) Failure by Borrower to commence or complete construction of the Leasehold Improvements within the times set forth therefor in the Schedule of Performance attached to the OPA as Attachment No. 5;
- (d) Any other default in performance or breach by Borrower of any provision of the OPA or any document executed in connection therewith (including, without limitation, this Promissory Note, the Agency Deed of Trust, the Agreement Affecting Real Property and the Environmental Indemnity), or any deed of trust or other instrument securing any Senior Loan or the Housing Commission Loan, or other obligations secured by a deed of trust on the Leasehold, which is not cured within the respective time period provided herein and therein; or
- (e) The termination of the OPA pursuant to Section 510.b of the OPA.

After an Event of Acceleration has occurred (except with respect to Section 7(a) above), amounts declared due and payable under this Promissory Note shall thereafter bear interest at the "Default Interest Rate" until paid in full. For purposes of this Promissory Note, the "Default Interest Rate" shall be the lesser of ten percent (10%) per annum, compounded monthly, or the highest rate of interest permitted by law. The imposition of the Default Interest Rate shall be in addition to and not in lieu of any other rights and remedies provided for in the Agency Deed of Trust or otherwise by law. The remedies of a holder of this Promissory Note as provided herein and in the Agency Deed of Trust shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of the holder, and may be exercised as often as occasion therefor may arise under the terms of such documents.

8. Residual Receipts. Subject to the adjustments described in Section 10, prior to the expiration of the Term, except in an Event of Acceleration described in Section 7, Borrower shall be obligated to repay the Agency Loan exclusively from the Agency's Share of Residual Receipts, as follows:

(a) Annually, not later than the first day of April (each a “Payment Date”) commencing with the April 1st occurring in the calendar year immediately after the beginning of Year 1, Borrower shall submit to Agency an audited Annual Financial Statement for the preceding Year, prepared by an independent certified public accountant reasonably acceptable to the Agency, determining the amount of Residual Receipts, if any, generated in that Year. The first such Annual Financial Statement shall pertain to a partial calendar year commencing upon Occupancy Date and continuing through December 31st, unless the Occupancy Date occurs on January 1st, in which event the first such Annual Financial Statement shall pertain to a full calendar year. The Agency shall review and approve each such Annual Financial Statement, or request revisions, within thirty (30) days after receipt. If the Agency’s review of any Annual Financial Statement results in an increase in the amount of any payment due and payable to the 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, compounded monthly.

(b) Annually, not later than the Payment Date, Borrower shall calculate its Residual Receipts as provided Section 8(a), and Borrower shall pay to the Agency the Agency’s Share of Residual Receipts.

(c) The ultimate Annual Financial Statement submitted to the Agency (i.e., the Annual Financial Statement that pertains to Year 55) shall be for a partial calendar year beginning on January 1st of the calendar year immediately after Year 55 commences, unless the Occupancy Date occurs on January 1st, in which event such Annual Financial Statement shall be for a full calendar year. With respect to Year 55 only, the Payment Date, which establishes the deadline for submission to the Agency of the ultimate Annual Financial Statement and the ultimate annual payment of Agency’s Share of Residual Receipts, shall be ninety (90) days after the expiration of Year 55.

(d) In addition, the Agency Loan shall be reduced or repaid by any “Cost Savings” or “Additional Proceeds” as set forth in Section 10.

9. Application of Payments. All payments to the Agency on the Agency Loan 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 described below.

(a) Cost Savings. In the event actual Rehabilitation Costs, as determined by a cost certification performed not later than six (6) months following Completion of the Project, at Borrower’s expense, by an independent certified public accountant acceptable to the Agency (or its authorized designee), are less than the total amount of Rehabilitation Costs set forth in the final Agency-approved Project Budget, then fifty percent (50%) of the resulting Cost Savings shall be used to pay the Deferred Developer Fee and the other fifty percent (50%) of such Cost Savings shall be paid to, or shall reduce the respective funding contributions of, each of the following entities in proportion to the pro rata share of their respective total funding contribution or financial

commitment to the total Rehabilitation Costs: (i) the Agency, to reduce the principal amount of the Agency Loan; (ii) the Housing Commission, to reduce the principal amount of the Housing Commission Loan, provided that, upon the Construction Closing, the Agency and the Housing Commission enter into the Agency/Housing Commission Agreement; (iii) CTCAC, in the event CTCAC approves a grant of tax credit exchange funds in lieu of tax credit equity; and (iv) the Permanent Lender, to reduce the principal amount of the Permanent Loan. Borrower shall make any payment of the allocable portion of Cost Savings owed to the Agency within thirty (30) days following Borrower's submission of the cost certification to Agency (or its authorized designee). The allocation of Cost Savings described in this paragraph shall not apply in favor of the Agency, the Housing Commission, CTCAC or the Permanent Lender, or shall be adjusted as reasonably necessary, to the extent that such allocation is prohibited by any established federal or State law, regulation or policy governing the use of any Sources of Financing issued by federal or State agencies or will cause an adverse effect under any established federal or State law, regulation or policy with respect to the calculation of the "tiebreaker" score attributable to the application submitted by Borrower to CTCAC seeking an allocation of Low Income Housing Tax Credits toward the Project.

(b) Additional Proceeds. In the event and to the extent any of the Sources of Financing for the Project exceed the amounts shown in the Method of Financing and the Project Budget, then the resulting Additional Proceeds shall first be used to pay for any increased costs of the Project as set forth in a revised Project Budget approved in writing by the Agency Executive Director for which there are no other Sources of Financing, and thereafter, fifty percent (50%) of such Additional Proceeds shall be used to pay the Deferred Developer Fee and the other fifty percent (50%) of such Additional Proceeds shall be used to reduce or repay the Agency Loan, and provided that, upon the Construction Closing, the Housing Commission enters into that certain Housing Commission Agreement with the Agency, the applicable portion of such remaining Additional Proceeds shall be used to reduce or repay the Housing Commission Loan and the Agency Loan in proportion to their respective original principal balances. Based on the anticipated original principal balances of such two loans, out of the 50% of Cost Savings allocated to the Agency and the Housing Commission, 20.84% of the such Cost Savings shall be paid to the Agency to reduce the principal amount of the Agency Loan and 79.16% of the such Cost Savings shall be paid to the Housing Commission to reduce the principal amount of the Housing Commission Loan. Borrower shall make any payment of Additional Proceeds to the Agency within thirty (30) days following written request from the Agency or its authorized designee. Additional Proceeds shall be deemed to exist to the extent Borrower obtains (i) a Permanent Loan in a principal amount in excess of the estimated amount of the Permanent Loan shown in the Sources of Financing table in Section 2 of the Method of Financing (Attachment No. 3 to the OPA), (ii) any additional grant funds (including, without limitation energy efficiency rebates), (iii) equity raised from the sale of Low Income Housing Tax Credits in excess of the estimated amount of the Low Income Housing Tax Credits shown in the Sources of Financing table in Section 2 of the Method of Financing, or (iv) proceeds from the refinancing of the initial Permanent Loan in excess of (y) the amount needed to pay in full the then-current balance of the Permanent Loan, plus (z) any amount actually used by Borrower to repair, maintain, upgrade, renovate or perform similar work on the Leasehold or Project in a manner consistent with the terms and conditions of the OPA and Agreement Affecting Real Property as reasonably determined by the Agency Executive Director. The allocation of Additional Proceeds described in this paragraph shall not

apply in favor of the Agency or the Housing Commission, or shall be adjusted as reasonably necessary, to the extent that such allocation is prohibited by any established federal or State law, regulation or policy governing the use of any Sources of Financing issued by federal or State agencies or will cause an adverse effect under any established federal or State law, regulation or policy with respect to the calculation of the “tiebreaker” score attributable to the application submitted by Borrower to CTCAC seeking an allocation of Low Income Housing Tax Credits toward the Project.

11. Debt Forgiveness. Provided that Borrower is not then in default of any provision of the OPA or any document executed in connection therewith (including, without limitation, this Promissory Note, the Agency Deed of Trust, the Agreement Affecting Real Property and the Environmental Indemnity), or any deed of trust or other instrument securing any Senior Loan or the Housing Commission Loan, or other obligations secured by a deed of trust on the Leasehold, the outstanding balance (if any) of this Promissory Note shall be deemed forgiven by the Agency as of the 55th anniversary of the Occupancy Date to the extent that the annual payments owed under Section 8 based on Agency’s Share of Residual Receipts and the mandatory prepayments (if applicable) under Section 10 are insufficient to cause full repayment of the Agency Loan with respect to Years 1 through 55, inclusive. Nothing in the immediately preceding sentence shall excuse Borrower from calculating and paying the Agency’s Share of Residual Receipts applicable to Year 55.

12. Low and Moderate Income Housing. The Agency Loan is funded from the Agency’s LMIHF (i.e., the Low and Moderate Income Housing Fund attributable to the two Redevelopment Project Areas benefitted by Borrower’s production of the Affordable Units). Accordingly, Borrower agrees for itself, its successors and assigns that the use of the Property, the Leasehold and the Leasehold Improvements shall be subject to the restrictions on rent and occupancy set forth in the Agreement Affecting Real Property.

13. Defaults.

(a) Failure or delay by Borrower to perform any term or provision of this Promissory Note or the Agency Deed of Trust that is to be performed by Borrower constitutes a default under this Promissory Note. The Agency or successors or assigns shall give written notice of default to Borrower specifying in reasonable detail the matter constituting the default.

(b) If a monetary Event of Acceleration occurs (except with respect to Section 7(a) above), Borrower shall have a period of ten (10) calendar days after such notice is received or deemed received within which to cure the default prior to the Agency exercising its remedies.

(c) If a non-monetary Event of Acceleration occurs (except with respect to Section 7(a) above), Borrower shall have thirty (30) calendar days following receipt of notice to cure the default. Except as required to protect against further damages, the Agency or successors or assigns shall not institute proceedings against Borrower unless the matter is not cured within such thirty (30) calendar day period, or, if the default is of a nature requiring more than thirty (30) calendar days to cure, the Borrower commences to cure the matter within such thirty (30) calendar day period and diligently pursues such cure to completion within a reasonable time; provided, however that in no event shall the Agency be precluded from exercising remedies if the Property,

the Leasehold or the Leasehold Improvements 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 first notice of default is given.

(d) Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Failure to cure the default within the applicable cure period shall entitle the Agency or successors or assigns to terminate the Agency Loan, accelerate payment under this Promissory Note, and exercise any other remedies available to such party, including, without limitation, foreclosure on the Agency Deed of Trust.

(e) If Borrower fails to take corrective action or cure the default within a reasonable time, the Agency shall give notice thereof to each of the Senior Lenders and, as provided in Section 13(f) and the OPA, the Tax Credit Equity Investor. The Tax Credit Equity Investor may take such action, including removing and replacing the general partner of Borrower with a substitute general partner, who shall accomplish a cure within a reasonable time thereafter in accordance with the foregoing provisions. The Agency agrees to accept cures tendered by any Senior Lender or Tax Credit Equity Investor within the cure periods provided herein. Additionally, in the event the Senior Lender or Tax Credit Equity Investor is precluded from curing a non-monetary default due to a bankruptcy, injunction, or similar proceeding by or against Borrower or the general partner of Borrower, the Agency agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period in which the Senior Lender or Tax Credit Equity Investor is so precluded from acting, not to exceed ninety (90) days, provided such Tax Credit Equity Investor and Senior Lender are otherwise in compliance with the foregoing provisions. In no event shall the Agency be precluded from exercising remedies if its rights become or are about to become materially jeopardized by any failure to cure a default.

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

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

15. Non-Waiver. Failure to exercise or delay in exercising any right the Agency may have or be entitled to, in a default hereunder, shall not constitute a waiver of such right or any other right in the event of a subsequent default.

16. Borrower's Waivers. Borrower hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Promissory Note, and expressly agrees that, without in any way affecting the liability of Borrower hereunder, the Agency may extend any maturity date or the time for payment of any installment due hereunder, accept

additional security, release any party liable hereunder and release any security now or hereafter securing this Promissory Note. Borrower further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Promissory Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Promissory Note.

17. Governing Law. This Promissory Note shall be governed by the laws of the State of California.

18. Severability. In the event that any provision or clause of this Promissory Note conflicts with applicable law, such conflict will not affect other provisions of this Promissory Note which can be given effect without the conflicting provision, and to this end the provisions of the Promissory Note are declared to be severable.

19. Amendment of Promissory Note. No modification, rescission, waiver, release or amendment of any provision of this Promissory Note shall be made except by a written agreement executed by Borrower and the duly authorized representative of the Agency.

20. Assignment by Agency Permitted. The Agency may, in its sole and absolute discretion, assign its rights under this Promissory Note and its right to receive repayment of the Agency Loan without obtaining the consent of Borrower.

21. Assignment by Borrower Prohibited. In no event shall Borrower assign or transfer any portion of this Promissory Note or any rights herein without the prior express written consent of the Agency, which consent the Agency may give or withhold in its sole and absolute discretion. This provision shall not affect or diminish the Agency's right to assign all or any portion of its rights under this Promissory Note or to the proceeds of the Agency Loan hereunder.

22. Junior Liens. Borrower shall not encumber the Leasehold or the Leasehold Improvements for the purpose of securing any financing other than the financing approved under the OPA.

23. Limited Recourse. Subject to the provisions and limitations of this Section 23, the obligation to repay the Agency Loan is a nonrecourse obligation of Borrower. Borrower and any general or limited partner of Borrower's limited partnership shall not have any personal liability for repayment of the loan, except as provided in this Section 23. The sole recourse of the Agency shall be the exercise of its rights against the Leasehold and the Leasehold Improvements (or any portion thereof) 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 Promissory Note or the Agency 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 Promissory Note and the Agency 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 Promissory Note or the Agency Deed of Trust; (d) prevent or in any way hinder the 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 Leasehold or any other instrument securing this Promissory Note or as prescribed by law or in equity in case of default;

(e) prevent or in any way hinder the Agency from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief with respect to the Agency's exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Promissory Note; (f) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to the 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 Promissory Note and the Agency Deed of Trust. The foregoing provisions of this Section 23 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 Leasehold 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 Leasehold, ordinary and reasonable capital improvements to the mortgaged Leasehold, debt service, real estate taxes in respect of the mortgaged Leasehold 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 Leasehold, which are then due and payable. Notwithstanding the first sentence of this Section 23, the Agency may recover directly from Borrower, or, unless otherwise prohibited by applicable law, from any other party:

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

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

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

24. Relationship of Borrower and Agency. The relationship of Borrower and the Agency pursuant to this Promissory Note is that of debtor and creditor and shall not be, or be construed to be a joint venture, equity venture, partnership or other relationship.

25. Notices.

(a) Formal notices, demands and communications between the Agency and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the Agency and Borrower as set forth below: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a “hard” copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or “kick-out” sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.

(b) The address of the Agency for purposes of receiving notices pursuant to this Agreement shall be the Redevelopment Agency of the City of San Diego, c/o Southeastern Economic Development Corporation, 4393 Imperial Avenue, Suite 200, San Diego, California 92113, Attention: Central Imperial Redevelopment Project Area - Project Manager. The facsimile number for the Agency’s receipt of notices is (619) 262-9845.

(c) The address of Borrower for purposes of receiving notices pursuant to this Agreement is 1230 Columbia Street, Suite 950, San Diego, California 92101, Attention: Kenneth L. Sauder, President. The facsimile number for Borrower’s receipt of notices is (619) 235-5386.

26. Attorneys’ Fees. In the event that any action is instituted to enforce payment or performance under this Promissory Note, or otherwise in connection with this Promissory Note, the parties agree that the prevailing party shall be reimbursed by the other party for all court costs and legal expenses and all reasonable attorneys’ fees incurred by the prevailing party in such action. In addition, Borrower agrees to reimburse the Agency for costs of collection, costs, and expenses, and reasonable attorneys’ fees paid or incurred in connection with the collection or enforcement of this Promissory Note, whether or not suit is filed.

27. Force Majeure. Notwithstanding specific provisions of this Promissory 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 after the party claiming delay first obtains knowledge of the event giving rise to the delay. 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 resulting delay. Borrower shall deliver such written notice within thirty (30) days after it first obtains actual knowledge of the event giving rise to the delay. Times of performance under this Agreement may also be extended in writing by the Agency and Borrower.

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

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

30. Captions. The captions and headings in this Promissory Note are for convenience only and are not to be used to interpret or define the provisions hereof.

31. Joint and Several Liability. 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.

32. Successors Bound. This Promissory Note shall be binding upon the parties hereto and their respective heirs, successors and assigns.

33. Authority to Sign. Borrower hereby represents that the person(s) executing this Promissory Note on behalf of Borrower have full authority to do so and to bind Borrower to perform pursuant to the terms and conditions of this Promissory Note.

[remainder of this page intentionally left blank]

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

[WAKELAND ENTITY],
a California limited partnership

Dated: _____

By: _____

ATTACHMENT NO. 9
FORM OF AGENCY DEED OF TRUST

OFFICIAL BUSINESS

Document entitled to free
recording per California Government
Code Section 27383

Recording Requested by and
When Recorded Return to:

Redevelopment Agency of the
City of San Diego
c/o Southeastern Economic
Development Corporation
4393 Imperial Avenue, Suite 200
San Diego, California 92113
Attn: Project Manager, Central Imperial

SPACE ABOVE THIS LINE FOR RECORDER'S USE

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

This Subordinate Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) (this "Deed of Trust") is made as of _____ 20____, by _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership ("Trustor"), whose address is 1230 Columbia Street, Suite 950, San Diego, California 92101, Attn: Kenneth L. Sauder, to _____, a _____ ("Trustee"), for the benefit of the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic ("Beneficiary"), whose address is 4393 Imperial Avenue, Suite 200, San Diego, California 92113, Attn: Project Manager – Central Imperial.

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 (collectively, "Trust Estate"):

A. The leasehold interest in that certain real property in the City of San Diego, County of San Diego, State of California, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Subject 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 collectively referred to as the "Property Interest".

D. Subject to the assignment to Beneficiary set forth in Section 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.

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 Interest, or used or to be used in connection with or otherwise relating to the Real Property Interest or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property Interest, 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 Interest, the "Property").

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), the following items: (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types on intangible personal property of any kind or nature and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such

property (“Intangibles”).

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estate 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 Sections 9334 and 9502(b) of the UCC.

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

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

(a) that certain Residual Receipts Promissory Note executed by Trustor (as “Borrower”) of even date herewith (the “Note”);

(b) the Owner Participation Agreement dated _____, 20____ (the “OPA”), by and between Trustor or its predecessor in interest (as “Owner”) and Beneficiary (as “Agency”);

(c) the Agreement Affecting Real Property (Including Rental Restrictions) between Trustor or its predecessor in interest (as “Owner”) and Beneficiary (as “Agency”), recorded concurrently herewith (the “Agreement Affecting Real Property”); and

(ii) Payment of indebtedness of Trustor to Beneficiary in the principal amount of \$_____ (_____ DOLLARS) according to the terms of the Note.

The Note, the OPA and the Agreement Affecting Real Property (collectively, the “Secured Obligations”) and all of their terms are hereby incorporated herein by this reference, and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note, agreement or instrument reciting that it is secured hereby. The OPA, the Note, and the Agreement Affecting Real Property, as such terms are used herein, shall mean, refer to and include the OPA, the Note and the Agreement Affecting Real Property, as well as any riders, exhibits, addenda, implementation agreements, amendments or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA.

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

1. Trustor shall pay the Note at the respective times and in the manner provided

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

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

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

4. All rents, profits and income from the property covered by this Deed of Trust are hereby assigned to Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no 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 OPA and the Agreement Affecting Real Property.

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

6. Trustor shall 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 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% of the insurable value of the Property. Such policies shall be endorsed with a standard mortgage clause with loss payable to Beneficiary, and certificates thereof together with copies of original policies shall be deposited with Beneficiary. Unless expressly approved otherwise in writing by the Agency Executive Director, Trustor shall maintain insurance as required by Exhibit B of this Deed of Trust, which is incorporated herein by this reference.

7. Trustor shall (i) pay, at least ten (10) days before delinquency, any taxes and assessments affecting the Property; (ii) pay, when due, all encumbrances, charges and liens, with interest, on the Property; and (iii) pay all costs, fees and expenses of this Deed of Trust. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as Trustor is contesting the legality thereof in good faith and by appropriate proceedings, and Trustor has adequate funds to pay any liabilities contested pursuant to this Section 7.

