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Building communities with jobs & housing

Community Redevelopment Agency
of the CITY OF LOS ANGELES

DATE / **JAN 18 2007**

FILE CODE /

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CRA File No. 5056
Council District: CD9 ✓
Contact Person: Lillian Burkenheim
(213) 977-2601

Honorable Council of the City of Los Angeles
John Ferraro Council Chamber
200 N. Spring Street
Room 340, City Hall
Los Angeles, CA. 90012

Attention: Alan Alietti, Office of the City Clerk

COUNCIL TRANSMITTAL:

Transmitted herewith is a Board Memorandum adopted by the Agency Board on January 18, 2007 for City Council review and approval in accordance with the "Community Redevelopment Agency Oversight Ordinance" entitled:

VARIOUS ACTIONS RELATED TO:

Approval of the Affordable Housing Agreement by and among the Figueroa Corridor CLT; Figueroa Corridor Land Company and the Community Redevelopment Agency of the City of Los Angeles to create affordable housing in furtherance of the Community Benefits Program from the Los Angeles Sprots and Entertainment District Development Agreement
City Center Redevelopment Project Area
Downtown Region (CD 9)

RECOMMENDATION

That City Council approves the recommendations on the attached Board Memorandum.

ENVIRONMENTAL REVIEW

The proposed action is not a project according to the California Environmental Quality Act (CEAQ). If a development occurs as a result of this action, that project will be evaluated pursuant to CEQA.

FISCAL IMPACT STATEMENT

There is no fiscal impact to the City's General Fund as a result of this action.


Cecilia V. Estolano, Chief Executive Officer



CRA/LA

Building communities with jobs & housing

cc: Alan Alietti, Office of the City Clerk (Original & 3 Copies on 3-hole punch)
Annemarie Sauer, Nancy Duong, Office of the CAO
Paul Smith, Ivania Sobalvarro, Office of the CLA
Adriana Martinez, Office of the Mayor
Neil Blumenkopf, Noreen Vincent, Office of the City Attorney
Councilmember Jan Perry, Council District 9

MEMORANDUM

10

DATE: JANUARY 18, 2007

TO: AGENCY COMMISSIONERS

FROM: CECILIA V. ESTOLANO, CHIEF EXECUTIVE OFFICER

RESPONSIBLE PARTIES: DAVID RICCIHELLO, REGIONAL ADMINISTRATOR
LILLIAN BURKENHEIM, PROJECT MANAGER

SUBJECT: APPROVAL OF THE AFFORDABLE HOUSING AGREEMENT BY AND AMONG THE FIGUEROA CORRIDOR CLT; FIGUEROA CORRIDOR LAND COMPANY AND THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF LOS ANGELES TO CREATE AFFORDABLE HOUSING IN FURTHERANCE OF THE COMMUNITY BENEFITS PROGRAM FROM THE LOS ANGELES SPORTS AND ENTERTAINMENT DISTRICT DEVELOPMENT AGREEMENT CITY CENTER REDEVELOPMENT PROJECT AREA DOWNTOWN REGION (CD 9)

CT3080
CT1090

RECOMMENDATIONS

That the Agency, subject to City Council review and approval, approve and authorize the Chief Executive Officer, or designee, to execute the Affordable Housing Agreement with the Figueroa Corridor CLT and Figueroa Corridor Land Company, collective known as the Land Trust, to recognize the payment of funds from a Developer within the Los Angeles Sports and Entertainment District to the Land Trust implementing a requirement of the Community Benefits Program to create affordable housing and to take such steps necessary to ensure the creation of housing.

SUMMARY

Developing affordable housing along with the development of market rate housing is a key component of the Community Benefits Program for the Los Angeles Sports and Entertainment District ("LASED"). As the Disposition and Development Agreement has been amended from time to time, the responsibility of the Developer to cause to be created affordable housing prior to the Certificate of Occupancy on the market rate dwellings was passed along to those developing each site. With the Amendment to the City's Development Agreement ("DA") for the LASED, the Developer has an option to enter into an agreement with a Community Partner to build the affordable housing units for them. The DA requires that the Agency or the City enter into an agreement with the Community Partner to ensure that units be built.

The Monion Group (Developer) purchased the Figueroa Central site from the Arena Land Company (Please see Master Plan Map, Attachment A). The Developer plans to build a mixed-use project on the site, which includes market rate housing. They have decided to enter into an agreement with the Figueroa Corridor CLT and Figueroa Corridor Company (Community

Partner) to build their required affordable housing. This Affordable Housing Funding Agreement recognizes that agreement between the parties and sets forth the responsibilities of the Community Partner to create the envisioned affordable housing within five years of the funding.

It is contemplated that the Developer will provide the Community Partner with a Letter of Credit for \$40,000 per affordable housing unit required to be developed to enable the Community Partners to begin implementation of their affordable housing program, prior to the Developer obtaining building permits for their project. Currently the Developer is planning to build 870 housing units, thus creating a need to develop 172 affordable housing units, which would be a letter of credit for \$6.8 million. The Letter of Credit will be deposited into an account with the Enterprise Foundation, which will provide the Community Partner with the funding necessary to acquire property to build affordable housing. The Agency's responsibility in the Affordable Housing Agreement is to ensure that the funding leads to affordable housing. To continue to support that role, the Agency will also join the agreement between the Community Partner and the Enterprise Foundation.

The funding provided through the Enterprise Foundation will be used to acquire property. That property will be covenanted for affordable housing. If the Community Partner does not purchase the land or build affordable housing within the time period required, the property or the funds would revert to the Agency, to cause the creation on affordable housing.

RE

September 1, 2005 – Approval of the Fourth Implementation Agreement to the Disposition and Development Agreement with the L.A. Arena Land Company, Inc, Flower Holdings, L.L.C. and L.A. Arena Company, L.L.C., for the development of the Los Angeles Sports And Entertainment Districts

September 8, 2005 – Council approval of Fourth Implementation Agreement and amendment to City's Development Agreement

SOURCE OF FUNDS

No Agency funds are required for this action

PROGRAM AND BUDGET IMPACT

The proposed action is consistent with the Approved Work Program and Budget for the City Center and Central Business District Redevelopment Projects.

ENVIRONMENTAL REVIEW

The proposed action is not a project according to the California Environmental Quality Act (CEQA). If a development occurs as a result of this action, that project will be evaluated pursuant to CEQA.

BACKGROUND

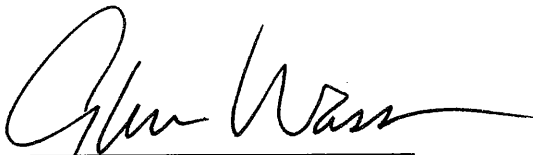
The Agency, City of Los Angeles and the L.A. Arena Development Company LLC entered into a Disposition and Development Agreement ("DDA") dated October 31, 1997. The DDA was amended by a First Implementation Agreement to the Disposition and Development Agreement dated March 26, 1998, and by a Second Implementation to Disposition and Development Agreement dated October 15, 1998 ("Amended DDA"). The Amended DDA required that the L.A. Arena Company submit a Master Plan for the Olympic/Figueroa Properties to the Agency

and to the City for review and approval. On August 17, 2001, as part of the Third Implementation Agreement, the Agency approved a Master Plan for the Project, The Master Plan was incorporated with the Development Agreement between the L.A. Arena Company and the City of Los Angeles. The Community Benefits Program was incorporated within both of those agreements. The Fourth Implementation Agreement defined the responsibilities between the Master Developer, LA Arena Land Company and specific site developers. The Monion Group is a site developer, as defined within that Implementation Agreement. As such they have the responsibility to implement all the requirements of the DDA, as amended, including the implementation of the Community Benefits Program.

The Community Benefits Program required a developer to cause to be created affordable housing, equal to 20% of its market rate housing units prior to receiving its Certificate of Occupancy on its market rate units. When the Development Agreement was amended in September 2005, the Community Benefits Program was also amended to allow a developer to provide "equity, long-term forgivable or below-market loans, grants, subsidies, land or any combination there of in and amount equal to the total value of at least \$40,000 per affordable housing unit for which a building permit has not already been issued to a Community Partner". The Monion Group has elected to provide funding to a Community Partner to meet their affordable housing requirement rather than create the affordable housing themselves. Currently, the Monion Group contemplates the development of up to 870 units of market rate housing on the Figueroa Central site. This would trigger a need to create 172 units of affordable housing. At \$40,000 a unit, the developer contribution would be \$6.8 million.