8. Trustor shall (i) keep the Property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation; (ii) not remove or demolish any buildings thereon; (iii) complete or restore promptly and in good and workmanlike manner any building

which may be constructed, damaged or destroyed thereon, and pay when due all claims for labor performed and materials furnished therefor; (iv) comply with all laws affecting the 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); (v) not commit or permit waste thereof; (vi) not commit, suffer or permit any act upon the Property in violation of law or covenants, conditions or restrictions affecting the Property; and (vii) not permit or suffer any material alteration of or addition to the buildings or improvements hereafter constructed in or upon the Property without the consent of Beneficiary.

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

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

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

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

13. 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 the Secured Obligations, the entire indebtedness evidenced by the Note shall, at the sole option of Beneficiary, become due and payable, anything contained herein to the contrary notwithstanding.

14. Trustor further covenants that it will not voluntarily create, suffer or permit to be created against the Property any lien or liens except as authorized by Beneficiary and further that it shall keep and maintain the Property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on the Property. 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 Official Records, a surety bond in an amount one-and-one-half (1.5) times the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary.

15. Any and all improvements made or about to be made upon the Property, and all plans and specifications, shall comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful authority, and the same shall upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

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

IT IS MUTUALLY AGREED THAT:

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

18. Upon default by Trustor in making any payments provided for herein or upon default by Trustor in making any payment required in the Note, or if Trustor shall fail to perform any covenant or agreement in this Deed of Trust, after the giving of notice and the expiration of any applicable cure period as set forth in Section 32, 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.

19. After the lapse of such time as may then be required by law following the

recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Property or any portion thereof 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 the 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 or portion thereof so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts therein shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. Trustee shall apply the proceeds of sale to payment of (i) the expenses of such sale, together with the reasonable expenses of this Deed of Trust including therein reasonable Trustee's fees or attorneys' fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (ii) the cost of any search and other evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (iii) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate specified in the Note; (iv) all other sums then secured hereby; and (v) the balance, if any, to the person or persons legally entitled thereto.

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

21. To the full extent permissible by law, Trustor hereby waives the pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust.

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

23. The Trust Estate created hereby is irrevocable by Trustor.

24. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder, including pledgees, of the Note. 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. To the extent that Trustor comprises more than one Person, all obligations of Trustor hereunder are joint and several.

25. Trustee accepts this Deed of Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Except as otherwise provided by law, Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

26. 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 Preamble of this Deed of Trust.

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

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

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

30. Notwithstanding specific provisions of this Deed of Trust, non-monetary performance hereunder shall not be deemed to be in default where delays or defaults are due to: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; acts of terrorism, epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; third party 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. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until Trustor delivers to Beneficiary written notice describing the event, its cause, when and how Trustor obtained knowledge, the date the event commenced and the estimated delay resulting therefrom. Trustor shall deliver such written notice within fifteen (15) days after it obtains actual knowledge of the event. Times of performance under this Deed of Trust may also be extended in writing by Beneficiary and Trustor.

31. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, then the unsecured portion of such obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the obligations.

32. (a) Subject to the provisions, including extensions of time set forth in Section 30, and subject to the provisions of this Section 32, failure or delay by Trustor to perform any term or provision respectively required to be performed under the Secured Obligations or this Deed of Trust shall constitute a default under this Deed of Trust.

(b) In the event of a default by Trustor, Beneficiary shall give written notice of default to Trustor, specifying the default complained of by 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 this Deed of Trust, then before exercising any remedies hereunder, Beneficiary shall give Trustor written notice of such default. Trustor shall have ten (10) calendar days after such notice is received or deemed received within which to cure the default before the exercise of remedies by Beneficiary hereunder; provided, however, that 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. If a monetary event of default occurs under the terms of the Secured Obligations, then Trustor shall have any cure period provided thereunder to cure such default.

(e) If a non-monetary event of default occurs under the terms of this Deed of Trust, then before exercising any remedies hereunder, Beneficiary shall give Trustor notice of such default. If the default is reasonably capable of being cured within thirty (30) days after such notice is received or deemed received, then Trustor shall have such period to effectuate a cure before the exercise of remedies by Beneficiary hereunder. 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 30-day period and (ii) diligently, continually and in good faith works to effectuate a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default before the exercise of any remedies by Beneficiary, but in no event shall such period exceed ninety (90) days from the date such notice is received or deemed received. If a non-monetary event of default occurs under the terms of the Secured Obligations, then Trustor shall have any cure period provided thereunder to cure such default.

(f) If Trustor fails to take corrective action or cure a default within a reasonable time, Beneficiary shall give the Senior Lender and, as provided in Section 32(h), the

Tax Credit Equity Investor, notice of any default by Trustor. The Senior Lender or the Tax Credit Equity Investor may cause Trustor to effectuate a cure within the cure period provided herein. Beneficiary agrees to accept cures tendered by any Senior Lender or Tax Credit Equity Investor within the cure periods provided herein. In the event that the Tax Credit Equity Investor is precluded from curing a non-monetary default as a result of a bankruptcy, injunction or similar proceeding by or against Trustor or the general partner of Trustor, Beneficiary agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period during which the Senior Lender of the Tax Credit Equity Investor is so precluded from acting, not to exceed ninety (90) days, provided such Senior Lender and Tax Credit Equity Investor are otherwise in compliance with the foregoing provisions. If such default shall be a default which can only be remedied or cured by such Senior Lender upon obtaining possession of the Property, then such Senior Lender shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within ninety (90) days after obtaining possession; provided that in the case of a default which cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced within such 90-day period, such Senior Lender shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity, but not to exceed one hundred eighty (180) days. If the default shall be a default which can only be remedied or cured by the Tax Credit Equity Investor through the removal of its general partner in accordance with the Partnership Agreement, then such Tax Credit Equity Investor, after approval by the Agency Executive Director (which shall not be unreasonably withheld), shall proceed with the removal of the general partner with diligence and continuity and shall remedy or cure such default within ninety (90) days after obtaining the control of Trustor; provided that in the case of default which cannot with diligence be remedied or cured, or the remedy or cure cannot be commenced within such ninety (90) day period, such Tax Credit Equity Investor shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity, but not to exceed one hundred eighty (180) days; and provided further that such Tax Credit Equity Investor shall not be required to remedy or cure any non-curable default of Trustor.

(g) Notwithstanding the foregoing, in no event shall Beneficiary be precluded from exercising remedies if its rights become or are about to become materially jeopardized by any failure to cure a default or, subject to the rights of the Senior Lender and the Tax Credit Equity Investor under Section 32(f) above, the default is not cured within ninety (90) calendar days after the first notice of default is received or deemed received for non-monetary defaults and ten (10) calendar days after the first notice of default is received or deemed received for monetary defaults.

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

(i) Any cure periods under this Deed of Trust shall run concurrently with any cure periods under the Secured Obligations.

(j) 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.

33. Subject to the provisions and limitations of this Section 33, the obligation to repay the Note is a nonrecourse obligation of Trustor and its partners. Neither Trustor nor its partners shall have any personal liability for repayment of the Note, except as provided in this Section 33 and in the Note. The sole recourse of Beneficiary shall be the exercise of its rights against the property covered by this Deed of Trust and any related security for the Note; provided, however, that the foregoing shall not (i) constitute a waiver of any other obligation evidenced by the Note or this Deed of Trust; (ii) limit the right of 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; (iii) release or impair either the Note or this Deed of Trust; (iv) 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; (v) 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; or (vi) 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. Notwithstanding the first sentence of this Section 33, Beneficiary may recover directly from Trustor or, unless otherwise prohibited by any applicable law, from any other party:

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

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

(c) any and all amounts owing by Trustor pursuant to the indemnification regarding Hazardous Materials pursuant to the Environmental Indemnity; and

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

34. Subject to that certain Subordination Agreement dated as of _____,

20____, by and among Trustor, _____, a _____, and Beneficiary, as the same may be amended, restated, supplemented or modified from time to time, this Deed of Trust shall be subordinate and junior to _____ recorded concurrently herewith securing the _____ made by _____. In addition, this Deed of Trust shall be subordinate to the deeds of trust securing any other Senior Loan and the regulatory agreement between Trustor and the California Tax Credit Advisory Committee to be recorded in connection with the Low Income Housing Tax Credits, provided that such subordination is consistent with the OPA and Beneficiary and Senior Lender execute a subordination agreement in substantially in the form attached to the OPA as Attachment No. 10. The Agency Executive Director shall execute such instruments as may be necessary to subordinate the lien of this Deed of Trust as described in this Section 34. In the event of a default or breach by Trustor of any security instrument securing a senior obligation described in this Section 34, Beneficiary shall have the right to cure the default prior to completion of any foreclosure. In such event, Beneficiary shall be entitled to reimbursement by Trustor of all costs and expenses incurred by Beneficiary in curing the default. The amount of any such disbursements shall be a lien against the Property and added to the obligation secured by this Deed of Trust until repaid, with interest at the highest rate permitted by law.

35. Subject to the rights of any Senior Lender, in the event of any fire or other casualty to the Project or eminent domain proceedings resulting in condemnation of the Project or any part thereof, Trustor shall have the right to rebuild the Project, and to use all available insurance or condemnation proceeds therefor, provided that (i) 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 Agency Loan, or, if such proceeds are insufficient, then Trustor shall have funded any deficiency, (ii) 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, (iii) no material default then exists under any of the Agency Loan Documents, and (iv) Trustor completes such rebuilding within two (2) years following any such fire, other casualty or eminent domain proceedings. 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.

36. The Housing Commission is the owner of fee title to the real property on which the Improvements are situated, and Trustor is the owner of a long-term ground leasehold interest in the real property (such leasehold interest being referred to herein as the "Subject Property"). As contemplated by that certain Agency/Housing Commission Agreement between Beneficiary and the Housing Commission recorded substantially concurrent with this Deed of Trust (in the form attached to the OPA as Attachment No. 22), Beneficiary and Trustor shall execute and record (with the Housing Commission's consent) an instrument in the future that amends this Deed of Trust if the Housing Commission acquires the Improvements from Trustor and elects to assume rather than pay the entire balance of the Agency Loan. In such event, if the leasehold interest comprising the Subject Property is extinguished, this Deed of Trust (as amended) shall survive such extinguishment and shall continue to preserve a security interest against the Improvements in Beneficiary's favor.

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

TRUSTOR:

[WAKELAND ENTITY],

a California limited partnership

Dated: _____

By: _____

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

A leasehold estate in that land situated in the City of San Diego, County of San Diego, State of California as follows: [need to verify legal description for Leasehold with Title Company]

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

EXHIBIT B

INSURANCE REQUIREMENTS

1. At all times prior to the repayment in full of the Agency Loan secured hereby, 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 or flood coverage, if obtained, 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), which deductible amount shall be subject to increases equal to increases in the Consumer Price Index;

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 during the Term in the following amounts: 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 \$2,000,000 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 Lessee 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 ten (10) 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, Southeastern Economic 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 Closing. 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 under this Section 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 Agreement, 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).

ATTACHMENT NO. 10
FORM OF SUBORDINATION AGREEMENT

OFFICIAL BUSINESS

Document entitled to free
recording per California Government
Code Section 27383

Recording Requested by and
When Recorded Return to:

Redevelopment Agency of the
City of San Diego
c/o Southeastern Economic
Development Corporation
4393 Imperial Avenue, Suite 200
San Diego, California 92113
Attn: Project Manager, Central Imperial

Space above this line for Recorder's use only

SUBORDINATION AGREEMENT

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

THIS SUBORDINATION AGREEMENT (this "Agreement") is made as of _____, 20____ by and among the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic ("Agency"), _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership ("Borrower"), and _____, a _____ ("Bank").

RECITALS

A. Pursuant to the California Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*), the Agency has established a Low and Moderate Income Housing Fund and has deposited therein certain tax revenues made available to the Agency exclusively for the purpose of increasing and improving the community's supply of affordable low and moderate income housing.

B. For the purpose of increasing the supply of housing in the City of San Diego that will be affordable to Extremely Low Income, Very Low Income and Low Income households, the Agency and Borrower or its predecessor in interest have entered into that certain Owner

Participation Agreement dated as of _____, 20____ (the “OPA”) concerning, *inter alia*, the acquisition and rehabilitation of Affordable Units situated on Borrower’s leasehold estate in that certain real property (the “Leasehold”) located in the City of San Diego, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference. The OPA is a public document on file in the Agency’s office and 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 OPA.

C. Pursuant to the OPA, the Agency has issued to Borrower a residual receipts loan in the maximum principal amount of \$781,073 (the “Agency Loan”). The Agency Loan is evidenced by a promissory note in the principal amount of the Agency Loan (the “Agency Note”), dated on or about the date hereof secured by the following, each of which is dated on or about hereof: a Subordinate Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) (the “Agency Deed of Trust”); an Assignment of Rents and Leases (the “Agency Assignment of Rents”); an Assignment of Agreements (the “Agency Assignment of Agreements”) and a UCC-1 Financing Statement (the “UCC-1 Financing Statement”). The Agency Note, Agency Deed of Trust, Agency Assignment of Rents, the Agency Assignment of Agreements and the UCC-1 Financing Statement shall be referred to individually as an “Agency Loan Document” and collectively as the “Agency Loan Documents” in this Agreement.

D. In addition, in connection with the Agency Loan, the Agency and Borrower have executed, and will file in the Official Records, an Agreement Affecting Real Property (the “Agreement Affecting Real Property”). The Agreement Affecting Real Property and its priority is not affected by this Agreement. The Agreement Affecting Real Property is not an Agency Loan Document.

E. Bank will originate a conventional first mortgage construction loan (and/or bridge loan) in the original principal amount of \$ _____ (the “Bank Loan”). The Bank Loan is evidenced by a promissory note in the amount of the Bank Loan (the “Bank Note”) and is secured by, *inter alia*, a Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) in favor of Bank (the “Bank Deed of Trust”). The Bank Note and the Bank Deed of Trust and any other documents and instruments executed by Borrower in connection with the Bank Loan are referred to collectively as the “Bank Documents” in this Agreement.

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

G. The Agency and Bank have agreed and required as a condition of making their respective loans that the order of priority of their respective liens be as follows: (i) the Agreement Affecting Real Property; (ii) the Bank Documents; and (iii) the Agency Loan Documents.

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

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

AGREEMENT

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

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

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

4. This Agreement shall be the whole and only agreement with regard to the priority and subordination of the Bank Loan, the Bank Documents, 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, without limitation, those provisions, if any, contained in any of such loans and documents which provide for the subordination of the lien or charge thereof to another loan or loans, document or documents, deed or deeds of trust or to a mortgage or mortgages.

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

(a) The Agency consents to and approves all provisions of the Bank Note and the Bank Deed of Trust.

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

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

6. Notwithstanding anything to the contrary contained in this Agreement or any of the Bank Documents, Bank hereby agrees as follows:

(a) Upon the occurrence of an event of default under the Bank Deed of Trust or any other Bank Documents, Bank shall concurrently notify the Agency at the address set forth in the Agency Deed of Trust of the occurrence of such event of default;

(b) The Agency shall have the right (but not the obligation), during the cure periods which apply to Borrower pursuant to the Bank Documents, to cure Borrower's default relative to the Bank Loan, and Bank shall accept any such cure, and Bank agrees that Bank shall not cause an acceleration (or will cause a de-acceleration) of the indebtedness or other obligations of Borrower under the Bank Documents by reason of the default or breach which has been cured by the Agency;

(c) After a default under the Bank Deed of Trust or any other Bank Documents, but prior to a foreclosure sale or deed in lieu assignment of the Leasehold and/or the Leasehold Improvements, the Agency shall have the right, but not the obligation (for itself or any assignee of the Agency), to take title to the Leasehold and/or the Leasehold Improvements and to cure the default relative to the Bank Documents, without Bank exercising any right it might otherwise have to accelerate the Bank Loan by reason of such title transfer; and

(d) After a default under the Bank Deed of Trust or any other Bank Documents, but prior to a foreclosure sale or deed in lieu assignment of the Leasehold and the Leasehold Improvements, the Agency shall have the right, but not the obligation (for itself or any assignee of the Agency, to purchase the Leasehold and the Leasehold Improvements from Borrower and to pay all amounts due and owing under the Bank Documents, and Bank agrees that the acquisition of title to the Leasehold and the Leasehold Improvements by the Agency (or such assignee) shall not constitute an accelerating sale or transfer or an event of default pursuant to the Bank Documents and that upon receipt of such payment Bank shall immediately terminate, release, discharge and reconvey the Bank Deed of Trust and any other liens or encumbrances of Bank on the Leasehold and/or the Leasehold Improvements. Notwithstanding anything to the contrary set forth in Section 501 of the OPA, in the event Bank is precluded from curing a non-monetary default under the OPA due to a bankruptcy, injunction, or similar proceeding by or against Borrower or the general partner of Borrower, the Agency agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period during which the Bank is so precluded from acting, not to exceed ninety (90) days, provided Bank is otherwise in compliance with the relevant cure provisions of the OPA, including Section 320 thereof. In no event shall the Agency be precluded from exercising remedies under the OPA if its rights become or are about to become materially jeopardized by any failure to cure a default under the OPA.

7. The Agreement Affecting Real Property and its priority is not affected by this Agreement and shall not be extinguished, terminated or cancelled by a foreclosure sale under the Bank Loan.

8. 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.

[remainder of page left intentionally blank]

[signatures on following pages]

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

AGENCY:

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

Dated: _____

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH
Agency General Counsel

By: _____

Kevin Reisch
Deputy General Counsel

[remainder of page left intentionally blank]

[signatures on following pages]

BORROWER:

[WAKELAND ENTITY],
a California limited partnership

Dated: _____

By: _____

[remainder of page left intentionally blank]

[signatures on following page]

BANK:

_____, a

Dated: _____

By: _____

Name: _____

Its: _____

NOTARY ACKNOWLEDGMENT FORM FOR REDEVELOPMENT AGENCY

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

NOTARY ACKNOWLEDGMENT FORM FOR BORROWER

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

NOTARY ACKNOWLEDGMENT FORM FOR BANK

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF THE LEASEHOLD

A leasehold estate in that land situated in the City of San Diego, County of San Diego, State of California as follows: [need to verify legal description for Leasehold with Title Company]

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

ATTACHMENT NO. 11
FORM OF ASSIGNMENT OF RENTS AND LEASES

OFFICIAL BUSINESS

Document entitled to free
recording per California Government
Code Section 27383

Recording Requested by and
When Recorded Return to:

Redevelopment Agency of the
City of San Diego
c/o Southeastern Economic
Development Corporation
4393 Imperial Avenue, Suite 200
San Diego, California 92113
Attn: Project Manager, Central Imperial

Space above this line for Recorder's use only

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES (the "Assignment") is made as of _____, 20____, by _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership ("Borrower"), in favor of the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic, its successors, and assigns (collectively, the "Agency").

RECITALS

A. Borrower is the owner of the leasehold estate in certain real property located in the City of San Diego, County of San Diego, State of California, as more particularly described in Exhibit A attached hereto, and the owner of all of the personalty, fixtures, and improvements now or hereafter located thereon or attached thereto now existing or to be constructed thereon. Said real property interest, together with the personalty, fixtures, and improvements related thereto, are referred to collectively as the "Premises" in this Assignment.

B. The Agency and Borrower (or its predecessor in interest) entered into that certain Owner Participation Agreement, dated as of _____, 2010 (the "OPA"), pursuant to which the Agency agreed to issue to Borrower a residual receipts loan in the maximum principal amount of \$781,073 (the "Agency Loan" or "Indebtedness") for the purpose of providing part of the financing for the acquisition and development of the Leasehold Improvements on the Property to be used as a residential rental development consisting of 48 Affordable Units that are affordable to Low Income, Very Low Income and Extremely Low

Income households, one unrestricted manager's unit and related improvements and amenities (collectively, the "Project"). The Agency Loan is evidenced by that certain Promissory Note of even date herewith (the "Agency Note") and is secured by that certain Deed of Trust, Security Agreement and Fixture Filing, of even date herewith, executed by Borrower, as Trustor, for the benefit of Agency, as Beneficiary (the "Agency Deed of Trust"). The term "OPA" as used herein shall mean, refer to and include the OPA, as well as any riders, exhibits, addenda, implementation agreements, amendments, or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA.