The Development Agreement designates the Figueroa Corridor Land Company, the Figueroa Corridor Community Land Trust, or a non-profit, tax-exempt corporation designated by the Coalition to hold funds for these entities as Community Partner. To ensure that the funds from the for-profit developer are spent within a five year time period to create the affordable housing desired.

Cecilia V. Estolano
Chief Executive Officer



Glenn F. Wasserman
Chief Operating Officer

There is no conflict of interest known to me that exists with regard to any Agency officer or employee concerning this action.

AFFORDABLE HOUSING AGREEMENT

This Affordable Housing Agreement (this "Agreement") is made as of this ____ day of 2006 by and among The Community Redevelopment Agency of the City of Los Angeles, California, a public body, corporate and politic (the "Agency"), Figueroa Corridor CLT, a California nonprofit public benefit corporation (the "Land Trust") and Figueroa Corridor Land Company, a California nonprofit public benefit corporation ("FCLC," and collectively with Land Trust, the "Community Partners") (collectively, the "Parties") with reference to the following facts, purposes, and understandings.

RECITALS

A. The City of Los Angeles (the "City") and the L.A. Arena Land Company ("LandCo") have entered into that certain Amended and Restated Development Agreement (the "Development Agreement") which Development Agreement provided LandCo certain rights with respect to the real property contained within the boundaries of the Los Angeles Sports and Entertainment District (LASED) Specific Plan.

B. The Development Agreement imposes an obligation on LandCo and its successors to produce affordable housing units as a condition to developing market rate units within the LASED. The Development Agreement provides that LandCo may meet its affordable housing obligation by making a contribution of not less than Forty Thousand Dollars (\$40,000) per affordable housing unit required to be developed (a "Qualified Contribution") to a Community Partner, as defined in Section 1.3.3.1. of the Development Agreement

C. The Moinian Company or one or more of its affiliates, JM FIG LLC, MG FIG LLC, HS FIG LLC, and CLAD RESOURCES BORROWER, LLC (the "Moinian Group") has acquired one or more parcels of real property within the LASED and intends to develop approximately 860 units of market rate condominiums on that property as a component of a mixed-use development project (the "Project"), which may be developed in one or more phases. The Moinian Group wishes to meet its affordable housing obligation by making a Qualified Contribution in the amount of Six Million, Eight Hundred and Eighty Eight Thousand Dollars (\$6,880,000.00) , or an amount equivalent to twenty percent (20%) of the number of market rate residential units approved for the Project multiplied by \$40,000, to the Community Partners (the "Moinian Contribution") under the terms of an agreement between the Community Partners and the Moinian Group (the "Funding Agreement").

D. The Land Trust and FCLC are designated Community Partners under the Development Agreement. FCLC was created to assist the Land Trust by acquiring and entitling property. The Land Trust intends to ground lease entitled property to affordable housing developers to facilitate the development of affordable housing in the City of Los Angeles.

E. The Land Trust and FCLC intend to work together to utilize the Moinian Contribution to develop affordable housing in the communities surrounding the LASED in conformance with the provisions of the Development Agreement.

F. Pursuant to Section 1.3.3. of Attachment 6 to the Development Agreement, the Community Partners must enter into an agreement with either the Agency or the City so that the Moinian Contribution meets the requirements of a Qualified Contribution (the "Government Agreement"). The Government Agreement must require at a minimum that (i) the Community Partners use the Qualified Contribution for the construction of Affordable Units; (ii) the Affordable Units must be located within a three (3) mile radius of the intersection of 11th Street and Figueroa Streets in Los Angeles; (iii) the Qualified Contribution be deposited in a segregated account; and (iv) performance standards and enforcement provisions are included.

G. The Agency wishes to facilitate the development of affordable housing in the Los Angeles downtown area.

H. This Affordable Housing Agreement is intended to be the Government Agreement for purposes of the Moinian Contribution.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and conditions herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency, the Land Trust and FCLC do hereby agree as follows:

ARTICLE 1.
DEFINITIONS

Section 1. Definitions. When used in this Agreement, the following terms shall have the respective meanings assigned to them in this Article 1.

(a) "Actual Household Size" shall mean the actual number of persons in the applicable household.