C. In order to induce the Agency to issue the Agency Loan, Borrower has agreed to execute this Assignment.

NOW, THEREFORE, with reference to the foregoing and in reliance thereon and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower agrees as follows:

AGREEMENT

1. Assignment of Borrower's Interests. Borrower hereby absolutely grants, sells, assigns, transfers, and sets over to Agency, by this Assignment, all of Borrower's interests, whether now existing or hereafter acquired, in all leases and other occupancy agreements of any nature, now or hereafter covering all or any part of the Premises, together with all extensions, renewals, modifications, or replacements of said leases and occupancy agreements, and together with any and all guarantees of the obligations of the lessees and occupants (the "Lessees") thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. (Such leases and occupancy agreements, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter referred to collectively as the "Leases" and individually as a "Lease" in this Assignment.) The Agency will not exercise any of its rights under this Assignment unless, after notice and opportunity to cure, there is an uncured default under the OPA, the Agreement Affecting Real Property, the Agency Note, the Agency Deed of Trust, or the Environmental Indemnity.

2. Rents and Profits. Borrower's purpose in making this Assignment is to relinquish to Agency its right to collect and enjoy the rents, royalties, issues, profits, income, and other benefits at any time accruing by virtue of the Leases (collectively, "Rents and Profits").

3. Present Assignment. The parties intend that this Assignment shall be a present, absolute and unconditional assignment, subordinate only to the rights of any Senior Lender, and shall, immediately upon execution, give the Agency the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on the Agency Loan and other obligations under the Agency Note and other loan documents, as well as all other sums payable under the Agency Deed of Trust or any other instrument given as security for the Agency Loan, subject to any rights of any Senior Lender. However, the Agency hereby grants to Borrower a license to collect and use, subject to the provisions set forth below, the Rents and Profits as they respectively become due and to enforce the Leases, so long as there is no default by Borrower in performance of the terms, covenants, or provisions of the Agency Deed of Trust,

the Agency Note, the OPA, or this Assignment, after the expiration of any applicable notice and cure periods. Nothing contained herein, nor any collection of Rents and Profits by the Agency or by a receiver, shall be construed to make the Agency a “mortgagee in possession” of the Premises so long as the Agency has not entered into actual possession of the Premises.

4. Authorization to Lessees. Upon the occurrence of any default or event of default under the terms and conditions of this Assignment, the Agency Deed of Trust, the Agency Note, the OPA or any other Agency Loan document, after the expiration of any applicable notice and cure periods, this Assignment shall constitute a direction and full authority to each Lessee under any Lease and each guarantor of any Lease to pay all Rents and Profits to the Agency without proof of the default relied upon. Borrower hereby irrevocably authorizes each Lessee and guarantor to rely upon and comply with any notice or demand by the Agency for payment to the Agency of any Rents and Profits due or to become due.

5. Borrower’s Representations and Warranties. Borrower represents and warrants, as to each Lease now covering all or any portion of the Premises, unless Agency has been otherwise advised in writing by Borrower, as follows:

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

6. Agency’s Rights Regarding Leases, Rents and Profits. Subject in all events to any paramount rights of any Senior Lender, Borrower agrees with respect to each Lease:

- a. If any Lease provides for a security deposit paid by the Lessee to Borrower, this Assignment transfers to the Agency all of Borrower’s right, title, and interest in and to each such security deposit to be held on behalf of the Lessee; provided, however, that Borrower shall have the right to retain said security deposit so long as Borrower is not in default, after the expiration of any applicable notice and cure periods, under this Assignment, the Agency Deed of Trust, the Agency Note, the OPA or any other Agency Loan document; and provided further that the Agency shall have no obligation to the Lessee with respect to such security deposit unless and until the Agency obtains actual possession and control of the security deposit.

b. If any Lease provides for the abatement of rent during repair of the leased premises by reason of fire or other casualty, Borrower shall furnish rental insurance to the Agency, the policies to be with companies and in form, content, policy limits, and terms as are customary in the case of entities owning similar property or assets similarly situated.

c. Each Lease shall remain in full force and effect despite any merger of the interest of Borrower and any Lessee thereunder. Borrower shall not terminate any Lease (except pursuant to the terms of the Lease upon a default by any Lessee thereunder), or materially modify or amend any Lease or any of the terms thereof, or grant any concessions in connection therewith or accept a surrender thereof, without the Agency's prior written consent if requested by the Agency Executive Director, which consent shall not be unreasonably withheld.

d. Borrower shall not hereafter execute any Lease, the terms and conditions of which have not been previously approved in writing by the Agency if requested by the Agency Executive Director, which approval shall not be unreasonably withheld or delayed.

e. Borrower shall not collect any Rents and Profits more than thirty (30) days in advance of the date on which they become due under the terms of any Lease.

f. Borrower shall not discount any future accruing Rents and Profits.

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

h. Borrower shall not execute any further assignment of any of the Rents and Profits or any interest therein or suffer or permit any such assignment to occur by operation of law, except as approved in writing by the Agency.

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

j. Borrower shall faithfully perform and discharge all obligations of the lessor under each Lease, and shall give prompt written notice to the Agency of any notice of Borrower's default received from any Lessee or any other person and furnish the Agency with a complete copy of such notice.

k. Any Lease of a part of the Premises shall, upon written notice from the Agency to Borrower, be deemed included in this Assignment as though originally listed herein.

l. At the Agency's option, Borrower shall not hire, retain, or contract with any third party for property management services with respect to the Premises, without the Agency's prior written approval of such third party and the terms of its contract for management

services.

m. Nothing herein shall be construed to impose any liability or obligation on the Agency under or with respect to any Lease. Borrower shall defend, indemnify, and hold harmless the Agency, Southeastern Economic Development Corporation, the City of San Diego and their respective officers, officials, directors, agents, employees, representatives and attorneys (collectively, the “Indemnitees” and individually an “Indemnitee”) from and against any and all liabilities, losses, and damages that any Indemnitee may incur under any Lease or by reason of this Assignment, and of and from any and all claims and demands whatsoever that may be asserted against any Indemnitee by reason of any alleged obligations to be performed or discharged by the Agency under any Lease or this Assignment, unless any of the foregoing arises from or results from the gross negligence or willful misconduct of any Indemnitee. Should any Indemnitee incur any liability, loss, or damage under any Lease or by reason of this Assignment and such liability, loss, or damage falls within the foregoing indemnification, Borrower shall immediately upon demand reimburse such Indemnitee for the amount thereof together with all costs and expenses and reasonable attorneys’ fees) and court costs incurred by such Indemnitee. All of the foregoing sums shall bear interest at the maximum rate permitted by law from demand by Indemnitee until paid. Any Rents and Profits collected by the Agency may be applied by the Agency, in its sole discretion, in satisfaction of any such liability, loss, damage, claim, demand, cost, expense, or fees.

7. Rights and Remedies upon Default. Subject to the rights of any Senior Lender, Borrower hereby grants to the Agency the following rights:

a. Upon the occurrence of any default or event of default under the terms and conditions of this Assignment, the Agency Deed of Trust, the Agency Note, the OPA or any other Agency Loan document, the Agency shall be deemed to be the creditor of each Lessee in respect of any assignments for the benefit of creditors and any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership, or other debtor relief proceedings affecting such Lessee, without obligation on the part of the Agency, however, to file timely claims in such proceedings or otherwise pursue creditor’s rights therein.

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

c. The Agency shall have the right (but not the obligation), upon the occurrence of any default or event of default under the terms and conditions of this Assignment, the Agency Deed of Trust, the Agency Note, the OPA or any other Agency Loan document, to take any action as the Agency may deem necessary or appropriate to protect its security, including but not limited to appearing in any action or proceeding and performing any obligations of the lessor under any Lease. Borrower agrees to pay, on demand, all costs and expenses, including without limitation reasonable attorneys’ fees and court costs incurred by the Agency in connection therewith, together with interest thereon at the highest rate of interest permitted by law per annum.

d. Upon the occurrence of any default or event of default beyond any applicable notice-and-cure-period under the terms and conditions of this Assignment, the Agency Deed of Trust, the Agency Note, the OPA or any other Agency Loan document, and without notice to or consent of Borrower, the Agency shall have the following rights (none of which shall be construed to be obligations of the Agency):

i. The Agency shall have the right under this Assignment to use and possess, without rental or charge, the fixtures, equipment, and personal property of Borrower located in or on the Premises and used in the operation or occupancy thereof. The Agency shall have the right to apply any of the Rents and Profits to pay installments due for personal property rented or purchased on credit, insurance premiums on personal property, or other charges relating to personal property in or on the Premises. However, this Assignment shall not make the Agency responsible for the control, care, management, or repair of the Premises or any personal property or for the carrying out of any of the terms or provisions of any Lease.

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

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

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

v. The Agency shall have the right to cancel or alter any existing Leases, subject to the terms of the Leases, any laws affecting the Leases, and any restrictions on the Property.

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

e. All of the foregoing rights and remedies of the Agency are cumulative, and the Agency also shall have upon the occurrence of any such default or event of default all other rights and remedies provided under the Agency Note, the Agency Deed of Trust, the OPA or any other Agency Loan document or other agreement between Borrower and the Agency or between Borrower and the Agency, or otherwise available at law or in equity or by statute. Failure of the Agency to avail itself of any terms, covenants, or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

8. Future Modifications. Notwithstanding any future modification of the terms of the Agency Note, the Agency Deed of Trust, the OPA, or any other Agency Loan document, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of the

Agency in accordance with the terms of this Assignment.

9. Binding Effect. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors, and assigns of the parties hereto (including without limitation in the case of the Agency, any third parties now or hereafter acquiring any interest in the Indebtedness or other obligations of Borrower under the Agency Note, the Agency Deed of Trust, or a part thereof, whether by virtue of assignment, participation, or otherwise). The words Borrower, Agency, and Lessee, wherever used herein, shall include the persons and entities named herein or in any Lease and designated as such and their respective heirs, legal representatives, successors and assigns, provided that any action taken by the named Agency or any successor, designated as such by an instrument recorded in the Official Records of San Diego County, California, referring to this Assignment, shall be sufficient for all purposes notwithstanding that the Agency may have theretofore assigned or participated any interest in the obligation to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

10. Amendments. Any change, amendment, modification, abridgment, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the Agency's written consent.

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

12. Notices.

a. Formal notices, demands and communications between the Agency and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the Agency and Borrower as set forth below: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a "hard" copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or "kick-out" sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.

b. The address of the Agency for purposes of receiving notices pursuant to this Assignment shall be the Redevelopment Agency of the City of San Diego, c/o Southeastern Economic Development Corporation, 4393 Imperial Avenue, Suite 200, San Diego, California 92113, Attention: Central Imperial Redevelopment Project Area - Project Manager. The facsimile number for the Agency's receipt of notices is (619) 262-9845.

c. The address of Borrower for purposes of receiving notices pursuant to this Assignment is 1230 Columbia Street, Suite 950, San Diego, California 92101, Attention: Kenneth L. Sauder, President. The facsimile number for Borrower's receipt of notices is (619) 235-5386.

13. Recordation. Borrower irrevocably authorizes the Agency to cause this Assignment to be recorded in the Official Records of the San Diego County Recorder's Office. Borrower shall pay all fees, charges, costs, and expenses of such recording.

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

15. Governing Law. This Assignment shall be governed by, and interpreted and construed in accordance with, the laws of the State of California.

16. Attorneys' Fees. If the Agency initiates any legal action or proceeding to enforce its rights hereunder at law or at equity, Borrower shall reimburse the Agency for all reasonable attorneys' fees and costs expended in connection therewith.

[remainder of this page intentionally left blank]

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

[WAKELAND ENTITY],
a California limited partnership

Dated: _____

By: _____

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION

A leasehold estate in that land situated in the City of San Diego, County of San Diego, State of California as follows: [need to verify legal description for Leasehold with Title Company]

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

ATTACHMENT NO. 12
FORM OF ASSIGNMENT OF AGREEMENTS

ASSIGNMENT OF AGREEMENTS

FOR VALUE RECEIVED, the undersigned, _____, a _____ [Wakeland entity] (“Owner”), pursuant to that certain Owner Participation Agreement dated _____, 2010 (the “OPA”), assigns to the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic (“Agency”), subject to any pledge or assignment required by any Senior Lender, all of its right, title and interest, but not its obligations, in and to the following as of _____, 20____ (the “Effective Date”):

1. All architectural, design, engineering and development agreements, and any and all amendments, modifications, supplements, addenda and general conditions thereto (collectively, “Architectural Agreements”);

2. All plans and specifications, shop drawings, working drawings, amendments, modifications, changes, supplements, general conditions and addenda thereto (collectively, “Plans and Specifications”), heretofore or hereafter entered into or prepared by any architect, engineer or other person or entity (collectively, “Architect”), for or on behalf of Owner in connection with the construction of the Leasehold Improvements. The Plans and Specifications, as of the date hereof, are those which Owner has heretofore delivered, or will hereafter deliver, to the Agency. The Architectural Agreements include, without limitation, the architectural contract by and between Owner and _____, a _____, dated _____, 20____; and

3. All governmental permits, approvals and entitlements (collectively, “Entitlements”) relating to the construction, development and operation of the Project heretofore or hereafter granted by the City of San Diego or any other governmental authority having jurisdiction over the Property described on Exhibit A.

This ASSIGNMENT OF AGREEMENTS (this “Assignment”) constitutes a present and absolute assignment to the Agency as the Effective Date, subordinate to the rights of _____, a _____ (“Senior Lender”); provided, however, that the Agency confers upon Owner the right to enforce the terms of the Architectural Agreements and Owner’s rights to the Plans and Specifications and the Entitlements so long as no default has occurred and is continuing under the OPA. Upon the occurrence of a default under the OPA, the Agency may, in its sole discretion, give notice to Architect of its intent to enforce the rights of Owner under the Architectural Agreements and of its rights to the Plans and Specifications and the Entitlements and may initiate or participate in any legal proceedings respecting the enforcement of said rights. Owner acknowledges that by accepting this Assignment, the Agency does not assume any of Owner’s obligations under the Architectural Agreements or with respect to the Plans and Specifications or the Entitlements.

Owner represents and warrants to the Agency, as of the Effective Date, that: (i) all Architectural Agreements entered into by Owner are in full force and effect and are enforceable

in accordance with their terms and no default, or event which would constitute a default after notice or the passage of time, or both, exists with respect to said Architectural Agreements; (ii) all copies of the Architectural Agreements, Plans and Specifications and Entitlements delivered to the Agency are complete and correct copies; and (iii) Owner has not assigned any of its rights under the Architectural Agreements or with respect to the Plans and Specifications or the Entitlements, except to Senior Lender.

Owner agrees: (i) to pay and perform all obligations of Owner under the Architectural Agreements; (ii) to enforce the payment and performance of all obligations of any other person or entity under the Architectural Agreements; (iii) not to modify the existing Architectural Agreements nor to enter into any future Architectural Agreements without the Agency's prior written approval; and (iv) not to further assign (other than assignment in connection with a loan from Senior Lender which is senior in priority to the Agency's assignment), for security or any other purposes, its rights under the Architectural Agreements or with respect to the Plans and Specifications or the Entitlements without the Agency's prior written consent.

This Assignment secures performance by Owner of all obligations of Owner under the OPA. This Assignment is supplemented by the provisions of the OPA and said provisions are hereby incorporated herein by this reference.

The term "OPA" as used herein shall mean the OPA, as well as any future amendments and implementation agreements between Owner and the Agency which refer to this Assignment. Capitalized terms not otherwise defined herein shall have the meaning set forth in the OPA.

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

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

The attached Architect's Consent (Schedule 1) and Exhibit A are hereby incorporated herein by this reference.

[signature(s) on following page]

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

_____ [Wakeland],
a _____

Dated: _____

By: _____
Name: _____
Its: _____

ARCHITECT'S CONSENT

The undersigned architect ("Architect") hereby consents to the foregoing Assignment to which this Architect's Consent is part, and acknowledges that there presently exists no unpaid claims due to Architect except as set forth on Schedule 1 attached hereto and incorporated herein by this reference, arising out of the preparation and delivery of the Plans and Specifications to Owner and the performance of Architect's obligations under the Assignment.

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

Architect further agrees that, in the event of a breach by Owner of any of the Architectural Agreements, or any agreement entered into with Architect in connection with the Plans and Specifications, so long as Owner's interest in the Architectural Agreements and Plans and Specifications is assigned to the Agency, Architect shall give written notice to the Agency of such breach at: the Redevelopment Agency of the City of San Diego, c/o Southeastern Economic Development Corporation, 4393 Imperial Avenue, Suite 200, San Diego, California 92113, Attention: Central Imperial Redevelopment Project Area - Project Manager.

The Agency shall have thirty (30) days from the receipt of such written notice of default to remedy or cure said default. Nothing herein shall require the Agency to cure said default or to undertake completion of construction of the Leasehold Improvements.

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

[signature(s) on following page]

IN WITNESS WHEREOF, the undersigned Architect has executed this Consent as of _____, 20____.

_____,
a _____

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

SCHEDULE 1

UNPAID CLAIMS

[behind this page]

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

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

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

ATTACHMENT NO. 13
FORM OF ENVIRONMENTAL INDEMNITY

ENVIRONMENTAL INDEMNITY

THIS ENVIRONMENTAL INDEMNITY (“Indemnity”), is is made as of _____ 20____, by _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership (“Borrower”), whose address is 1230 Columbia Street, Suite 950, San Diego, California 92101, Attn: Kenneth L. Sauder, and the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic (“Agency”), whose address is 4393 Imperial Avenue, Suite 200, San Diego, California 92113, Attn: Project Manager – Central Imperial..

RECITALS

A. Borrower is the owner of the leasehold estate in certain real property in the City of San Diego, as more particularly described on Exhibit A attached hereto and incorporated herein by this reference, together with the real property improvements located thereon (collectively, the “Property”).

B. The Agency and Borrower (or its predecessor in interest) entered into that certain Owner Participation Agreement, dated as of _____, 2010 (the “OPA”), pursuant to which the Agency agreed to issue to Borrower a residual receipts loan in the maximum principal amount of \$781,073 (the “Agency Loan”) for the purpose of providing part of the financing for the acquisition and development of the Leasehold Improvements on the Property to be used as a residential rental development consisting of 48 Affordable Units that are affordable to Low Income, Very Low Income and Extremely Low Income households, one unrestricted manager’s unit and related improvements and amenities (collectively, the “Project”). The term “OPA” as used herein shall mean, refer to and include the OPA, as well as any riders, exhibits, addenda, implementation agreements, amendments, or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA. The OPA and the documents and instruments referred to therein which are being executed by Borrower concurrently herewith are referred to collectively as the “Loan Documents” in this Indemnity.

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

AGREEMENT

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

1. Definitions.

For the purpose of this Indemnity, “Hazardous Materials” or “Hazardous Substances” shall include, but not be limited to, substances defined as “extremely hazardous substances”, “hazardous substances”, “hazardous materials”, “hazardous waste” or “toxic substances” in the

Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C. sections 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901, *et seq.*; and those substances defined as “hazardous waste” in section 25117 of the California Health and Safety Code, as “infectious waste” in section 25117.5 of the California Health and Safety Code, or as “hazardous substances” in section 25316 of the California Health and Safety Code or “hazardous materials” as defined in section 353 of the California Vehicle Code; and in the regulations adopted and publications promulgated pursuant to said laws.

2. Covenants and Indemnity.

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

2.1 Covenants.

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

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

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

(d) The Agency shall have the right, at any time, to conduct an environmental audit of the Property at the Agency’s expense, unless Hazardous Materials are found, then at Borrower’s sole cost and expense, and Borrower shall cooperate in the conduct of any such environmental audit. Other than in an emergency, such audit shall be conducted only after prior notice has been given to Borrower and only in the presence of a representative of Borrower. Borrower shall give the Agency and its agents and employees access to the Property to remove, or otherwise to mitigate against the effects of, Hazardous Materials.