(b) "Adjusted Income" shall mean the total anticipated annual income of all persons in a household, as calculated in accordance with 25 California Code of Regulations Section 6914 or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income.

(c) "Affordable Housing Cost" shall mean the affordable housing cost as defined by the California Health and Safety Code Section 50052.5(b) and Section 50053 (b) for rental and homeownership housing or the rents allowed under the federal Low Income Housing Tax Credit ("LIHTC") Program for rental housing project which has received an LIHTC allocation. For purposes of this definition, the parties will agree on an affordable housing cost for Sixty Percent Households using the same formula as applied to Fifty Percent Households.

(d) "Affordable Units" shall mean rental or ownership housing made available to an Eligible Household at an Affordable Housing Cost.

(e) "Agency" shall mean The Community Redevelopment Agency of the City of Los Angeles, a public body, corporate and politic.

(f) "Agreement" shall mean this Affordable Housing Agreement.

(g) "Construction" shall mean land acquisition, pre-development and development related to the development of Affordable Units within the Target Area by the FCLC or Land Trust, an entity acting under contract with the FCLC or the Land Trust, or a subcontractor of such an entity.

(h) "Effective Date" shall mean the date which is the latest of (i) the date this Agreement is executed by the Land Trust or FCLC, (ii) the date this Agreement is approved and executed by the Agency, and (iii) the date the City Council approves this Agreement.

(i) "Eighty Percent Household" shall mean a household with an Adjusted Income which does not exceed eighty percent (80%) of Median Income, adjusted for Actual Household Size.

(j) "Eligible Households" means a Fifty Percent Household, a Sixty Percent Household and/or an Eighty Percent Household.

(k) "Fifty Percent Household" shall mean a household with an Adjusted Income which does not exceed fifty percent (50%) of Median Income, adjusted for Actual Household Size.

(l) "Funding Agreement" shall mean the agreement between the Moinian Group and the Community Partners under which the Moinian Group will make a Qualified Contribution in the amount of Six Million, Eight Hundred and Eighty Eight Thousand Dollars (\$ 6,880,000.00) , or an amount equivalent to twenty percent of the number of market rate residential units approved for the Project multiplied by \$40,000, to the Community Partners.

(m) "Sixty Percent Household" shall mean a household with an Adjusted Income which does not exceed sixty percent (60%) of Median Income, adjusted for Actual Household Size.

(n) "Median Income" shall mean the median gross yearly income, adjusted for Actual Household Size, in the County of Los Angeles, California as determined by the U.S. Department of Housing and Urban Development and as published from time to time by the State of California Department of Housing and Community Development.

(o) "Project" shall mean the mixed-use development project undertaken by the Moinian Group or one or more of its affiliates located on one or more parcels of real property within the LASED, or any phase thereof.

(p) "Schedule of Performance" shall mean that document attached hereto as Exhibit A setting out the dates and times by which certain obligations must be completed, which document may be amended from time to time by mutual agreement of the Parties.

(q) "Target Area" shall mean a three -mile radius from the intersection of 11th and Figueroa Streets.

ARTICLE 2.
MOINIAN CONTRIBUTION

Section 2.1 Structure of Moinian Contribution. The Funding Agreement provides that the Moinian Group will provide the Moinian Contribution as (a) an initial payment of \$200,000 and (b) a letter of credit in an amount equal to twenty percent of the aggregate number of market rate residential units approved for the Project times \$40,000 less the initial payment described in subparagraph (a). The total amount of the Moinian Contribution is expected to be \$6,880,000. Under the Funding Agreement, the Community Partners will be able to draw on the letter of credit upon the earlier to occur of (i) the issuance of the first temporary certificate of occupancy for the first market rate residential unit in the Project or (ii) the date that is five (5) years following the execution of the Funding Agreement.