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

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

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

2.2 Indemnity. Borrower shall defend, indemnify and hold harmless the Agency, Southeastern Economic Development Corporation (“SEDC”), the City of San Diego (“City”) and their respective directors, officers, employees, agents, representatives and attorneys (collectively, the “Indemnified Parties”) from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements, or expenses (including, without limitation, attorneys’ and experts’ fees and disbursements) of any kind or of any nature whatsoever (collectively, the “Obligations”) which may at any time be imposed upon, incurred by or asserted or awarded against the Indemnified Parties (except to the extent caused by the gross negligence or willful misconduct of the Indemnified Parties) arising from or out of any of the following matters:

(a) The presence of any Hazardous Materials on, in, under, or affecting all or any portion of the Property or any surrounding areas, including Hazardous Materials known or anticipated to be present, except to the extent such Hazardous Materials were caused by the Agency or its agents;

(b) The breach of any covenant made by Borrower in Section 2.1 hereof; or

(c) The enforcement by the Agency of any of the provisions of this Section 2.2 or the assertion by Borrower of any defense to its obligations hereunder.

2.3 Other Recovery. Notwithstanding any other provision or as otherwise allowed by law, the Indemnified Parties may also recover directly from Borrower or from any other party (collectively, the “Obligor”) who may be responsible for:

(a) any damages, costs and expenses incurred by the Indemnified Parties as a result of the negligence of such person or entity, involving, directly or indirectly, the use, generation, treatment, storage, release, or disposal of any Hazardous Materials by such Obligor or its agents;

(b) any damages, costs and expenses incurred by the Indemnified Parties as a result of fraud or any criminal act or acts of Borrower or any partner, shareholder, member, officer, director or employee of Borrower relating to the use, generation, treatment, storage, release, or disposal of any Hazardous Materials;

(c) any damages, costs and expenses incurred by the Indemnified Parties as a result of any misappropriation of (i) funds provided for the Rehabilitation Costs as described in the OPA, (ii) rents and revenues from the operation of the Project, or (iii) proceeds of insurance policies or condemnation proceeds, which relates to the use, generation, treatment, storage, release, or disposal of any Hazardous Materials, except to the extent any such misappropriation is caused solely by the Indemnified Parties; and

(d) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions.

3. Borrower's Unconditional Obligations.

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

(a) The validity, regularity, or enforceability of the Loan Documents or any other instrument or document executed or delivered in connection therewith;

(b) Any alteration, amendment, modification, release, termination, or cancellation of any of the Loan Documents, or any change in the time, manner, or place of payment of, or in any other term in respect of, all or any of the obligations of Borrower contained in any of the Loan Documents;

(c) Any extension of the maturity of the Agency Loan or any waiver of, or consent to any departure from, any provision contained in any of the Loan Documents;

(d) Any exculpatory provision in any of the Loan Documents limiting the Agency's recourse to property encumbered by the Deed of Trust securing the Agency Loan, or to any other security, or limiting the Agency's rights to a deficiency judgment against Borrower;

(e) Any exchange, addition, subordination, or release of, or non-perfection of any lien on or security interest in, any collateral for the Agency Loan, or any release, amendment, waiver of, or consent to any departure from any provision of any other borrower or guarantee given in respect of the Agency Loan;

(f) The insolvency or bankruptcy of Borrower, the Agency, or any indemnitor or guarantor under any other indemnity or guarantee given in respect of the Agency Loan; or

(g) Any other circumstance that might otherwise constitute a defense available to, or a discharge of, Borrower, or any other indemnitor or guarantor with respect to the Agency Loan or any or all of the Obligations.

3.2 Continuation. This Indemnity (a) is a continuing indemnity and shall remain in full force and effect until the satisfaction in full of all of the Obligations (notwithstanding the payment in full of the Agency Loan or the release or other extinguishment

of the Agency Deed of Trust or any other security for the Agency Loan); and (b) shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by the Agency upon the insolvency, bankruptcy, or reorganization of Borrower or otherwise, all as though such payment had not been made.

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

(a) The Agency has at any time or in any manner participated in the management or control of, taken possession of (whether personally, by agent or by appointment of a receiver), or taken title to the Property or any portion thereof, whether by foreclosure, deed in lieu of foreclosure, sale under power of sale or otherwise; or

(b) There has been a change, between the date hereof and the date on which all of the Obligations are paid and performed in full, in any Hazardous Materials laws or regulations, the effect of which may be to make a lender or mortgagee liable in respect of any of the Obligations, notwithstanding the fact that no event, circumstance, or condition of the nature described in paragraph (a) above ever occurred.

4. Waiver.

Borrower hereby waives the following:

(a) Promptness and diligence;

(b) Notice of acceptance and notice of the incurrence of any obligation by Borrower;

(c) Notice of any action taken by the Agency, Borrower, or any other interested party under any Loan Document or under any other agreement or instrument relating thereto;

(d) All other notices, demands, and protests, and all other formalities of every kind, in connection with the enforcement of the Obligations, the omission of or delay in which, but for the provisions of this Section 4, might constitute grounds for relieving Borrower of its Obligations hereunder;

(e) The right to a trial by jury with respect to any dispute arising under, or relating to, this Indemnity;

(f) Any requirement that the Agency protect, secure, perfect, or insure any security interest or lien in or on any property subject thereto;

(g) Any requirement that the Agency exhaust any right or take any action against Borrower or any other person or collateral; and

(h) Any defense that may arise by reason of:

(i) The incapacity, lack of authority, death or disability of, or revocation hereof by, any person or persons;

(ii) The failure of the Agency to file or enforce any claim against the estate (in probate, bankruptcy, or any other proceedings) of any person or persons; or

(iii) Any defense based upon an election of remedies by the Agency, including, without limitation, an election to proceed by nonjudicial foreclosure or which destroys or otherwise impairs the subrogation rights of Borrower or any other right of Borrower to proceed against any party.

5. Notices.

5.1 Formal notices, demands and communications between the Agency and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the Agency and Borrower as set forth below: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a “hard” copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or “kick-out” sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.

5.2 The address of the Agency for purposes of receiving notices pursuant to this Indemnity shall be the Redevelopment Agency of the City of San Diego, c/o Southeastern Economic Development Corporation, 4393 Imperial Avenue, Suite 200, San Diego, California 92113, Attention: Central Imperial Redevelopment Project Area - Project Manager. The facsimile number for the Agency’s receipt of notices is (619) 262-9845.

5.3 The address of Borrower for purposes of receiving notices pursuant to this Indemnity is 1230 Columbia Street, Suite 950, San Diego, California 92101, Attention: Kenneth L. Sauder, President. The facsimile number for Borrower’s receipt of notices is (619) 235-5386.

6. Miscellaneous.

6.1 Borrower shall make any payment required to be made hereunder in lawful money of the United States of America, and in same day funds, to the Agency at its address specified in Section 5.2 hereof.

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

given.

6.3 No failure on the part of the Agency to exercise, and no delay in exercising, any right hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of the Agency provided herein and in the other Loan Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law. The rights of the Agency under any Loan Document against any party thereto are not conditional or contingent on any attempt by the Agency to exercise any of its rights under any other Loan Document against such party or against any other person or collateral.

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

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

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

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

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

[remainder of this page intentionally left blank]

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

[WAKELAND ENTITY],
a California limited partnership

Dated: _____

By: _____

EXHIBIT A

LEGAL DESCRIPTION

A leasehold estate in that land situated in the City of San Diego, County of San Diego, State of California as follows: [need to verify legal description for Leasehold with Title Company]

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

ATTACHMENT NO. 14

UCC-1 FINANCING STATEMENT
(behind this page)



DEBRA BOWEN | SECRETARY OF STATE | STATE OF CALIFORNIA
BUSINESS PROGRAMS | UNIFORM COMMERCIAL CODE

1500 11th Street | Sacramento, CA 95814 | P.O. Box 942835 | Sacramento, CA 94235-0001 | (916) 653-3516 | www.sos.ca.gov

June 1, 2008

REDACTION OF SOCIAL SECURITY NUMBERS

In order to protect personal privacy and in compliance with Section 9526.5 of the California Uniform Commercial Code (UCC), the Secretary of State's office (SOS) has removed ("redacted") social security numbers, if provided, from all UCC records filed prior to December 31, 2007. In addition, the SOS is redacting any social security number provided on a record filed on paper after January 1, 2008.

For each record that is redacted, the SOS maintains the original un-redacted official filing image and creates a redacted public filing image, which is available for UCC information requests. The un-redacted official filing image is available to the public pursuant to a subpoena or an order from a court of competent jurisdiction.

In the event that the SOS misses redacting a social security number from a UCC record, any person may notify the SOS and specify the file or document number of the record and the location of the social security number within the record, and the SOS will create a redacted public filing image of the record within 10 business days from the date of notification.

In addition, the SOS has made available a filing form pursuant to Section 9521 of the UCC that removes the space identified for the disclosure of the social security number of an individual. These UCC filing forms can be obtained by visiting the California Business Portal at www.sos.ca.gov and clicking on the Forms & Fees link.

UCC filings are public records. Please do not put people at risk of identify theft by including social security numbers on any documents for filing with the Secretary of State.

For more information on identify theft, you may want to visit the California Office of Information Security & Privacy Protection (OISPP) website at www.oispp.ca.gov or review its consumer information on Social Security Number privacy available at www.oispp.ca.gov/consumer_privacy/ssn.asp.

Instructions for National UCC Financing Statement (Form UCC1)

Please type or laser-print this form. Be sure it is completely legible. Read all Instructions, especially Instruction 1; correct Debtor name is crucial. Follow Instructions completely.

Fill in form very carefully; mistakes may have important legal consequences. If you have questions, consult your attorney. The filing office cannot give legal advice.

Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use.

When properly completed, send Filing Office Copy, with required fee, to filing office. If you want an acknowledgment, complete item B and, if filing in a filing office that returns an acknowledgment copy furnished by filer, you may also send Acknowledgment Copy; otherwise detach. If you want to make a search request, complete item 7 (after reading Instruction 7 below) and send Search Report Copy, otherwise detach. Always detach Debtor and Secured Party Copies.

If you need to use attachments, use 8-1/2 X 11 inch sheets and put at the top of each sheet the name of the first Debtor, formatted exactly as it appears in item 1 of this form; you are encouraged to use Addendum (Form UCC1Ad).

A. To assist filing offices that might wish to communicate with filer, filer may provide information in item A. This item is optional.

B. Complete item B if you want an acknowledgment sent to you. If filing in a filing office that returns an acknowledgment copy furnished by filer, present simultaneously with this form a carbon or other copy of this form for use as an acknowledgment copy.

1. **Debtor name:** Enter only one Debtor name in item 1, an organization's name (1a) or an individual's name (1b). Enter Debtor's exact full legal name. Don't abbreviate.
 - 1a. **Organization Debtor.** "Organization" means an entity having a legal identity separate from its owner. A partnership is an organization; a sole proprietorship is not an organization, even if it does business under a trade name. If Debtor is a partnership, enter exact full legal name of partnership; you need not enter names of partners as additional Debtors. If Debtor is a registered organization (e.g., corporation, limited partnership, limited liability company), it is advisable to examine Debtor's current filed charter documents to determine Debtor's correct name, organization type, and jurisdiction of organization.
 - 1b. **Individual Debtor.** "Individual" means a natural person; this includes a sole proprietorship, whether or not operating under a trade name. Don't use prefixes (Mr., Mrs., Ms.). Use suffix box only for titles of lineage (Jr., Sr., III) and not for other suffixes or titles (e.g., M.D.). Use married woman's personal name (Mary Smith, not Mrs. John Smith). Enter individual Debtor's family name (surname) in Last Name box, first given name in First Name box, and all additional given names in Middle Name box.
For both organization and individual Debtors: Don't use Debtor's trade name, DBA, AKA, FKA, Division name, etc. in place of or combined with Debtor's legal name; you may add such other names as additional Debtors if you wish (but this is neither required nor recommended).
 - 1c. An address is always required for the Debtor named in 1a or 1b.
 - 1d. **This field has been removed pursuant to California Uniform Commercial Code, Section 9526.5.**
 - 1e,f,g. "Additional information re organization Debtor" is always required. Type of organization and jurisdiction of organization as well as Debtor's exact legal name can be determined from Debtor's current filed charter document. Organizational ID #, if any, is assigned by the agency where the charter document was filed; this is different from tax ID #; this should be entered preceded by the 2-character U.S. Postal identification of state of organization if one of the United States (e.g., CA12345, for a California corporation whose organizational ID # is 12345); if agency does not assign organizational ID #, check box in item 1g indicating "none."
- Note:* If Debtor is a trust or a trustee acting with respect to property held in trust, enter Debtor's name in item 1 and attach Addendum (Form UCC1Ad) and check appropriate box in item 17. If Debtor is a decedent's estate, enter name of deceased individual in item 1b and attach Addendum (Form UCC1Ad) and check appropriate box in item 17. If Debtor is a transmitting utility or this Financing Statement is filed in connection with a Manufactured-Home Transaction or a Public-Finance Transaction as defined in applicable Commercial Code, attach Addendum (Form UCC1Ad) and check appropriate box in item 18.
2. If an additional Debtor is included, complete item 2, determined and formatted per Instruction 1. To include further additional Debtors, or one or more additional Secured Parties, attach either Addendum (Form UCC1Ad) or other additional page(s), using correct name format. Follow Instruction 1 for determining and formatting additional names.
 3. Enter information for Secured Party or Total Assignee, determined and formatted per Instruction 1. If there is more than one Secured Party, see Instruction 2. If there has been a total assignment of the Secured Party's interest prior to filing this form, you may either (1) enter Assignor S/P's name and address in item 3 and file an Amendment (Form UCC3) [see item 5 of that form]; or (2) enter Total Assignee's name and address in item 3 and, if you wish, also attaching Addendum (Form UCC1Ad) giving Assignor S/P's name and address in item 12.
 4. Use item 4 to indicate the collateral covered by this Financing Statement. If space in item 4 is insufficient, put the entire collateral description or continuation of the collateral description on either Addendum (Form UCC1Ad) or other attached additional page(s).
 5. If filer desires (at filer's option) to use titles of lessee and lessor, or consignee and consignor, or seller and buyer (in the case of accounts or chattel paper), or bailee and bailor instead of Debtor and Secured Party, check the appropriate box in item 5. If this is an agricultural lien (as defined in applicable Commercial Code) filing or is otherwise not a UCC security interest filing (e.g., a tax lien, judgment lien, etc.), check the appropriate box in item 5, complete items 1-7 as applicable and attach any other items required under other law.
 6. If this Financing Statement is filed as a fixture filing or if the collateral consists of timber to be cut or as-extracted collateral, complete items 1-5, check the box in item 6, and complete the required information (items 13, 14 and/or 15) on Addendum (Form UCC1Ad).
 7. This item is optional. Check appropriate box in item 7 to request Search Report(s) on all or some of the Debtors named in this Financing Statement. The Report will list all Financing Statements on file against the designated Debtor on the date of the Report, including this Financing Statement. There is an additional fee for each Report. If you have checked a box in item 7, file Search Report Copy together with Filing Officer Copy (and Acknowledgment Copy). Note: Not all states do searches and not all states will honor a search request made via this form; some states require a separate request form.
 8. This item is optional and is for filer's use only. For filer's convenience of reference, filer may enter in item 8 any identifying information (e.g., Secured Party's loan number, law firm file number, Debtor's name or other identification, state in which form is being filed, etc.) that filer may find useful.

Instructions for National UCC Financing Statement Addendum (Form UCC1Ad)

9. Insert name of first Debtor shown on Financing Statement to which this Addendum is related, exactly as shown in item 1 of Financing Statement.
10. Miscellaneous: Under certain circumstances, additional information not provided on Financing Statement may be required. Also, some states have non-uniform requirements. Use this space to provide such additional information or to comply with such requirements; otherwise, leave blank.
11. If this Addendum adds an additional Debtor, complete item 11 in accordance with Instruction 1 on Financing Statement. To add more than one additional Debtor, either use an additional Addendum form for each additional Debtor or replicate for each additional Debtor the formatting of Financing Statement item 1 on an 8-1/2 X 11 inch sheet (showing at the top of the sheet the name of the first Debtor shown on the Financing Statement), and in either case give complete information for each additional Debtor in accordance with Instruction 1 on Financing Statement. All additional Debtor information, especially the name, must be presented in proper format exactly identical to the format of item 1 of Financing Statement.
12. If this Addendum adds an additional Secured Party, complete item 12 in accordance with Instruction 3 on Financing Statement. In the case of a total assignment of the Secured Party's interest before the filing of this Financing Statement, if filer has given the name and address of the Total Assignee in item 3 of the Financing Statement, filer may give the Assignor S/P's name and address in item 12.
- 13-15. If collateral is timber to be cut or as-extracted collateral, or if this Financing Statement is filed as a fixture filing, check appropriate box in item 13; provide description of real estate in item 14; and, if Debtor is not a record owner of the described real estate, also provide, in item 15, the name and address of a record owner. Also provide collateral description in item 4 of Financing Statement. Also check box 6 on Financing Statement. Description of real estate must be sufficient under the applicable law of the jurisdiction where the real estate is located.
16. Use this space to provide continued description of collateral, if you cannot complete description in item 4 of Financing Statement.
17. If Debtor is a trust or a trustee acting with respect to property held in trust or is a decedent's estate, check the appropriate box.
18. If Debtor is a transmitting utility or if the Financing Statement relates to a Manufactured-Home Transaction or a Public-Finance Transaction as defined in the applicable Commercial Code, check the appropriate box.

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGEMENT TO: (Name and Address)

Redevelopment Agency of the City of San Diego
1200 Third Avenue, Suite 1400
San Diego, California 92101

Attention: Project Manager – Central Imperial
Redevelopment Project Area

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME – insert only one debtor name (1a or 1b) – do not abbreviate or combine names

1a. ORGANIZATION'S NAME				
OR				
1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
				COUNTRY USA
ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION L.P.	1f. JURISDICTION OF ORGANIZATION California		1g. ORGANIZATIONAL ID#, if any <input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME – insert only one debtor name (2a or 2b) – do not abbreviate or combine names

2a. ORGANIZATION'S NAME				
OR				
2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
				COUNTRY
ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION		2g. ORGANIZATIONAL ID#, if any <input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) – insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME				
OR Redevelopment Agency of the City of San Diego				
3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
1200 Third Avenue, Suite 1400		San Diego	CA	92101
				COUNTRY USA

4. This FINANCING STATEMENT covers the following collateral:

See Attachment No. 1

5. ALTERNATIVE DESIGNATION [if applicable]: LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER AG. LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) All Debtors Debtor 1 Debtor 2 [ADDITIONAL FEE] [optional]

8. OPTIONAL FILER REFERENCE DATA

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION NAME

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX
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10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME – insert only one name (11a or 11b) – do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
-----------------------------	------------	-------------	--------

11c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
------	-------	-------------	---------

ADD'L INFO RE ORGANIZATION DEBTOR

11e. TYPE OF ORGANIZATION

11f. JURISDICTION OF ORGANIZATION

11g. ORGANIZATIONAL ID#, if any

NONE

12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P's NAME – insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
-----------------------------	------------	-------------	--------

12c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
------	-------	-------------	---------

13. This FINANCING STATEMENT covers timber to be cut or as-extracted collateral, or is filed as a fixture filing.

14. Description of real estate:

See Attachment No. 2

16. Additional collateral description:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

17. Check only if applicable and check only one box.

Debtor is a Trust or Trustee acting with respect to property held in trust or Decedent's Estate

18. Check only if applicable and check only one box.

Debtor is a TRANSMITTING UTILITY

Filed in connection with a Manufactured-Home Transaction – effective 30 years

Filed in connection with a Public-Finance Transaction – effective 30 years

UCC-1 Financing Statement

Debtor: _____ [Wakeland entity], a California limited partnership
Secured Party: Redevelopment Agency of the City of San Diego
Obligation Secured: \$ _____

Description of the Collateral:

All of the following described property located on the leasehold estate in certain real property in the City of San Diego, County of San Diego, State of California, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference [Property].

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

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

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

[remainder of this page intentionally left blank]

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

[WAKELAND ENTITY],
a California limited partnership

Dated: _____

By: _____

EXHIBIT A

LEGAL DESCRIPTION

A leasehold estate in that land situated in the City of San Diego, County of San Diego, State of California as follows: [need to verify legal description for Leasehold with Title Company]

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

Debtor: [Wakeland Vista Grande Apartments, L.P.]
Secured Party: Redevelopment Agency of the City of San Diego

Attachment No. 1

Item 4 Collateral

All of the following described property located on the leasehold estate in the following real property in the City of San Diego, County of San Diego, State of California [the Real Estate]:

[See Attachment No. 2 to UCC Financing Statement for Description of Real Estate]

All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Real Estate;

Together with the rents, issues and profits thereof, and together with all buildings and improvements of every kind and description now or hereafter erected or placed thereon, and all fixtures, including, without limitation, all gas and electric fixtures, engines and machinery, radiators, heaters, furnaces, heating equipment, laundry equipment, steam and hot-water boilers, stoves, ranges, elevators and motors, bathtubs, sinks, water closets, basins, pipes, faucets and other plumbing and heating fixtures, mantles, cabinets, refrigerating plant and refrigerators, whether mechanical or otherwise, cooking apparatus and appurtenances, and all shades, awnings, screens, blinds and other furnishings, it being hereby agreed that all such fixtures and furnishings shall to the extent permitted by law be deemed to be permanently affixed to and a part of the realty;

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

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

Debtor: [Wakeland Vista Grande Apartments, L.P.]
Secured Party: Redevelopment Agency of the City of San Diego

Attachment No. 2

Item 14 Description of Real Estate

A leasehold estate in that land situated in the City of San Diego, County of San Diego, State of California as follows: [need to verify legal description for Leasehold with Title Company]

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

ATTACHMENT NO. 15
FORM OF NOTICE OF AFFORDABILITY RESTRICTIONS

OFFICIAL BUSINESS

Document entitled to free
recording per California Government
Code Section 27383

Recording Requested by and
When Recorded Return to:

Redevelopment Agency of the
City of San Diego
c/o Southeastern Economic
Development Corporation
4393 Imperial Avenue, Suite 200
San Diego, California 92113
Attn: Project Manager, Central Imperial

Space above this line for Recorder's use only

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

NOTICE IS HEREBY GIVEN that, pursuant to Health and Safety Code Section 33334.3(f)(3) as amended effective January 1, 2008, the Redevelopment Agency of the City of San Diego (the "Agency") is recording this Notice of Affordability Restrictions on Transfer of Property (the "Notice") with regard to that certain real property located at 5391 and 5411-5425 Santa Margarita Street in San Diego, California, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

The Property is subject to that certain Owner Participation Agreement entered into by the Agency and Wakeland Housing and Development Corporation ("Wakeland"), a California nonprofit corporation, dated as of _____, 2010 ("OPA"), and that certain Agreement Affecting Real Property (Including Rental Restrictions) entered into by Agency and Wakeland's successor-in-interest, _____ **[Wakeland Vista Grande Apartments, L.P.]**, a California

limited partnership (“Owner”), dated _____, 20___, recorded concurrently herewith (“AARP”). Any capitalized terms not defined herein shall have the meaning ascribed to them in the OPA or the AARP. Among other things, the OPA and the AARP restrict the use of the Property, including all improvements situated thereon, as follows:

- (1) Owner and its successors and assignees shall only use the Property for residential rental uses, consisting of 48 Affordable Units and one unrestricted manager’s unit. The Affordable Units shall consist of a minimum of five (5) units to be rented to and occupied by Extremely Low Income households, a minimum of twenty-nine (29) units to be rented to and occupied by Very Low Income households, and a minimum of fourteen (14) units to be rented to and occupied by Low Income households.
- (2) Owner and its successors and assignees shall restrict the Affordable Units for rental and occupancy by Extremely Low Income, Very Low Income and Low Income households at an Affordable Rent in accordance with the terms and conditions of the OPA and the AARP.

The affordability and other restrictions imposed on the Property (including all improvements situated thereon) by the OPA and AARP are scheduled to expire not less than fifty-five (55) years from the date of Completion.

The current owner of fee title to the Property is the San Diego Housing Commission. By virtue of a ground lease with the San Diego Housing Commission, Owner is the current owner of the long-term ground leasehold interest in the Property. The AARP is recorded against both the fee title to the Property and the long-term ground leasehold interest in the Property. By separate agreements with the Agency, both the San Diego Housing Commission and Owner have consented to the recordation of this Notice.

[remainder of this page intentionally left blank]

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

REDEVELOPMENT AGENCY OF THE CITY
OF SAN DIEGO

Date: _____

By: _____

Janice Weinrick
Deputy Executive Director

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A

Legal Description

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

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

ATTACHMENT NO. 16
FORM OF DISBURSEMENT AGREEMENT

DISBURSEMENT AGREEMENT

THIS DISBURSEMENT AGREEMENT (this "Agreement") is entered into as of _____, 20____, by and among the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic ("Agency"), _____, a _____ ("Construction Lender"), and _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership ("Borrower"). The Agency and Construction Lender are referred to herein collectively as the "Lenders" in this Agreement.

RECITALS

A. The Agency and Borrower (or its predecessor-in-interest) entered into that certain Owner Participation Agreement dated _____, 2010 (the "OPA"), relating to the leasehold estate in that certain real property legally described in Attachment No. 2 to the OPA (the "Property"). The OPA, the Residual Receipts Promissory Note dated on or about the date hereof (the "Agency Note") evidencing the Agency Loan, the deed of trust dated on or about the date hereof securing the Agency Loan (the "Agency Deed of Trust"), the Agreement Affecting Real Property dated on or about the date hereof, and other instruments referred to in the OPA, are sometimes referred to collectively as the "Agency Documents" in this Agreement. The term "OPA" as used herein shall mean, refer to and include the OPA, as well as any riders, exhibits, addenda, implementation agreements, amendments or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA.

B. In accordance with the OPA, Borrower intends to acquire and develop the Leasehold Improvements on the Property to be used as a residential rental development consisting of 48 Affordable Units that are affordable to Low Income, Very Low Income and Extremely Low Income households, one unrestricted manager's unit and related improvements and amenities (collectively, the "Project"), all as described in the Scope of Development. The costs of acquisition and rehabilitation of the Leasehold Improvements (collectively, the "Rehabilitation Costs") are set forth in the Project Budget approved by the Lenders as the final project budget, which is attached to this Agreement as Exhibit A and incorporated herein by this reference (the "Project Budget").

C. Pursuant to the OPA, the Agency agreed to issue to Borrower a residual receipts loan in the maximum principal amount of \$781,073 (the "Agency Loan" or the "Agency Funds"), to be used to finance a portion of the Rehabilitation Costs. The Agency Loan is evidenced by the Agency Note and is secured by the Agency Deed of Trust.

D. Construction Lender and Borrower have entered into that certain _____ (the "Construction Loan Agreement"), pursuant to which Construction Lender has agreed to lend to Borrower funds in the amount of approximately \$_____ (the "Construction Loan" or the "Construction Lender Funds") to finance a portion of the Rehabilitation Costs. The Construction Loan Agreement, the promissory note

evidencing the Construction Loan, the deed of trust securing the Construction Loan and other instruments referred to in the Construction Loan Agreement are sometimes referred to collectively as the “Construction Loan Documents” in this Agreement.

E. In addition, the San Diego Housing Commission (“Housing Commission”) and Borrower have entered into that certain Housing Commission Loan Agreement (the “Housing Commission Loan Agreement”) pursuant to which the Housing Commission has agreed to lend to Borrower funds in the amount of approximately \$2,967,000 (the “Housing Commission Loan” or the “Housing Commission Loan Funds”), to acquire and development the Leasehold Improvements. The Housing Commission Loan Agreement, the promissory note evidencing the Housing Commission Loan, the deed of trust securing the Housing Commission Loan and other instruments referred to in the Housing Commission Loan Agreement are sometimes referred to collectively as the “Housing Commission Loan Documents” in this Agreement. This Agreement does not concern the disbursement of the Housing Commission Loan or affect any of the Housing Commission Loan Documents.

F. In addition to the Agency Funds and the Construction Lender Funds, Borrower will provide certain additional funds (collectively, the “Borrower’s Funds”) to pay the portion of the Rehabilitation Costs in excess of the sum of the Agency Funds and the Construction Lender Funds. The Borrower’s Funds consist of the following:

(i) Disbursement during the construction period of a portion of the capital contributions of the Tax Credit Equity Investor of Borrower (“Tax Credit Equity Investor”), in the amount of \$ _____, increasing to \$ _____ upon Completion and lease-up and stabilized occupancy;

(ii) In addition, although Borrower is entitled to a Developer Fee, Borrower has agreed to defer receipt of a portion thereof in the amount of up to \$300,000, which amount is subject to potential adjustment as set forth in the Agency Note; and

(iii) In addition, Borrower shall be responsible, during the construction period, to provide funds if and as needed to pay for cost overruns and contingencies not otherwise funded by other sources of construction financing, in accordance with the requirements and procedures of the Construction Loan Documents and the Agency Documents.

G. The Agency Funds, the Construction Lender Funds and the Borrower’s Funds are referred to herein collectively as the “Project Funds” in this Agreement.

H. The Lenders and Borrower desire to enter into this Agreement solely to provide for the disbursement of the Project Funds for approved Rehabilitation Costs and to provide for cooperation between the Lenders.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Deposit and Use of Funds.

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

b. Loan Balancing.

(1) In the event that either of the Lenders determines, from time to time, that the mathematically combined amounts of the Project Funds, as set forth in the attached Project Budget, are insufficient to pay all Rehabilitation Costs, including increased costs due to change orders, cost overruns or otherwise, then, upon notice from either of the Lenders, Borrower shall promptly deposit into Borrower's Account such additional funds as may be necessary to pay all such obligations.

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

(3) "Approved Rehabilitation Costs" shall mean all hard and soft costs (and modifications thereto), which were approved by the Lenders, which are needed for the completion of the Project in accordance with plans and specifications for the Project which were approved by the Lenders.

c. Amendments to Project Budget. Subject to the terms and provisions of this Agreement, the Agency Documents and the Construction Loan Documents, any change order or Project Budget amendment shall require the approval of the Lenders.

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

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

f. Disbursement Schedule. The Disbursement Schedule attached to this Agreement as Exhibit B (which is hereby incorporated herein by this reference) represents a good faith estimate of when the Project Funds will be disbursed by the Agency to pay Rehabilitation Costs.

g. Cost Overruns. In the event that, at any time and for any reason, (i) the actual cost reasonably estimated by the Agency to be required to complete all matters included in any line item in the Project Budget exceeds the amount allocated to that line item in the Project Budget, (ii) Approved Rehabilitation Costs for any matters not covered by a specific line item in the Project Budget have been or will be incurred, or (iii) the undisbursed portion of the collective sources of financing as set forth in the final Agency-approved Project Budget are or may be insufficient to pay all Approved Rehabilitation Costs payable for completion of the Project (individually or collectively, "Excess Costs"), the Agency shall have no obligation to make further disbursements of the Agency Funds until Borrower has paid or otherwise provided for the Excess Costs as required above.

2. Use of Funds to Pay Costs.

The Project Funds shall be used exclusively for the payment of, or reimbursement for, Approved Rehabilitation Costs as shown in the Project Budget, as the same may be amended from time to time with the written approval of the Lenders, such payment of, or reimbursement for, Rehabilitation Costs to be made only after the same have been incurred by Borrower.

3. Draw Requests.

a. Application for Payment. Disbursements of the Project Funds shall be made upon submission of a written itemized statement or draw request in a form that is mutually acceptable to the Lenders (an "Application for Payment" or "Draw Request"), subject to the conditions set forth below. Prior to submitting any such Application for Payment to either of the Lenders for approval, Borrower shall first obtain such approval of Tax Credit Equity Investor as may be required. The term "disbursement" shall include, without limitation, disbursement of the Agency Funds, the Borrower's Funds that have been delivered to Construction Lender as "Borrower's Funds", Borrower's prior expenditures of the Borrower's Funds, and the Construction Lender Funds. Each of the Lenders 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 that it determines has not been satisfied.

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

(i) a description of the work performed, material supplied and Rehabilitation Costs incurred or due for which disbursement is requested with respect to any Rehabilitation Costs shown as a line item ("Item") in the Project Budget;

(ii) the total amount incurred, expended and due for each requested Item, less prior disbursements; and

(iii) the percentage of completion of the portion of the work to be paid with regard to the Item.

c. Delivery of Applications for Payment. Borrower shall deliver a copy of each Application for Payment concurrently to each of the Lenders. Each Application for Payment shall be subject to the approval of the Lenders, with respect to each of their loans, in accordance with this Agreement.

d. 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 Rehabilitation Costs other than general contract payments, Borrower shall attach to the Application for Payment invoices or such other appropriate documentation to evidence, document, justify and support the request, which shall be an amount within the amount of the applicable line item in the Project Budget. Either of the Lenders may require Borrower to separate lien waivers and hard cost invoices from the other materials provided with Applications for Payment.

e. Submission to Agency. Immediately after each disbursement pursuant to any Application for Payment, Construction Lender shall transmit to the Agency a copy of Construction Lender's inspection report or other documentation indicating 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.

4. Approval of Draw Requests.

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

b. Procedure. Each Lender shall, within ten (10) business days after receipt of an Application for Payment containing all of the items described in Section 3 of this Agreement, determine the amount of the Application for Payment to be approved, notify Borrower, appropriate members of the construction team and the other one of the Lenders of such amount, and, if and as required by this Agreement and the respective Agency Documents and Construction Loan Documents, disburse the approved amount.

c. Disapprovals. Any Item in an Application for Payment which is not specifically approved within fifteen (15) business days shall be deemed disapproved. On the basis of the progress of the work performed on the Project and the conditions precedent to making disbursements contained in their respective agreements with Borrower, either of the Lenders may disapprove all or part of a requested Draw Request. In the event that either of the Lenders disapproves any portion of the amount requested by Borrower in an Application for Payment

("Disapproved Amount"), it shall promptly notify the other one of the Lenders and Borrower of the Disapproved Amount and the reason therefor. The disapproval by either of the Lenders of any amount requested in an Application for Payment is not binding upon the other one of the Lenders.

d. Concurrent Review of Applications for Payment. In the event that any item shall be disapproved or deemed disapproved, the representatives of Borrower and the Lenders shall meet promptly and in good faith to attempt to resolve the matter to their mutual satisfaction. To effectuate this paragraph, the Lenders shall review each Application for Payment concurrently and notify the other one of the Lender of its approval of such request as soon as possible. Each of the Lenders shall signify its approval of an Application for Payment by executing and transmitting to the other one of the 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 Lenders 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. The Lenders and Borrower shall seek to resolve any disputes promptly and in good faith.

f. Right to Condition Disbursements. Each of the Lenders shall have the right to condition any disbursement upon receipt and approval of such documentation, evidence or information that it may request, including, without limitation, vouchers, invoices and architects', inspectors' and engineers' periodic certifications of the percentage or stage of construction that has been completed.

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

(i) Disbursement of the Construction Lender Funds shall be subject to a retention in accordance with Construction Lender's normal practice for construction loans, and the Agency Funds shall be subject to a ten percent (10%) retention as set forth in the Disbursement Schedule attached as Exhibit B hereto (each, a "Retention"); and

(ii) Construction Lender shall use the disbursement procedures set forth in the Construction Loan Documents, and the Agency shall use the disbursement procedures set forth in the Agency Documents and this Agreement; provided, however, that neither of the Lenders shall be obligated to disburse any of the Project Funds until both of the Lenders have approved the Application for Payment (or the applicable portion thereof) for the funds to be disbursed.

5. Release of Retention Amounts Prior to Completion.

The Lenders shall have the right (but not the obligation) to do any or all of the following:

- (i) not withhold any Retention from subcontractors in certain categories designated by Borrower;
- (ii) release Retention amounts relating to subcontractors in categories designated by Borrower;
- (iii) release Retention amounts relating to subcontractors in categories designated by Borrower, upon satisfaction of the following conditions as to such subcontract: (A) submission to the Lenders of unconditional lien releases or waivers obtained by Borrower or Borrower's agent; (B) the Project architect certifies that the work covered by such subcontract has been completed

in a good and workmanlike manner and in accordance with the approved plans and specifications and (C) any mechanic's liens that have been recorded or stop notices that have been delivered to either of the Lenders have been paid, settled, bonded around or otherwise extinguished or discharged, and both of the Lenders have been provided satisfactory evidence of such payment, settlement, bond or discharge, including, without limitation, all statutory waivers.

6. Approval of Final Draw Request.

Subject to any additional conditions set forth in the Construction Loan Agreement (which shall not, in any event, apply to any disbursement of the Agency Funds), the Retention on the construction contract shall be disbursed to Borrower upon the submission by Borrower of documentation of the final cost of completing the Project, and Completion; provided, however, that notwithstanding the foregoing and notwithstanding the provision of any other document, any Retention shall not be disbursed until at least thirty-five (35) days after the Notice of Completion has been recorded.

7. Disbursement of Borrower's Funds.

Borrower's Funds are intended to be used to pay the portion of Rehabilitation Costs attributable to acquisition of the Property and thus may be disbursed as part of any escrow closing, outside of Construction Lender's account.

8. Inspection of Project.

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

9. Supervision of Construction.

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

10. Integrated Agreement.

This Agreement is made for the sole benefit and protection of the parties hereto, and no other person or persons shall have any right of action or right to rely hereon. As this Agreement contains all of the terms and conditions agreed upon between the parties hereto, no other agreement regarding the subject matter thereof shall be deemed to exist or bind any party unless in writing and executed by the party to be charged. Notwithstanding the foregoing sentence or

any other provision of this Agreement, this Agreement does not supersede and shall not be deemed to amend any of the Construction Loan Documents or any of the Agency Documents.

11. Termination of Agreement.

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

12. Counterparts.

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

14. Governing Law.

This Agreement has been negotiated and entered into 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 convenience 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 Agreement is to be interpreted for or against any party hereto on the basis that a certain party or its legal representatives drafted such provision.

17. No Waiver; Amendments.

No breach of any provision hereof may be waived unless in writing. Waiver of any one breach of any provision hereof shall not be deemed to be a waiver of any other breach of the same or any other provision hereof. This Agreement may be amended only by a written agreement executed by the parties in interest at the time of the modification.

18. Further Assurances.

The parties agree to execute and deliver such other documents and to take such other actions as may be reasonably necessary in order to further the purposes of this Agreement.

19. Severance.

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

20. Independent Advice of Counsel.

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

21. Voluntary Agreement.

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

22. Attorneys' Fees.

In the event of any legal action or other proceeding between the parties hereto regarding this Agreement, the prevailing party shall be entitled to recover costs and expenses, including, without limitation, reasonable attorneys' fees.

[remainder of this page left intentionally blank]

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

AGENCY:

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

By: _____
Name: _____
Its: _____

CONSTRUCTION LENDER:

_____, a

By: _____
Name: _____
Its: _____

BORROWER:

[WAKELAND ENTITY],
a California limited partnership

By: _____
Name: _____
Its: _____

EXHIBIT A

PROJECT BUDGET

[behind this page]

EXHIBIT B

DISBURSEMENT SCHEDULE

- First Disbursement: at Construction Closing, the lesser of:
- (i) the proportion of the Agency Funds that is *pari passu* with the proportion of the combined amount of Construction Lender Funds and Low Income Housing Tax Credit financing disbursed on or before the date of the First Disbursement; and
 - (ii) 80% of the Agency Loan
- Second Disbursement: at 75% completion of construction of the Project, the lesser of:
- (i) the previously undisbursed proportion of the Agency Funds that is *pari passu* with the proportion of the combined amount of Construction Lender Funds and Low Income Housing Tax Credit financing disbursed on or before the date of the Second Disbursement; and
 - (ii) the greater of:
 - (A) 10% of the Agency Loan and
 - (B) 90% of the Agency Loan minus the amount of the First Disbursement
- Final Disbursement: at 35 days after recordation of the Notice of Completion, the previously undisbursed portion of the Agency Funds to be disbursed to Borrower in accordance with this Agreement

ATTACHMENT NO. 17
FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is made as of _____, 20____ by and between WAKELAND HOUSING AND DEVELOPMENT CORPORATION, a California nonprofit corporation ("Assignor"), and _____, a _____ ("Assignee").