Section 2.2 Deposit and Disbursement of the Moinian Contribution. FCLC has obtained or will obtain a commitment from Enterprise Community Loan Fund, Inc. or its affiliate ("Enterprise") to fund a portion of FCLC's activities related to the acquisition and entitlement of real properties upon which the Affordable Units will be developed. FCLC will cause the Moinian Contribution to be deposited in a segregated account (the "Segregated Account") to be administered by Enterprise. The Community Partners and the Agency will enter into an agreement with Enterprise governing the disbursement of the Moinian Contribution from the Segregated Account (the "Enterprise Agreement"), provided, however, that in the event that the Agency, Enterprise and the Community Partners are unable to agree on the form of the Disbursement Agreement, the Agency and the Community Partners will mutually identify a third party to administer the Segregated Account and with whom they will enter into new disbursement agreement (together with the Enterprise Agreement the "Disbursement Agreement"). The Disbursement Agreement will provide that, in the event Community Partners are in Default under this Agreement as defined in Section 4.2 below, Enterprise or the third party disbursement agent will disburse any funds to the Agency then remaining in the Segregated Account after all outstanding FCLC's debts related to the development of the Affordable Units have been settled in accordance with terms to be set forth in the Disbursement Agreement. The Disbursement Agreement will also provide that Enterprise will disburse funds under the same terms by which Enterprise disburses its own funds to the Community Partners.

Section 2.3 Agency Verification of Community Partners. The Agency hereby acknowledges that Land Trust and FCLC are each named as Community Partners under Section 1.3.3. of Attachment 6 to the Development Agreement. Within five days following receipt of a request by one or both of the Community Partners, the Agency shall provide the Land Trust, FCLC and the Moinian Group with written confirmation that Land Trust and FCLC are each specified as "Community Partners" under Section 1.3.3. of Attachment 6 to the Development Agreement.

Section 2.4 Agency Verification of Qualified Contribution. Within thirty (30) days following the Effective Date, the Agency shall make a good faith effort to obtain written confirmation from the Planning Director that the completion of the transaction contemplated in

the Funding Agreement, subject to final payment of the Moinian Contribution by the Moinian Group to the Community Partners shall be deemed (a) a “Qualified Contribution” to a qualified “Community Partner” pursuant to Section 1.3.3 of Attachment 6 to the Development Agreement, and (b) full and complete satisfaction of Moinian Group’s obligations under Attachment 6 to the Development Agreement regardless of Community Partners’ use, misuse or failure to use all or a part of the Moinian Contribution for the purposes set forth in Attachment 6 and/or this Agreement. The Agency shall provide copies of such written confirmation to the Land Trust, FCLC and the Moinian Group.

ARTICLE 3.
DEVELOPMENT OF AFFORDABLE UNITS

Section 3.1 Use of Moinian Contribution. The Community Partners shall expend the Moinian Contribution for the Construction of Affordable Units within the Target Area.

Section 3.2 Total Number of Affordable Units. Subject to the other requirements of this Agreement, the Community Partners shall cause the Construction of at least one Affordable Unit in the Target Area for each Forty Thousand Dollars (\$40,000) of the Moinian Contribution received by the Community Partners. If the amount of the Moinian Contribution equals the anticipated \$6,880,000, the Community Partners will be required to cause the Construction of 172 Affordable Units.

Section 3.3 Deadline for Completion of Affordable Units. The Community Partners will complete and obtain a temporary or permanent certificate of occupancy for a number of Affordable Units equal to twenty percent (20%) of the number of market rate units approved for the Project, or any phase thereof, under a building permit issued by the City of Los Angeles within five (5) years from the issuance of such building permit, unless such deadline is further extended by the Agency in its reasonable discretion.

Section 3.4 Development of Affordable Units. The Community Partners shall develop the Affordable Units, or cause the Affordable Units to be developed, and perform the tasks set forth in the Schedule of Performance in accordance with the times set forth in the Schedule of Performance, subject to force majeure delays.

Section 3.5 Distribution of Affordable Units. The Community Partners shall require that, in the aggregate, the Affordable Units developed with the Moinian Contribution shall be made available at the appropriate Affordable Housing Cost to the households at the following income levels:

(a) Thirty percent (30%) of the Affordable Units (expected to be 52 units) shall be rented to and occupied by or, if vacant, available for occupancy by a Fifty Percent Household.

(b) Thirty-five percent (35%) of the Affordable Units (expected to be 60 units) shall be rented to and occupied by or, if vacant, available for occupancy by a Sixty Percent Household.

(c) Thirty-five percent (35%) of the Affordable Units (expected to be 60 units) shall be rented to and occupied by or, if vacant, available for occupancy by an Eighty Percent Household.