RECITALS

A. Assignor has certain rights and obligations ("Rights" and "Obligations", respectively) with regard to the leasehold estate in that certain real property located in the City of San Diego, State of California, as more particularly described in the legal description attached hereto as Exhibit A and incorporated herein by this reference.

B. Such Rights and Obligations are described in that certain Owner Participation Agreement (the "OPA") entered into by and between the Redevelopment Agency of the City of San Diego, a public body, corporate and politic ("Agency") and Assignor ("Owner" therein) as of _____, 20____, which document is a record on file in the Agency's offices. The OPA is incorporated herein by this reference as though fully set forth herein. "OPA" as used herein shall mean, refer to and include the OPA, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in the OPA. Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the OPA.

C. Pursuant to the OPA, Assignor desires to assign the Rights and Obligations to Assignee, and Assignee desires to assume the Rights and Obligations.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Effective as of the date of this Assignment, which shall occur concurrently with the full execution of this Assignment by the Agency (as to the Consent only), Assignor and Assignee, Assignor hereby assigns all of the Rights to Assignee.

2. Acceptance and Assumption. Assignee hereby accepts the assignment of the Rights from Assignor and assumes all of the Obligations arising from and after the date of this Assignment. Assignee agrees to perform all of the Obligations in accordance with the OPA. Assignor and Assignee acknowledge that such assignment and acceptance shall not relieve Assignor of its duty to comply with the Obligations.

3. Assignee's Address. The principal address of Assignee for purposes of the OPA is as follows: _____.

4. Miscellaneous

(a) This Assignment shall be determined in accordance with and governed by the laws of the State of California.

(b) This Assignment may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute a complete instrument.

(c) Each party agrees to perform any further acts, and to execute and deliver any further documents, as may be reasonably necessary or required to carry out the intent and provisions of this Assignment and the transactions contemplated hereby.

(d) This Assignment shall bind and inure to the benefit of the respective heirs, personal representatives, grantees, successors and assigns of the parties hereto.

[remainder of page left intentionally blank]

[signatures on following pages]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be executed as of the day and year first written above.

ASSIGNOR:

WAKELAND HOUSING AND
DEVELOPMENT CORPORATION,
a California nonprofit corporation

Dated: _____

By: _____
Kenneth L. Sauder
President

[remainder of page left intentionally blank]

[signatures on following page]

ASSIGNEE:

_____, a

Dated: _____

By: _____

Name: _____

Its: _____

[remainder of page left intentionally blank]

[Consent to Assignment and Assumption on next page]

CONSENT TO ASSIGNMENT AND ASSUMPTION

Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in that certain Assignment and Assumption Agreement, dated as of _____, 20____ (the "Assignment Agreement"), by and between WAKELAND HOUSING AND DEVELOPMENT CORPORATION, a California nonprofit corporation ("Assignor"), and _____, a _____ ("Assignee").

In reliance upon the assumption by Assignee of all Rights and Obligations pursuant to the Assignment Agreement, the Agency does hereby consent to and approve of the assignment of the Rights and Obligations by Assignor to Assignee. Approval thereof by the Agency shall not be construed to relieve or release Assignor from its duty to comply with any of its Obligations.

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

Dated: _____ By: _____
Name: _____
Its: _____

APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH,
Agency General Counsel

By: _____
Kevin Reisch
Deputy General Counsel

Exhibit A

Legal Description of the Leasehold

A leasehold estate in that land situated in the City of San Diego, County of San Diego, State of California as follows: [need to verify legal description for Leasehold with Title Company]

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

ATTACHMENT NO. 18
FORM OF RELEASE OF CONSTRUCTION COVENANTS

OFFICIAL BUSINESS
Document entitled to free
recording per California Government
Code Section 27383

Recording Requested by and
When Recorded Return to:

Redevelopment Agency of the
City of San Diego
c/o Southeastern Economic
Development Corporation
4393 Imperial Avenue, Suite 200
San Diego, California 92113
Attn: Project Manager, Central Imperial

Space above this line for Recorder's use only

RELEASE OF CONSTRUCTION COVENANTS

WHEREAS, the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic (the "Agency"), has entered into that certain Owner Participation Agreement with WAKELAND HOUSING AND DEVELOPMENT CORPORATION, a California nonprofit corporation ("Wakeland"), which was approved by the Agency on _____, 2010, pursuant to Resolution No. R-_____ and filed as Document No. _____ (the "OPA") relating to the leasehold estate in certain real property in the City of San Diego, County of San Diego and State of California, as more particularly described in Exhibit A (the "Property"), for, among other things, the specific purpose of developing certain improvements on the Property in accordance with the terms and conditions contained in the OPA. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the OPA;

WHEREAS, in accordance with the OPA, the Agency and _____ [Wakeland Vista Grande Apartments, L.P., a California limited partnership] ("Borrower"), Wakeland's assignee under the OPA, entered in that certain Agreement Affecting Real Property (Including Rental Restrictions) dated as of _____, recorded as _____ on _____ in the Official Records of the San Diego County Recorder's Office ("AARP");

WHEREAS, pursuant to Section 324 of the OPA, upon the completion of the Project and development and construction of the Leasehold Improvements as required by the OPA and the request of Borrower, the Agency is required to issue for recordation a Release of Construction Covenants (“Release”) acknowledging the completion of the construction and development of the Leasehold Improvements as required by the OPA and releasing certain obligations of Borrower set forth in the OPA and the AARP;

WHEREAS, Borrower has completed the construction and development of the Leasehold Improvements as required by the OPA and the AARP, and Borrower has requested that the Agency issue the Release for the Project; and

WHEREAS, the Agency has inspected and determined that the construction and development of the Leasehold Improvements as required by the OPA and the AARP have been satisfactorily completed, and the Agency now desires to issue this Release pursuant to the terms and conditions of the OPA.

NOW THEREFORE, it is hereby acknowledged and certified by the Agency that:

1. The construction and development of the Leasehold Improvements as required by the OPA and the AARP have been satisfactorily completed.

2. Except for those provisions which by their terms or context survive the issuance of this Release, the issuance and recording of this Release shall cancel and release any rights or remedies that the Agency or Borrower would otherwise have or be entitled to exercise under Sections 303, 304, 305, 306 and 309 of the OPA and/or Section 2 of the AARP as a result of a default in or breach of any provision thereof relating only to the construction and development of the Leasehold Improvements.

3. This Release does not constitute evidence of compliance with or satisfaction of any obligation of Borrower to any holder of a mortgage, deed of trust or other security interest, or any insurer of a mortgage, deed of trust or other security interest, securing money loaned to finance the acquisition, construction or development of the Leasehold Improvements or any portion thereof.

4. This Release is not a “Notice of Completion” as referred to in Section 3093 of the California Civil Code.

[remainder of page left intentionally blank]

[signatures appear on following page]

IN WITNESS WHEREOF, the Agency has executed this Release this _____ day of _____, 20____.

REDEVELOPMENT AGENCY
OF THE CITY OF SAN DIEGO

By: _____
Janice Weinrick
Deputy Executive Director

APPROVED AS TO FORM:

JAN I. GOLDSMITH
Agency General Counsel

By: _____
Kevin Reisch
Deputy General Counsel

APPROVED BY:

[WAKELAND ENTITY],
a California limited partnership

Dated: _____

By: _____

NOTARY ACKNOWLEDGMENT FORM FOR REDEVELOPMENT AGENCY

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

NOTARY ACKNOWLEDGMENT FORM FOR OWNER

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION

A leasehold estate in that land situated in the City of San Diego, County of San Diego, State of California as follows: [need to verify legal description for Leasehold with Title Company]

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

ATTACHMENT NO. 19

CITY OF SAN DIEGO'S EQUAL OPPORTUNITY
CONTRACTING REQUIREMENTS
(behind this page)

EQUAL OPPORTUNITY CONTRACTING REQUIREMENTS

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- I. **City's Equal Opportunity Commitment.** The City of San Diego (City) is strongly committed to equal opportunity for employees, developers, contractors, subcontractors, subconsultants and vendors/suppliers doing business with the City. The City encourages its developers to share this commitment.
- II. **Demonstrated Commitment to Equal Opportunity.** The City seeks to foster a business climate of inclusion and to eliminate barriers to inclusion. Developers are encouraged to take positive steps to diversify and expand their contractor, subcontractor, subconsultant, and vendor/supplier solicitation base and to offer contracting opportunities to these groups. To support its Equal Opportunity Contracting commitment, the Developer is required to submit with its development proposal/application for Affordable Housing Program Funding (NOFA) a Letter of Commitment which must contain the following:
- A. Subcontracting Commitment Goal. Anticipated subcontracting participation goal for utilization of Disadvantaged Business Enterprises (DBE's) and underrepresented firms during the course of the project.
 - B. Outreach Efforts. Network activities and outreach strategies intended to be utilized to recruit, hire, train and promote a diverse workforce.
 - C. Community Activities. Listing of Developer's current community activities such as membership and participation in local organizations, associations, scholarship programs, mentoring, apprenticeships, internships, community projects, charitable contributions and similar endeavors.

III. **Reporting Requirements.**

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

1. Due Date: *Monthly Invoicing Report* and *Monthly Employment Report* must be submitted by the 5th day of the subsequent month.

D. Certified Payroll. If project is federally and/or state funded prevailing wages apply and certified payrolls must be submitted weekly, bi-weekly or monthly.

During the course of the project, reports and certified payrolls must be submitted to the EOC Program Manager at 1200 Third Avenue, Suite 200, San Diego, CA 92101.

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

A. Developers Proposal/Application to include Disclosure of Discrimination Complaints.

As part of its proposal/application, Developer shall provide to the City a list of all instances within the past ten (10) years where a complaint was filed or pending against Developer in a legal or administrative proceeding alleging that Developer discriminated against its employees, subcontractors, subconsultants and vendors/suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

B. Contract Language. The following language shall be included in contracts for City projects between the Developer and any contractor, subcontractor, subconsultant and vendor/supplier:

Developer shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Developer shall provide equal opportunity for subcontractors to participate in subconsulting opportunities. Developer understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

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

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

Nondiscrimination in Contracting Ordinance. Developer further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination in Contracting Ordinance* apply only to violations of the *Ordinance*.

- V. **Equal Employment Opportunity.** Developers shall comply with requirements of San Diego Ordinance No. 18173, Section 22.2701 through 22.2707, Equal Employment Opportunity Outreach Program. Developers must submit with its proposal/application a *Work Force Report* or an *Equal Employment Opportunity (EEO) Plan* to the Manager of the City of San Diego Equal Opportunity Contracting for approval. All submittals must be sent to 1200 Third Avenue, Suite 200, San Diego, CA 92101.
- A. Work Force Report. If a *Work Force Report* (Attachment AA) is submitted, and the Work Force Analysis reflects under representations when compared to County Labor Force Availability data, Developer will be required to submit an *Equal Employment Opportunity Plan*.
- B. Equal Employment Opportunity Plan. If an *Equal Employment Opportunity Plan* is submitted, it must include at least the following assurances that:
1. The Developer will maintain a working environment free of discrimination harassment, intimidation and coercion at all sites and in all facilities at which the Developer's employees are assigned to work;
 2. A responsible official is designated to monitor all employment related activity to ensure the Developer's EEO Policy is being carried out and to submit reports relating to EEO provisions;
 3. Developer disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents every dissemination review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings;
 4. The Developer reviews, at least annually, all supervisors' adherence to and performance under the EEO Policy and maintains written documentation of these reviews;
 5. The Developer discusses its EEO Policy Statement with Subconsultants

with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request;

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

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

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

- A. Subcontractors List. The *Subcontractors List* (Attachment EOCP-7) shall indicate the name and address, scope of work, dollar amount and percent of total proposed subcontract amount, certification status and where certified for each proposed subcontractor.
 1. Subcontractors must be named on the *Subcontractors List* if they receive more than one-half of one percent (0.5%) of the Developer's fee.

VII. Certification.

- A. The City of San Diego is a signatory to a Memorandum of Agreement (MOA) in the statewide California Unified Certification Program, and therefore has adopted a policy regarding certification of DBE firms. Pursuant to the MOA, a DBE can be certified by any participating government agency in the State of California.
- B. The City will accept a current certification by the State of California Department of Transportation (CALTRANS) or any other participating government agency in the State of California as an MBE or WBE: or
- C. The City will accept current DVBE certification granted by the State of California's Department of General Services, Office of Small and Minority Business, (916) 322-5060.

VIII. Definitions.

Certified "**Minority Business Enterprise**" (MBE) means a business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or

Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

Certified "**Women Business Enterprise**" (WBE) means a business which is at least fifty one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

Certified "**Disadvantaged Business Enterprise**" (DBE) means a business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

Certified "**Disabled Veteran Business Enterprise**" (DVBE) means a business which is at least fifty-one percent (51%) owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(ies).

"**Other Business Enterprise**" (OBE) means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

IX. List of Attachments.

EOC-7- Subcontractors List

EOC -8- Subconsultants List

EOC -AA (1-3) - Work Force Report

EOC-BB - Developer Monthly Invoicing Report

EOC-CC-Monthly Employment Report

SUBCONTRACTORS LIST

Information regarding Subcontractor Participation:

1. Subcontractor's List shall include name and complete address of all Subcontractors who will receive more than one half of one percent (0.5%) of the Developer's fee.

2. Developer shall also submit subcontractor commitment letters on subcontractor's letterhead, no more than one page each, from subcontractors listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.

3. Subcontractors shall be used for scope of work listed. No changes to this Subcontractors List will be allowed without prior written City approval.

NAME AND ADDRESS OF SUBCONTRACTORS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/DBE/DVBE/OBE	**WHERE CERTIFIED

**For information only.* As appropriate, Developer shall identify Subcontractors as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

****For information only.** As appropriate, Developer shall indicate if Subcontractor is certified by:

City of San Diego	CITY
State of California Department of Transportation	CALTRANS

SUBCONSULTANTS LIST

Information regarding Subconsultants Participation:

4. Subconsultant's List shall include name and complete address of all Subconsultants who will receive more than one half of one percent (0.5%) of the Prime Consultant's fee.

5. Developer shall also submit Subconsultant commitment letters on Subconsultant's letterhead, no more than one page each, from Subconsultants listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.

6. Subconsultants shall be used for scope of work listed. No changes to this Subconsultants List will be allowed without prior written City approval.

NAME AND ADDRESS SUBCONSULTANTS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/ DBE/DVBE/ OBE	**WHERE CERTIFIED

***For information only.** As appropriate, Developer shall identify Subconsultants as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE

Certified Disabled Veteran Business Enterprise
Other Business Enterprise

DVBE
OBE

***For information only.* As appropriate, Developer shall indicate if Subconsultant is certified by:

City of San Diego
State of California Department of Transportation
City of San Diego
State of California Department of Transportation

CITY
CALTRANS
CITY
CALTRANS



THE CITY OF SAN DIEGO
EQUAL OPPORTUNITY CONTRACTING
 1010 SECOND AVENUE, SUITE 500
 SAN DIEGO, CA 92101
 PHONE (619) 533-4464 • FAX (619) 533-4474

WORK FORCE REPORT

The objective of the Equal Employment Opportunity is to ensure that contractors doing business with the City, or receiving funds from the City, will not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship.

NO OTHER FORMS WILL BE ACCEPTED CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: _____

ADA/DBA: _____

Address (Corporate Headquarters, where applicable): _____

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ - _____ Fax Number: () _____ - _____

Name of Company CEO: _____

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: _____

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ - _____ Fax Number: () _____ - _____

Type of Business: _____ Type of License: _____

The Company has appointed: _____

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: _____

Telephone Number: () _____ - _____ Fax Number: () _____ - _____

For Firm's: San Diego Work Force and/or Managing Office Work Force

I, The undersigned representative of _____

(Firm Name)

(County)

(State)

hereby certify that information provided herein is true and correct. This document was executed on this day of _____, 20____

(Authorized Signature)

(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: _____ DATE: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) African-American, Black
- (2) Latino, Hispanic, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) Caucasian
- (7) Other ethnicity; not falling into other groups

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
	Executive, Administrative, Managerial													
Professional Specialty														
Engineers/Architects														
Technicians and Related Support														
Sales														
Administrative Support/Clerical														
Services														
Precision Production, Craft and Repair														
Machine Operators, Assemblers, Inspectors														
Transportation and Material Moving														
Handlers, Equipment Cleaners, Helpers and Non-construction Laborers*														

*Construction laborers and other field employees are not to be included on this page

TOTALS EACH COLUMN														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

GRAND TOTAL ALL EMPLOYEES

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

NON-PROFIT ORGANIZATIONS ONLY:

BOARD OF DIRECTORS														
VOLUNTEERS														
ARTISTS														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--|--|
| (1) African-American, Black | (5) Filipino |
| (2) Latino, Hispanic, Mexican-American, Puerto Rican | (6) Caucasian |
| (3) Asian, Pacific Islander | (7) Other ethnicity; not falling into other groups |
| (4) American Indian, Eskimo | |

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Carpenter														
Drywall Installer														
Electrician														
Elevator Installers														
Finishers, Concrete or Terrazzo														
Glaziers														
Helpers, Construction Trade														
Ironworkers, Structural Metal Workers														
Laborers														
Millwrights														
Masons, Bricklayers														
Tile setters														
Operators														
Painters														
Pipe fitter, Plumbers														
Plasterers														
Roofers														
Security, Protective Services														
Sheet Metal, Duct Installers														
Welders, Cutters														

TOTALS EACH COLUMN														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

GRAND TOTAL ALL EMPLOYEES

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

UNIVERSAL DESIGN FEATURES

VERSION - AUGUST 28, 2008

Entrances

1. Stepless front entrance or other primary entrance.
2. If only one entry, not through a garage or from a patio or raised deck.
3. Minimum 5' x 5' level clear space inside and outside entry door.
4. Power door operators.
5. Weather protection such as a porch, stoop with roof, awning, or carport.
6. Full length sidelights, windows in doors, and/or windows nearby.

Interior Circulation

7. Open plan design, with at least one bedroom and bathroom located on an accessible ground floor entry level.
8. Clear door opening width (32" minimum, 34"-36" wide doors) for all doorways.
9. Flush thresholds at all doorways.
10. Clear floor space (18" minimum) beside door on pull side at latch jamb.
11. Circulation route 42" minimum width.
12. Turning space in all rooms (5' diameter).

Vertical Circulation

13. All stairs should have space at the bottom for later installation of a platform lift.
14. At least one set of staked closets, pantries or storage spaces with knock-out floor.
15. Stair handrails to extend horizontally beyond the top and bottom risers.

Bathrooms

16. At least one bathroom with one of the following:
 - a) minimum 5'x3' curbless shower
 - b) tub with integral seat, waterproof floor and a floor drain
17. 60" diameter turning space in the room and 30" x 48" clear floor space at each fixture.
18. Clear space (3') in front and to one side of toilet
19. Toilet centered 18" from any side wall, cabinet or tub.
20. Lavatory counter height 32" minimum
21. Offset controls in tub/shower with adjacent clear floor space.

Kitchens

22. Space between face of cabinets and cabinets and walls 48" minimum
23. Variable height (28"-42") work surfaces such as countertops, sinks and cooktops.
24. Stretches of continuous countertops, particularly between refrigerator, sink and stove-top.
25. Full height pantry storage with easy access pull-out and/or adjustable height shelves.

26. Under-counter or drawer type refrigerators installed on raised platforms.
27. Built in oven with knee space beside, set for one pull-out oven rack at the same height as adjacent countertop.

Laundry/Storage

28. Laundry sink and countertop surface no more than 34” above finished floor with knee space below.
29. Clear floor space 36” wide across full width in front of washer and dryer and extending at least 18” beyond right and left sides.
30. 50% of all storage less than 54” high
31. 8’ minimum door height or alternate on-site parking for tall vehicles
32. Electrical panel with top no more than 54” above floor located with a minimum 30” x 48” clear floor space in front

Windows

33. Windows for viewing 36” maximum still height
34. Exterior sliding doors: drop frame and threshold into subfloor to reduce height of track.
35. By-passing closet doors: each panel should create an opening at least 32” clear.

Non-structural features

36. Lever door handles, motion detector light switches in garage, utility spaces, audible and visual alarms for doorbell, smoke detectors, etc.
37. Color contrast between floor surfaces and trim.
38. Contrast between countertops and front edges or cabinet faces

This checklist shall not be interpreted to *require* design features in excess of existing/current California Building Code. It is a list of features that contribute to or can be components of Universal Design. Not all features are expected to be included in any given development proposal and this list is not exhaustive.

ATTACHMENT NO. 21
FORM OF REPORTING AND MONITORING AGREEMENT

ADMINISTRATION AGREEMENT
Rental Units

Vista Grande Apartments

This Administration Agreement (“Agreement”) is entered into as of _____, 2010, by and among the Redevelopment Agency of the City of San Diego, a public body, corporate and politic (“Agency”), the San Diego Housing Commission, a public agency (“Administrator”), and _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership (“Participant”), which shall collectively be referred to as the “Parties”.

RECITALS

A. Participant will undertake the rehabilitation of the existing 49-unit Vista Grande apartment complex located at 5391 and 5411-5425 Santa Margarita Street, San Diego, California (“Property”), within the area of influence of Southeastern Economic Development Corporation. Upon completion of the rehabilitation work, the apartment complex will consist of 48 income-restricted rental units at affordable rent (“Affordable Units”), one unrestricted manager’s unit, and various related amenities and improvements (collectively, the “Project”). The Administrator is or will be the owner of the Property, on which the Project will be located. The Administrator and Participant will enter into a 65-year year ground lease. During the ground lease term, Participant will own the existing and future improvements on the Property, except that the Administrator will have the option to purchase the improvements at the end of the tax credit compliance period applicable to Participant’s anticipated use of federal tax credits for the Project.

B. Participant and the Agency entered into that certain Owner Participation Agreement dated _____, 2010 (“OPA”), and that certain Agreement Affecting Real Property dated _____, 2010, and recorded against the Property on _____, 2010 (“AARP”). The OPA and AARP are incorporated herein by this reference. OPA and AARP as used herein shall mean, refer to and include the OPA 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 OPA.

C. The OPA and the AARP collectively require the rehabilitation of the existing Vista Grande apartment complex and the rental of 48 Affordable Units priced at and made available to Low Income, Very Low Income and Extremely Low Income households for a period of not less than fifty-five (55) years from Completion (as defined in the OPA and as further described in the AARP).

D. 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 Participant contained in the OPA and the AARP including, without limitation, determining the eligibility of renters and rental restrictions of the Affordable Units.

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

F. The Parties have the capability and the legal right to enter into this Agreement.

G. The Parties desire to enter into this Agreement to, among other things, provide that (i) Participant shall pay a fee to the Administrator in consideration for monitoring the Affordable Units for the period of affordability; and (ii) the Administrator shall administer and perform all monitoring and reporting requirements on the Project as regulated by the OPA and the AARP, and provide the reports set forth in Section VII of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 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 Participant arising under the OPA and the AARP, in accordance with the CRL.

II. Scope of Work

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

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

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

III. Parties to Agreement

The Parties to this Agreement are the Agency, the Administrator, and Participant. In addition to the provision of Section IV.A below, a copy of all formal notices, demands and communications directed to the Agency shall be given as follows.

Southeastern Economic Development Corporation
4393 Imperial Avenue, Suite 200
San Diego, California 92113
Attention: Central Imperial Redevelopment Project Area - Project Manager.

IV. Representatives of the Parties

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

A. The representative of the Agency shall be:

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

B. The representative of the Administrator shall be:

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

C. The representative of Participant shall be:

Wakeland Housing and Development Corporation
c/o Kenneth L. Sauder, President
1230 Columbia Street, Suite 950
San Diego, California 92101

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

V. Time of Performance

Services pursuant to this Agreement shall commence as of the date of the execution of this Agreement by all of the Parties and shall terminate upon the earlier of: (i) expiration of the affordable rental restriction requirements affecting the Affordable Units, as described in the OPA and the AARP; or (ii) termination of this Agreement pursuant to Sections XII or 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 are income eligible to 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 Low Income, Very Low Income and Extremely Low Income levels); and
 - (2) The period of each Affordable Unit's affordability (i.e., not less than 55 years for rental units).
- C. The Administrator shall submit to the Agency annual reports of its monitoring activities pursuant to this Agreement, which may include the most recent Certification of Continuing Program Compliance report, no later than July 31st for the prior fiscal year (July 1- June 30).
- D. The Administrator shall re-certify household income annually. Notwithstanding anything to the contrary contained in this Agreement, Participant shall not be required to terminate tenancies to the extent it would violate Section 42 of the Internal Revenue Code of 1986, as amended, while such section is applicable to the Project. Participant shall be solely responsible for any eviction of tenants; the Administrator shall have no obligation to evict any persons.

Agency Requirements.

- A. Provide evidence of Participant's advance notification of any fees required under this Agreement, as demonstrated by Exhibit B attached hereto and incorporated herein by this reference.

- B. Annually, upon request from the Administrator, provide an updated rent chart based upon the Area Median Income for San Diego County, the CRL and applicable regulations for the other project funding sources.

Participant Requirements.

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

VIII. Books and Records

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

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

IX. Access to Records

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

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

X. Ownership, Use and Distribution of Documents

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

B. The Agency and the Administrator may use and distribute in each of their sole discretions any records, reports, books, papers, documents, computer discs or other information

prepared by the Administrator and/or Participant pursuant to this Agreement. Such purposes include, but are not limited to, annual reports, reports required by the CRL, and responses to public information requests. The Agency shall identify the Administrator as the author of any such reports prepared by the Administrator that are distributed by the Agency. Neither the Agency nor the Administrator shall be required to secure any prior authorization, written or otherwise, from one another prior to any such distribution.

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

XI. Payment of Compensation

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

B. Time of Payment. Concurrently with Participant’s execution and delivery of this Agreement, Participant shall pay to the Administrator an initial set up fee as referenced in Exhibit B. The Administrator’s right to the Annual Monitoring Fee referenced in Exhibit B shall commence concurrent with activities referenced in Section VII above. Participant shall pay to the Administrator the Annual Monitoring Fee in accordance with Exhibit B, and as calculated by, Section XI.A above. Participant shall pay such other fees set forth in Exhibit B as required hereunder. Participant’s failure to timely pay the initial set up fee, Annual Monitoring Fee or any other fees required hereunder 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 above or Section XV below.

C. Administrator Entitled to All Fees. Participant also agrees to pay additional fees as necessary to reasonably compensate the Administrator in the event the Administrator’s monitoring results in a need to take additional steps to enforce the covenants and conditions contained in the AARP and referenced in this Agreement (see Exhibit B attached hereto). Participant further agrees that failure to pay all such fees within fifteen (15) business days after receipt of a billing statement for such fees shall constitute a material breach of the covenants and conditions of this Agreement. Such breach shall entitle the Administrator, in addition to all other rights that it has at law, equity and under the terms of this Agreement, to terminate this Agreement in accordance with

Section XII above or Section XV below. In the event that the Agency directs the Administrator to take legal steps, including the initiation of litigation, to enforce the OPA or the AARP, or both, then the Administrator shall be entitled to the legal costs and fees and other court costs associated with such enforcement actions, in addition to the fees set forth herein. The Agency shall compensate the Administrator for such fees and costs as incurred, and the Administrator shall seek reimbursement of such fees and costs in any litigation against the Participant. The Agency may, in lieu of requesting the Administrator to enforce the terms of the OPA or the AARP, or both, enforce the obligations itself.

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.

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 Participant. This Agreement may not be assigned by any Party without the written approval of the remaining Parties, and such approval shall not be unreasonably withheld.

If the Administrator amends the Housing Commission Loan Documents to provide that the Annual Monitoring Fee required by this Agreement and the monitoring fee required by the Declaration (as defined in the Housing Commission Loan Agreement) are to be a single payment to the Administrator for satisfaction of Participant's obligations under both the Declaration and this Agreement, then the Agency's Executive Director (in his or her sole discretion) shall have authority on behalf of the Agency to amend this Agreement as necessary for consistency purposes.

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 affect or modify any of the terms and conditions of this Agreement.

XVII. Limitations on Agreement

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

XVIII. Counterparts

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

XIX. Time of Essence

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

XX. Captions

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

XXI. Additional Documents

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

XXII. Benefit and Burden

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

XXIII. Governing Law

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

XXIV. Venue

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

XXV. Attorneys' 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, experts' fees and costs, and including "costs" regardless of whether recoverable as such under statute) incurred in such action.

XXVI. Waiver

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

XXVII. Number of Pages and Exhibits

This Agreement includes _____ () pages and two (2) Exhibits.

XXVIII. Signing Authority

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

XXIX. Exhibits and Recitals Incorporated

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

XXX. Severability of Provisions

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

XXXI. Successors and Assigns

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

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

Date: _____

By: _____

Janice Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH
Agency General Counsel

By: _____

Kevin Reisch
Deputy General Counsel

ADMINISTRATOR:

SAN DIEGO HOUSING COMMISSION

Date: _____

By: _____

Richard C. Gentry
President and Chief Executive Officer

APPROVED AS TO FORM:

CHRISTENSEN & SPATH LLP

By: _____

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

PARTICIPANT:

[WAKELAND HOUSING AND
DEVELOPMENT CORPORATION,
a California nonprofit corporation]

Dated: _____

By: _____
Kenneth L. Sauder
President

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EXHIBIT A

QUALIFIED TENANT AND RENT SCHEDULE

Vista Grande Apartments

A “Qualified Tenant” shall be a person of Low Income, Very Low Income or Extremely Low Income as defined in the OPA. Qualified Tenants for the 48 Affordable Units in the Project shall meet the income limits and shall not pay more than the rental rates identified and illustrated in the following tables:

[this table to be updated based on San Diego Area Median Income figures available upon the closing of the loans to be issued by the Redevelopment Agency and the Housing Commission]

RESTRICTIONS FOR TENANT ELIGIBILITY AND ILLUSTRATION OF MAXIMUM RENTS BASED ON 2009 SAN DIEGO AREA MEDIAN INCOME

# of Units	# of BRs	Maximum Income Level ¹	Permissible Gross Rent	Less Utility Allowance ²	Maximum Rents ³	# of YRs
1	2	30% AMI – extremely low	\$557	\$27	\$530	55
4	4	30% AMI – extremely low	\$718	\$43	\$675	55
1	2	45% CTCAC AMI – very low	\$835	\$27	\$808	55
7	4	45% CTCAC AMI – very low	\$1,077	\$43	\$901	55
1	3	50% AMI – very low	\$847	\$33	\$814	55
20	4	50% AMI – very low	\$944	\$43	\$901	55
14	4	50% CTCAC AMI – low	\$1,197	\$43	\$1,154	55

Footnotes related to table immediately above:

¹ Maximum Income Level = For Low Income tenants, Eligible Households earning up to 50% of CTCAC AMI, adjusted for family size appropriate to the unit. For Very Low Income tenants at 45% of CTCAC AMI, Eligible Households earning up to 45% of CTCAC AMI, adjusted for family size appropriate to the unit. For Very Low Income tenants at 50% AMI, Eligible Households earning up to 50% of AMI, adjusted for family size appropriate to the unit. For Extremely Low Income tenants, Eligible Households earning up to 30% of AMI, adjusted for family size appropriate to the unit. “Adjusted for family size appropriate to the unit” shall mean the number of bedrooms in the unit plus one (1). San Diego County Area Median Income is determined by the U.S. Department of Housing and Urban Development (HUD Schedule), revised periodically and distributed by the Administrator.

² Utility Allowance derived from San Diego Housing Commission 2009 Utility Allowance Schedule. (Utility allowance for electric cooking and basic electricity.) Utility allowance calculations may vary depending on actual services provided.

³ Maximum Rents = For Low Income tenants, 30% of 50% CTCAC AMI (less utility allowance), adjusted for family size appropriate to the unit. For Very Low Income tenants at 45% of CTCAC AMI, 30% of 45% CTCAC AMI (less utility allowance) adjusted for family size appropriate to the unit. For Very Low Income tenants at 50% of AMI, 30% of 50% AMI (less utility allowance), adjusted for family size appropriate to the unit. For Extremely Low Income tenants, 30% of 30% AMI (less utility allowance), adjusted for family size appropriate to the unit. To account for the fact that CTCAC rents (based on CTCAC Area Median Income) are anticipated to be higher than CRL rents (based on Area Median Income) with respect the Low Income and Very Low Income households occupying Affordable Units, the following additional provisions shall apply to the determination of Affordable Rent

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hereunder: (a) in no event shall the Affordable Rent for Low Income households exceed the product of thirty percent (30%) times sixty percent (60%) of Area Median Income, adjusted for family size appropriate to the unit; and (b) in no event shall the Affordable Rent for Very Low Income households exceed the product of thirty percent (30%) times fifty percent (50%) of Area Median Income, adjusted for family size appropriate to the unit. The rents in this chart are illustrative CRL rents based upon median household income as estimated by HUD and published in 2009 as "area median income" by HCD. [Health & Safety Code Section 50093.] Actual rents at time of lease-up may be different due to annual fluctuations in San Diego County Area Median Income.

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EXHIBIT B

OCCUPANCY MONITORING FEE SCHEDULE – Rental Units

Vista Grande Apartments

Initial Set Up Fee

System Set-up and Implementation \$500

Annual Monitoring Fee

The base monitoring fee per unit is: \$65 per unit for the first 40 units; and
\$55 per unit for each unit in excess of 40.

Adjustments to Annual Fee

The monitoring fee is subject to annual adjustments to reflect changes in the Consumer Price Index as set forth in Section XI of the foregoing Agreement.

Maximum Annual Fee

Pursuant to this Agreement and the AARP, the maximum **initial** Annual Monitoring Fee charged by the Administrator shall not exceed **\$3,040**. This maximum Annual Monitoring Fee amount may be adjusted for changes in the Consumer Price Index as set forth above.

Enforcement Fees

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

Billing and Payment of Fees

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

ATTACHMENT NO. 22
FORM OF AGENCY/HOUSING COMMISSION AGREEMENT

OFFICIAL BUSINESS
Document entitled to free
recording per California Government
Code Section 27383

Recording Requested by and
When Recorded Return to:

Redevelopment Agency of the
City of San Diego
c/o Southeastern Economic
Development Corporation
4393 Imperial Avenue, Suite 200
San Diego, California 92113
Attn: Project Manager, Central Imperial

Space above this line for Recorder's use only

AGENCY/HOUSING COMMISSION AGREEMENT

(Vista Grande Apartments)

THIS AGENCY/HOUSING COMMISSION AGREEMENT ("Agreement") is entered into as of _____, 2010, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic ("Agency"), and the SAN DIEGO HOUSING COMMISSION, a public agency ("Commission"). The Agency and the Commission may be referred to individually as a "Party" and collectively as the "Parties" in this Agreement.

RECITALS

A. The Parties desire to assist _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership ("Borrower"), in the rehabilitation of the existing 49-unit Vista Grande apartment complex located within the area of influence of Southeastern Economic Development Corporation in the City of San Diego. Upon completion of the rehabilitation work, the apartment complex will consist of 48 income-restricted rental units at affordable rent ("Affordable Units"), one unrestricted manager's unit, and various related amenities and improvements (collectively, the "Project"). The Commission is or will be the owner of certain real property described in Exhibit A attached hereto and incorporated herein by reference (the "Property") on

which the Project will be located. The Commission and Borrower will enter into a 65-year year ground lease. During the ground lease term, Borrower will own the existing and future improvements on the Property, except that the Commission will have the option to purchase the improvements at the end of the federal tax credit compliance period applicable to Borrower's anticipated use of federal tax credits for the Project ("Housing Commission Option to Purchase"), as set forth in more detail in the various agreements and instruments being entered into between the Commission and Borrower concurrently with the execution and delivery of this Agreement.

B. The Agency and Borrower (or its predecessor in interest) have entered into that certain Owner Participation Agreement dated as of _____, 2010 ("OPA"). The OPA, including all riders, exhibits, addenda, implementation agreements, amendments and attachments thereto, is incorporated herein by this reference. Unless otherwise indicated, all capitalized terms used in this Agreement shall have the same meaning ascribed to them in the OPA. Pursuant to the OPA, the Agency has agreed to disburse to Borrower the proceeds of the Agency Loan in an original principal amount not to exceed \$781,073. The Agency Loan is evidenced by the Agency Note, and the repayment of the Agency Loan will be secured by the Agency Deed of Trust filed in the Official Records against the Leasehold. The Agency Loan is to be repaid from a proportional share of the residual receipts of the Project.

C. Pursuant to the "Housing Commission Loan Agreement" (as defined in the OPA), the Commission has agreed to disburse to Borrower the proceeds of the Housing Commission Loan in an original principal amount not to exceed \$2,967,000. The Housing Commission Loan is evidenced by the Housing Commission Loan Agreement, and the repayment of the Housing Commission Loan is secured by the Housing Commission Deed of Trust filed in the Official Records against the Leasehold. The Housing Commission Loan is to be repaid from a proportional share of the residual receipts of the Project.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Pro Rata Shares. For purposes of this Agreement, the pro rata shares of the Parties shall mean the following respective percentages, which correspond to the respective not-to-exceed amounts of the Housing Commission Loan and the Agency Loan:

- (a) Housing Commission Loan: 79.16%; and
- (b) Agency Loan: 20.84%.

2. Residual Receipts.

(a) The Agency and the Commission acknowledge that, as further described in the Agency Note, they will each receive an annual allocated payment of any Residual Receipts from the operation of the Property in accordance with their respective pro rata shares specified above in Section 1. If the Commission elects to and does assume the Agency Loan based upon the exercise of

the Housing Commission Option to Purchase as discussed below in Section 8, then the annual allocated payment made to the Agency, constituting its pro rata share of the Residual Receipts from the operation of the Property, for the calendar year in which the Commission's loan assumption occurs and every calendar year thereafter during the term of the Agency Loan, shall not decrease by more than ten percent (10%) as compared to the calendar year immediately preceding such loan assumption. If necessary to avoid such a decrease of greater than ten percent (10%) in any given calendar year, the Agency's pro rata share of the Residual Receipts shall be increased to a higher percentage than reflected above in Section 1.

(b) The Commission shall oversee the periodic calculation and collection of Residual Receipts of the Project (if any), as well as the pro rata share, consistent with Section 1 above, of Cost Savings (if any) and Additional Proceeds (if any) owed by Borrower to the Commission and the Agency, as further described in the OPA and the Agency Note. Upon each confirmed calculation of Residual Receipts, Cost Savings and Additional Proceeds owed by Borrower, the Commission shall direct Borrower to pay to the Agency the appropriate amount equal to the Agency's proportional share of such items. The Commission agrees to meet and confer with the Agency in the event that the Agency raises any questions or objections concerning any calculation of any such items owed by Borrower.

3. Rehabilitation Work.

(a) The Parties agree that their joint monitoring of Borrower's completion of the Project would involve significant duplication of work and would not be cost-efficient. Thus, the Parties agree that the Commission, without liability to the Agency or any other Person, shall primarily monitor Borrower's completion of the Project in a timely manner in accordance with the Scope of Development (Attachment No. 4 to the OPA) and the Schedule of Performance (Attachment No. 5 to the OPA).

(b) The Commission shall endeavor to inform the Agency in writing promptly after the Commission learns of any material circumstance that constitutes a default of Borrower's construction obligations under the OPA or may reasonably lead to such a default; provided, however, the Commission shall have no liability to the Agency or any other Person for failure to provide any such information or notice to the Agency.

(c) The Agency hereby assigns to the Commission, and the Commission hereby accepts and assumes, all of the Agency's rights, duties and obligations under the OPA to approve any plans, specifications, drawings and similar documents (collectively, "Plans") with respect to construction of the Project. The Agency shall promptly deliver to the Commission a copy of any written correspondence with respect to the Plans received from Borrower. The Commission shall promptly deliver to the Agency a copy of any written correspondence or documents exchanged between the Commission and Borrower with respect to the Plans; provided, however, the Commission shall have no liability to the Agency or any other Person for failure to deliver the same to the Agency. Upon the Agency's request from time to time, the Commission shall provide the

Agency with a written or telephonic update regarding the progress of the Plans and the completion of the Project.

(d) Notwithstanding anything to the contrary contained in this Agreement, the Commission shall have no liability whatsoever to the Agency for any acts or failures to act with respect to the subject matter of this Section 3, nor shall the Commission have any responsibility or duty whatsoever to the Agency or to any other Person to review, inspect, pass judgment upon or inform the Agency or any other Person of any matter in connection with the development of, construction of, or any work to be performed with respect to the Project. The Commission shall not be responsible in any way for any of the work, construction, improvement or development of the Property or the Project.