Section 3.6 Term of Affordability. The Community Partners shall require that: (a) in the case of ownership units, each Affordable Unit will be maintained as an Affordable Unit for a period of no less than thirty (30) years beginning on the date of the certificate of occupancy or temporary certificate of occupancy, whichever is earlier, for such Affordable Unit and (b) in the case of rental units each Affordable Unit will be maintained as an Affordable Unit for a term of the lesser of (x) fifty-five (55) years or (y) the longest affordability term required by any other funding source for the subject property which is not less than thirty (30) years.

Section 3.7 Covenant Affecting Real Property. Upon the acquisition of one or more parcels of real property acquired by either of the Community Partners with all or part of the Moinian Contribution, the Land Trust or FCLC, as the case may be, as the owner of the property, shall enter into a covenant agreement (the "Covenant Agreement") substantially in the form of Exhibit B, attached hereto. The Covenant Agreement will incorporate the required affordability restrictions contained in Sections 3.5 and 3.6 of this Agreement and shall be recorded as an encumbrance against the acquired property. Notwithstanding the forgoing, the distribution of Affordable Units set forth in Section 3.5 may be met in the aggregate among all properties constructed using funds from the Moinian Contribution and not necessarily within individual buildings or developments and the Agency will modify the affordability requirements of any Covenant Agreement upon reasonable request of the Community Partners to enable such aggregated compliance. The Agency will subordinate the Covenant Agreement to the ground lease, to the acquisition, construction and permanent financing funding for the development of the Affordable Units including without limitation any loan from Enterprise, and to any regulatory agreements associated with governmental funding programs. The Agency's obligation to subordinate the Covenant Agreement to the lien of a lender's deed of trust shall be subject to the Agency receiving notice and cure rights from such lender, which rights the Agency will reasonably negotiate in good faith. In the event that a covenant agreement relating to any funds other than the Moinian Contribution is recorded against a property then subject to a Covenant Agreement and provides for affordability restrictions equal to or greater than those contained in Sections 3.5 and 3.6 of this Agreement, the Agency will terminate and remove the Covenant Agreement, provided that the entity enforcing the covenant agreement agrees to (a) regularly inform the Agency regarding compliance with the covenant agreement and (b) obtain Agency approval before waiving or modifying any provision of the covenant agreement relating to affordability.

ARTICLE 4.
GENERAL PROVISIONS

Section 4.1 Indemnity: Agency. The Community Partners undertake and agree to indemnify, hold harmless and defend (by counsel reasonably satisfactory to the Agency) the Agency, its commissioners, officers, employees, agents, and its successors (the "Indemnified Parties"), from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, reasonable attorney's fees and costs of litigation and litigation-related matters, damage or liability of any nature whatsoever, arising in any manner by reason of or incident to the performance of this Agreement, except to the extent caused by the sole gross negligence or willful misconduct of the Indemnified Parties.

Section 4.2 Enforcement. A "Default" hereunder shall mean the failure of any Party to perform an obligation in accordance with this Agreement, if such failure is not cured

(a) for a monetary default, within thirty (30) days after the nondefaulting Party has notified the defaulting Party in writing of the default or, if the default cannot reasonably be cured within thirty (30) days, if the defaulting party has failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure; and

(b) for a nonmonetary default, within ninety (90) days after the nondefaulting Party has notified the defaulting Party in writing of the default or, if the default cannot reasonably be cured within ninety (90) days, if the defaulting party has failed to commence to cure within ninety (90) days and thereafter diligently pursue such cure

In the event of Default, the nondefaulting Party shall have the right to enforce this Agreement by any or all remedies provided by law or equity.

Section 4.3 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of its provision.

Section 4.4 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of California.

Section 4.5 Severability. If any term, provision, covenant or condition of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 4.6 Governing Law. This Agreement shall be governed by the laws of the State of California.

Section 4.7 Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the real property records of the County of Los Angeles, California.

Section 4.8 Notice. All notices given or certificates delivered under this Agreement shall be in writing and be deemed received on the delivery or refusal date shown on the delivery

receipt, if: (i) personally delivered by a commercial service which furnishes signed receipts of delivery or (ii) mailed by certified mail, return receipt requested, postage prepaid, addressed as shown below. Any of the parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or communications shall be sent.