4. Commission's Purchase Option. The Parties acknowledge that the Commission will retain the Housing Commission Option to Purchase and agree that, in connection with the Commission's acquisition of the Leasehold Improvements from Borrower based upon the exercise of the Housing Commission Option to Purchase or otherwise, the Commission shall have the right to either pay the entire balance of the Agency Loan or assume the Agency Loan in accordance with the requirements of this Section 4. In this regard, the Commission agrees that its acquisition of the Leasehold Improvements from Borrower, based upon the exercise of the Housing Commission Option to Purchase or otherwise, shall be subject to the following requirements and conditions precedent benefitting the Agency (involving the fulfillment of either clause (a) or clause (b) below, and the fulfillment of clause (c) below):

(a) That both of the following events shall occur: (i) the entire balance of the Agency Loan (including the principal balance and all accrued interest thereon) shall be paid to the Agency on or before the consummation of the transaction by which the Commission acquires the Leasehold Improvements; and (ii) if the Agency so requests, Borrower, the Commission and the Agency shall enter into the Assignment and Assumption Agreement for Transfers Generally (Attachment No. 17 to the OPA), thereby assigning to the Commission all of Borrower's rights, title, interest and obligations under the OPA, in and to all associated documents attached to the OPA, and in and to all associated documents entered into pursuant to the OPA, and whereby the Commission shall accept such assignment and assume performance of all terms, obligations, covenants, and conditions on the part of Borrower to be performed, occurring, or arising thereunder; or

(b) That all of the following events shall occur: (i) the entire balance of the Agency Loan (including the principal balance and all accrued interest thereon) shall be assumed by the Commission upon the consummation of the transaction by which the Commission acquires the Leasehold Improvements; (ii) Borrower, the Commission and the Agency shall enter into an Assignment and Assumption Agreement in substantially the same form as Exhibit B attached hereto, thereby assigning to the Commission all of Borrower's rights, title, interest and obligations under the OPA, in and to all associated documents attached to the OPA, and in and to all associated documents entered into pursuant to the OPA, including without limitation the Agency Note, the Agency Deed of Trust and related security instruments, and whereby the Commission shall accept such assignment and assume performance of all terms, obligations, covenants, and conditions on the part of Borrower

to be performed, occurring, or arising under the OPA, the Agency Note, the Agency Deed of Trust and related security instruments; (iii) Borrower shall execute that certain Amendment to Agency Note, Agency Deed of Trust and Related Security Instruments, substantially in the form attached as Exhibit C hereto; and (iv) upon the assumption of the Agency Loan by the Commission, the Agency shall have the right (without imposing any cost or obligation on the Agency) to cause the then existing property manager for the day-to-day operation and management of the Project to continue serving in such capacity for so long as the Commission remains obligated under the Agency Note, as amended, provided that such property manager agrees to continue serving in such capacity; and

(c) That the Agreement Affecting Real Property (Attachment No. 6 to the OPA) shall remain in a first priority position recorded against the Property relative to any other regulatory agreements or any monetary liens notwithstanding the exercise of the Housing Commission Option to Purchase.

The Commission shall have no financial obligation to the Agency under this Section 4 if the Commission does not exercise its option to purchase or otherwise acquire the Leasehold Improvements from Borrower.

5. Survival of Agency Deed of Trust. The Parties acknowledge and agree that the Agency Deed of Trust will be filed in the Official Records, as of the Construction Closing, solely against the Leasehold (including any Leasehold Improvements then in existence or thereafter installed), but that the Agency Deed of Trust shall survive the Commission's purchase of the Leasehold Improvements and the resulting elimination of the Leasehold in the event that the Commission elects to assume the Agency Loan as described above in Section 4(b). In such event, the Amendment to Agency Note, Agency Deed of Trust and Related Security Instruments (Exhibit C hereto) shall memorialize the fact that the Agency Deed of Trust is effectively recorded against the Leasehold Improvements (i.e., all buildings, structures and other improvements situated on the Property and defined collectively as the "Improvements" in the Agency Deed of Trust) in a first priority position relative to any other monetary liens as of the time of the Commission's acquisition of the Leasehold Improvements, or alternatively, in a second priority position if the Construction Loan or the Permanent Loan (as the case may be, including any refinancing thereof approved by the Agency) has not been fully repaid. To the extent necessary to preserve the above-described priority position of the Agency Deed of Trust against the Leasehold Improvements, the Commission shall obtain, and shall file in the Official Records, a duly executed and acknowledged subordination agreement from any other lienholder on the Property or any improvements situated thereon whose lien otherwise might be deemed senior to the Agency Deed of Trust (except for any lienholder comprising the Construction Lender or the Permanent Lender, as the case may be, who holds a first priority lien on the Property).

6. Recordation. Either Party shall have the right to file this Agreement, or a memorandum hereof, in the Official Records against the Property, and each Party shall execute and deliver such memorandum in recordable form upon request from the other Party. In addition, the Commission agrees to execute and deliver to the Agency, upon its request, the Agreement Affecting Real Property in the recordable form included as Attachment No. 6 to the OPA so that such

Agreement Affecting Real Property can be filed in the Official Records against the Property in a first priority position. The Commission acknowledges that such recordation of the Agreement Affecting Real Property is necessary to protect the Agency's interest and expectation in the long-term provision of affordable housing on the Property in the event that the Commission exercises its future option to purchase the Leasehold Improvements from Borrower and thereby eliminates the Leasehold. In addition, the Commission hereby consents to the Agency's filing in the Official Records against the Property of the Notice of Affordability Restrictions in the form included as Attachment No. 15 to the OPA. If required by the San Diego County Recorder's Office as a condition to allowing the Notice of Affordability Restrictions in the Official Records, the Commission shall execute and deliver to the Agency, upon its request, the Notice of Affordability Restrictions in recordable form.

7. Further Assurances. The Parties shall take such further actions and shall execute and deliver such additional documents as may be reasonably necessary to effectuate the provisions and intent of this Agreement and the exhibits attached hereto.

8. 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.

[remainder of this page intentionally left blank]

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

SAN DIEGO HOUSING COMMISSION,
a public agency

Dated: _____

By: _____
Richard C. Gentry
President and Chief Executive Officer

APPROVED AS TO FORM:

CHRISTENSEN & SPATH LLP

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

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

Dated: _____

By: _____
Janice Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH
Agency General Counsel

By: _____
Kevin Reisch
Deputy General Counsel

EXHIBIT A

LEGAL DESCRIPTION

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

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

EXHIBIT B TO ATTACHMENT NO. 22
FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT
FOR TRANSFER TO HOUSING COMMISSION

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made as of _____, 20__ ("Effective Date"), by and between _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership ("Assignor"), and the SAN DIEGO HOUSING COMMISSION, a public agency ("Assignee"). Any capitalized term contained in this Agreement that is not otherwise defined shall have the meaning ascribed to such term in the OPA (as defined below).

RECITALS

A. The Redevelopment Agency of the City of San Diego, a public body, corporate and politic ("Agency"), and Assignor's predecessor-in-interest, Wakeland Housing and Development Corporation, a California nonprofit corporation, entered into that certain Owner Participation Agreement dated as of _____, 2010 ("OPA") pertaining to the rehabilitation of improvements located on certain real property in the City of San Diego commonly known as Vista Grande Apartments and more particularly described in the legal description attached hereto as Exhibit A and incorporated herein by this reference.

B. Pursuant to the OPA, the Agency has loaned to Debtor an amount not to exceed \$781,073 ("Agency Loan"), which is evidenced by that certain Residual Receipts Promissory Note ("Note") executed by Debtor in favor of the Agency dated _____, 20__, and is secured by the following documents (collectively, the "Security Instruments"): (i) that certain Subordinate Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) dated _____, 20__, and recorded on _____, 20__, as Document No. _____ - _____ in the Official Records of San Diego County; (ii) that certain Assignment of Rents and Leases dated _____, 20__, and recorded on _____, 20__, as Document No. _____ - _____ in the Official Records of San Diego County; (iii) that certain UCC-1 Financing Statement dated _____, 20__, and recorded on _____, 20__, as Document No. _____ - _____ in the Official Records of San Diego County; (iv) that certain unrecorded Assignment of Agreements dated as of _____, 20__, executed by Debtor in the Agency's favor; and (v) that certain unrecorded Environmental Indemnity dated as of _____, 20__, executed by Debtor in the Agency's favor.

C. By and through this Agreement, Assignor proposes to assign to Assignee all of its rights, liabilities and obligations under the OPA, all rights, liabilities and obligations under all associated documents attached to the OPA, and all rights, liabilities and obligations under all associated documents entered into pursuant to the OPA, including, without limitation, the Note and the Security Instruments; and for Assignor to accept such assignment and assume all rights, liabilities and obligations thereunder. This Agreement is being executed in accordance with the Agency/Housing Commission Agreement dated as of _____, 20__

("Agency/Housing Commission Agreement"), by which the Agency and Assignee contemplated Assignee's assumption of all rights, liabilities and obligations under the OPA and related documents upon Assignee's acquisition from Assignor of the various leasehold improvements situated on the Property.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. As of the Effective Date, which shall occur concurrently with the full execution of this Agreement by Assignor, Assignee and the Agency (as to the Consent only), Assignor hereby assigns all of its rights, liabilities and obligations under the OPA, all rights, liabilities and obligations under all associated documents attached to the OPA, and all rights, liabilities and obligations under all associated documents entered into pursuant to the OPA, including, without limitation, the Note and the Security Instruments.

2. Acceptance and Assumption. Assignee hereby accepts the assignment of rights, liabilities and obligations under the OPA, all rights, liabilities and obligations under all associated documents attached to the OPA, and all rights, liabilities and obligations under all associated documents entered into pursuant to the OPA, including, without limitation, the Note and the Security Instruments. Assignee specifically agrees to assume all of the payment and performance obligations of Assignor set forth in the Note and the Deed of Trust in accordance with their respective terms and conditions, including without limitation, payment of all sums due under the Note. Assignee further agrees to abide by and be bound by all of the terms of the Note and the Security Instruments, all as though each document had been made, executed and delivered by Assignee. This Agreement shall not relieve Assignor from the obligations under the OPA, any associated documents attached to the OPA, or any associated documents entered into pursuant to the OPA, the Note and the Security Instruments.

3. Amendment to Documents. Assignor and Assignee acknowledge that, substantially concurrent with (and effective immediately preceding) the execution of this Agreement, Assignor and the Agency (with the express consent of Assignee) shall have entered into that certain Amendment to Agency Note, Agency Deed of Trust and Related Security Instruments ("Amendment") in the form attached as Exhibit C to the Agency/Housing Commission Agreement, which Amendment shall be recorded against the Property in the Official Records of San Diego County concurrently with the consummation of the assignment and assumption transaction described herein.

4. Assignee's Address. The principal address of Assignee for purposes of the OPA is as follows:

Richard C. Gentry, President and Chief Executive Officer
San Diego Housing Commission
1122 Broadway, Suite 300
San Diego, California 92101

5. Miscellaneous

(a) This Assignment shall be determined in accordance with and governed by the laws of the State of California.

(b) This Assignment may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute a complete instrument.

(c) Each party agrees to perform any further acts, and to execute and deliver any further documents, as may be reasonably necessary or required to carry out the intent and provisions of this Assignment and the transactions contemplated hereby.

(d) This Assignment shall bind and inure to the benefit of the respective heirs, personal representatives, grantees, successors and assigns of the parties hereto.

[remainder of page left intentionally blank]

[signatures on following pages]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be executed as of the day and year first written above.

ASSIGNOR:

[WAKELAND ENTITY],
a California limited partnership

By: _____

Name: _____

Title: _____

Date: _____

[remainder of page left intentionally blank]

[signatures on following page]

ASSIGNEE:

SAN DIEGO HOUSING COMMISSION,
a public agency

Dated: _____

By: _____
Richard C. Gentry
President and Chief Executive Officer

APPROVED AS TO FORM:

CHRISTENSEN & SPATH LLP

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

[remainder of page left intentionally blank]

[Consent to Assignment and Assumption on next page]

CONSENT TO ASSIGNMENT AND ASSUMPTION

Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in that certain Assignment and Assumption Agreement, dated as of _____, 20____ (the "Assignment Agreement"), by and between _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership ("Assignor"), and the SAN DIEGO HOUSING COMMISSION, a public agency ("Assignee").

In reliance upon the assumption by Assignee of all rights, liabilities and obligations pursuant to the Assignment Agreement, the Agency does hereby consent to and approve of the assignment of the rights, liabilities and obligations pursuant to the Assignment Agreement by Assignor to Assignee. Approval thereof by the Agency shall not be construed to relieve or release Assignor from its duty to comply with any of its obligations under the OPA, any associated documents attached to the OPA, or any associated documents entered into pursuant to the OPA, the Note or the Security Instruments.

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

Dated: _____ By: _____
Name: _____
Its: _____

APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH,
Agency General Counsel

By: _____
Kevin Reisch
Deputy General Counsel

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

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

Parcel A:

Lot F in Block 5 of LAS ALTURAS, UNIT NO. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1866, filed in the Office of the County Recorder of San Diego County on October 27, 1925.

EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49

EXHIBIT C TO ATTACHMENT NO. 22
FORM OF AMENDMENT TO AGENCY NOTE,
AGENCY DEED OF TRUST AND RELATED SECURITY INSTRUMENTS

OFFICIAL BUSINESS

Document entitled to free
recording per California Government
Code Section 27383

Recording Requested by and
When Recorded Return to:

Redevelopment Agency of the
City of San Diego
c/o Southeastern Economic
Development Corporation
4393 Imperial Avenue, Suite 200
San Diego, California 92113
Attn: Project Manager, Central Imperial

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**AMENDMENT TO AGENCY NOTE,
AGENCY DEED OF TRUST AND
RELATED SECURITY INSTRUMENTS**

This Amendment to Agency Note, Agency Deed of Trust and Related Security Instruments (“Amendment”) is made and entered into as of this ____ day of _____, 20____, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic (“Agency”), and _____ [Wakeland Vista Grande Apartments, L.P.], a California limited partnership (“Debtor”). The SAN DIEGO HOUSING COMMISSION, a public agency (“Commission”), will execute the Consent affixed at the end of this Amendment.

RECITALS

A. The Agency and Debtor entered into that certain Owner Participation Agreement dated as of _____, 2010 (“OPA”), relating to the rehabilitation of improvements located on certain real property in the City of San Diego commonly known as Vista Grande Apartments and more particularly described in the legal description attached hereto as Exhibit A and incorporated herein by this reference (the “Property”).

B. Pursuant to the OPA, the Agency has loaned to Debtor an amount not to exceed \$781,073 (“Agency Loan”), which is evidenced by that certain Residual Receipts

Promissory Note (“Note”) executed by Debtor in favor of the Agency dated _____, 20___, and is secured by the following documents (collectively, the “Security Instruments”): (i) that certain Subordinate Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) dated _____, 20___, and recorded on _____, 20___, as Document No. ____ - _____ in the Official Records of San Diego County (“Deed of Trust”); (ii) that certain Assignment of Rents and Leases dated _____, 20___, and recorded on _____, 20___, as Document No. ____ - _____ in the Official Records of San Diego County (“Assignment of Rents”); (iii) that certain UCC-1 Financing Statement dated _____, 20___, and recorded on _____, 20___, as Document No. ____ - _____ in the Official Records of San Diego County (“Financing Statement”); (iv) that certain unrecorded Assignment of Agreements dated as of _____, 20___, executed by Debtor in the Agency’s favor; and (v) that certain unrecorded Environmental Indemnity dated as of _____, 20___, executed by Debtor in the Agency’s favor..

C. Pursuant to the terms of the OPA and that certain Assignment and Assumption Agreement dated as of even date herewith, Debtor is assigning to the Commission, and the Commission is assuming, all of Debtor’s rights, liabilities and obligations under the OPA, the Note and the Security Instruments.

D. In light of the above, the Agency and Debtor desire to execute this Amendment to reflect the assignment and assumption of Debtor’s rights, liabilities and obligations in and to the Note and the Security Instruments.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and mutual covenants and conditions set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency and Debtor agree as follows:

1. Amendment to Documents.

(a) All references to “Borrower” or “Owner” contained in the Note and the Security Instruments shall mean and refer to the Commission.

(b) The Agency agrees to inscribe on the original Note a legend indicating that it has been modified pursuant to this Amendment.

(c) The Deed of Trust, the Assignment of Rents and the Financing Statement are hereby modified such that all references therein to the establishment of a security interest in the Agency’s favor concerning Debtor’s leasehold interest in the Property (including leasehold improvements) shall apply instead to the establishment of a security interest in the Agency’s favor concerning all buildings, structures and other improvements situated on the Property. The Deed of Trust, the Assignment of Rents and the Financing Statement, as modified in this Amendment, are hereby deemed to be

recorded against the buildings, structures and other improvements situated on the Property, rather than against the leasehold interest in the Property held by Debtor which is being extinguished due to the Commission's acquisition of the leasehold improvements from Debtor substantially concurrent with the recordation of this Amendment. In particular, the Deed of Trust shall be a first priority financial lien against the buildings, structures and other improvements situated on the Property.

(d) Except as expressly provided otherwise in this Amendment, the Agency and Debtor agree that the Note and the Security Instruments and all exhibits attached to such documents shall remain in full force and effect as of the date thereof, enforceable in accordance with their terms and conditions, without diminution or waiver of any kind of any right or remedy of the Agency thereunder.

2. Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Amendment.

3. Binding Effect. This Amendment, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the Agency and Debtor and their respective heirs, legal representatives, successors and assigns.

4. Attorneys' Fees. In the event that one party brings an action or proceeding against the other party to enforce or interpret any of the conditions or provisions of this Amendment, the prevailing party shall be entitled to recover all reasonable attorneys' fees, expenses and court costs associated with such action or proceeding.

5. Authority to Sign. The Agency and Debtor hereby represent that the person(s) executing this Amendment on behalf of each party has full authority to do so and to bind that party pursuant to the terms and conditions of this Amendment.

6. Further Assurances. The parties shall take such further actions and shall execute and deliver such additional documents as may be reasonably necessary to effectuate the provisions and intent of this Amendment.

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

[THIS PORTION OF THE PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Agency and Debtor have executed this Amendment as of the date first written above.

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

By: _____
Janice Weinrick
Deputy Executive Director

Date: _____

APPROVED AS TO FORM AND LEGALITY:

JAN I GOLDSMITH,
Redevelopment Agency General Counsel

By: _____
Kevin Reisch
Deputy General Counsel

[WAKELAND ENTITY],
a California limited partnership

By: _____
Name: _____
Title: _____

Date: _____

[remainder of page left intentionally blank]
[Consent of Housing Commission on next page]

CONSENT OF HOUSING COMMISSION

The San Diego Housing Commission, a public agency (“Commission”), acting through its duly authorized representative, hereby (i) consents to all provisions of the foregoing Amendment, (ii) agrees to be fully bound by the Note and the Security Instruments as modified by the foregoing Amendment, (iii) irrevocably authorizes the foregoing Amendment and this Consent to be filed in the Official Records of San Diego County against the Property presently owned by the Commission, and (iv) agrees that the Deed of Trust, as modified by the foregoing Amendment, shall be a first priority financial lien against all buildings, structures and other improvements situated on the Property.

SAN DIEGO HOUSING COMMISSION,
a public agency

Dated: _____

By: _____
Richard C. Gentry
President and Chief Executive Officer

APPROVED AS TO FORM:

CHRISTENSEN & SPATH LLP

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

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

On _____, before me, _____, a
Notary Public in and for said State, 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, 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, _____, a
Notary Public in and for said State, 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, 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, _____, a
Notary Public in and for said State, 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, the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

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

Parcel A:

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EXCEPTING THEREFROM the Westerly 50 feet thereof; said Westerly 50 feet being measured along the Northerly line of said Lot F, and the Easterly line of said Westerly 50 feet being parallel with the Westerly line of said Lot F.

Parcel B:

Parcel 1 of Parcel Map No. 14131, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on January 27, 1986 as File No. 86-033822 of Official Records.

Assessor's Parcel Numbers 548-204-11, 548-204-49