Agency: The Community Redevelopment Agency
of the City of Los Angeles
354 South Spring Street Suite 800
Los Angeles, CA 90013
Attn: Chief Executive Officer

With a copy to: The Community Redevelopment Agency of the City of Los Angeles
354 South Spring Street
Suite 800
Los Angeles, CA 90013
Attn: Agency General Counsel

Land Trust Figueroa Corridor CLT
152 W. 32nd St.
Los Angeles, CA 90007
Attn: Executive Director

With a copy to: Benjamin S. Beach, Esq.
Legal Aid Foundation of Los Angeles
8601 S. Broadway
Los Angeles, CA 90003

FCLC Figueroa Corridor Land Company
701 East 3rd St. Suite 400
Los Angeles, CA 90013
Attn: President

With copies to: Lance Bocarsly, Esq
Bocarsly Emden Cowan Esmail Parker & Arndt LLP
633 West Fifth Street, 70th Floor
Los Angeles, CA 90071

Section 4.9 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement shall not in any way be affected or impaired thereby.

Section 4.10 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

IN WITNESS WHEREOF, the Agency, the Land Trust and FCLC have executed this Agreement by duly authorized representatives, all as of the date first written above.

AGENCY:

THE COMMUNITY REDEVELOPMENT
AGENCY OF THE CITY OF LOS
ANGELES, a public body, corporate and
politic

Date: _____

By: _____
Cecilia V. Estolano
Its: Chief Executive Officer

PROVED AS TO FORM
Rockard J. Delgadillo,
City Attorney


By: _____
Agency General Counsel

Goldfarb & Lipman LLP

By: _____
Agency Special Counsel

Date: _____

FIGUEROA CORRIDOR COMMUNITY
LAND TRUST, a California non-profit
corporation:

By: 
Alina Bokde
Its: Executive Director

Date: _____

FIGUEROA CORRIDOR LAND
COMPANY, a California non-profit
corporation:

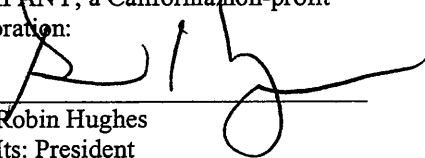
By: 
Robin Hughes
Its: President

EXHIBIT A

Figueroa Corridor Community Land Trust
And
Figueroa Corridor Land Company

Schedule of Performance

<u>Activity</u>	<u>Time Frame</u>
1. <u>Execute Affordable Housing Agreement:</u> Community Partners and Agency shall execute the Affordable Housing Agreement.	On or before January 31, 2007.
2. <u>Execute Funding Agreement with Moinian Group:</u> Community Partners shall execute the Funding Agreement with the Moinian Group.	On or before January 31, 2007.
3. <u>Verification of Community Partners:</u> Agency shall deliver a written confirmation that the Land Trust and FCLC are a Community Partner per Attachment 6 to the Development Agreement to the Land Trust, FCLC and Moinian Group.	Within five (5) days from receipt of a request from the Land Trust and FCLC.
4. <u>Verification of Qualified Contribution:</u> Agency shall obtain written confirmation that the Moinian Contribution is deemed a "Qualified Contribution" to the qualified "Community Partner" from the Planning Director.	Within thirty (30) days from the execution of the Affordable Housing Agreement.
5. <u>Disbursement Agreement:</u> Community Partners, Agency and Enterprise shall enter into a Disbursement Agreement related to the deposit and disbursement of Moinian Contribution.	Within one hundred and twenty (120) days from the execution of the Affordable Housing Agreement.
6. <u>Initial Payment from Moinian Group:</u> The initial payment of the Moinian Contribution shall be deposited into the Segregated Account.	Within thirty (30) days from the receipt of the verification of the qualified contribution from the Planning Director.
7. <u>Final Payment from Moinian Group:</u> The final payment from the Moinian Contribution shall be deposited into the Segregated Account :	Earlier of (i) the issuance of the first temporary certificate of occupancy for the first market rate unit in the Project constructed by the Moinian Group, or (ii) five years from the date of the

Funding Agreement.

8. Commence Acquisition: FCLC shall commence acquisition of properties with the Moinian Contribution for the purpose of constructing the Affordable Units. Within twelve (12) months from the execution of the Funding Agreement.
9. Complete Acquisition: FCLC shall complete acquisition of the properties with the Moinian Contribution for the purpose of constructing the Affordable Housing Units. Within twenty four (24) months from commencement of acquisition.
10. Select Affordable Housing Developer: Land Trust shall select and enter into disposition and development agreement(s) with affordable housing developer(s) Within sixty (60) days of acquisition of each property.
11. Secure Entitlement(s): FCLC shall secure all necessary entitlement(s) and land use approval(s) for the properties acquired with the Moinian Contribution to construct the Affordable Housing Units. Within thirty (30) months from commencement of acquisition.
12. Obtain Affordable Housing Financing Commitments: Affordable housing developer(s) shall obtain financing commitments necessary to construct the Affordable Housing Units. Within twelve to eighteen months from securing all necessary entitlement(s) and land use approval(s).
13. Execute Ground Lease(s): Land Trust shall execute ground lease agreements with affordable housing developer(s). Within six months (6) months from obtaining all necessary affordable housing financing commitments.
14. Commence Construction: Affordable housing developer(s) shall commence construction of the Affordable Housing Units. Within forty-five (45) days from execution of ground lease agreements.
15. Complete Construction: Affordable Housing Developer shall complete construction of the Affordable Housing Units. Later of eighteen (18) months from commencement of construction or within five (5) years from the issuance of a building permit for the Project as provided for in Section 3.1 of this agreement.

EXHIBIT B

Covenant Affecting Real Property

NO FEE DOCUMENT

Recording requested by and
when recorded, mail to:

The Community Redevelopment Agency
of the City of Los Angeles, California
354 South Spring Street

(A) Los Angeles, CA 90013

Attn: _____

Assessor's Identification Number: _____

AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY
(Loan # _____)

This AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY ("Covenant Agreement") is made this _____ day of _____, 20___, by and between the Community Redevelopment Agency of the City of Los Angeles, a public body, corporate and politic (the "Agency"), and Figueroa Corridor CLT, a California nonprofit public benefit corporation (the "Land Trust"), and Figueroa Corridor Land Company, a California nonprofit public benefit corporation ("FCLC," and together with the Land Trust the "Community Partners").

RECITALS

A. The Agency wishes to promote the redevelopment of its _____ Project Area through the construction of rental housing, or ownership housing as applicable, affordable to Fifty Percent Households, Sixty Percent Households, and Eighty Percent Households.

B. The Agency has entered into an Affordable Housing Agreement with the Community Partners regarding the development of affordable housing financed in whole or in part by the Moinian Company or one or more of its affiliates (the "Moinian Group") in satisfaction of the Moinian Group's affordable housing obligations under Attachment 6 to the Amended and Restated Development Agreement between the City of Los Angeles and L.A. Arena Land Company. The Community Partners intend to use funds provided by the Moinian Group (the "Moinian Contribution"), in accordance with the terms of the affordable housing agreement entered into by the Community Partners and the Agency ("Affordable Housing Agreement"), to cause the construction of affordable housing units. This Covenant Agreement is generally described in Section 3.7 of Affordable Housing Agreement, and is also included as Exhibit B thereto, as a means of ensuring the

affordability of units required to be developed under the Affordable Housing Agreement. Terms not explicitly defined herein shall have the meanings set forth in the Affordable Housing Agreement.

C. Owner has acquired, using a portion of the Moinian Contribution in the amount of _____ DOLLARS (\$ _____), the real property located at _____, CA _____ (as more particularly described in Exhibit A) (the "Property") for the development of a project containing residential units (the "Project") of which, _____ (____) *shall be rented, or sold as applicable, to Fifty Percent Households*, _____ (____) *shall be rented, or sold as applicable, to Sixty Percent Households*, and _____ (____) *shall be rented, or sold as applicable, to Eighty Percent Households*, as defined in Section 3.5 of the Affordable Housing Agreement.

D. As required by Section 3.7 of the Affordable Housing Agreement, FCLC or Land Trust (or Owner) shall enter into this Covenant Agreement, which shall be recorded against the Property. This instrument is intended to secure the Agency's continuing interest in the affordability of the Project, as well as to secure performance of other covenants contained in this agreement.

E. The covenants in this Covenant Agreement are intended to run with the land and be binding on Owner and Owner's successors for the full term of this Covenant Agreement.

F. As described in the Affordable Housing Agreement, Land Trust plans to ground lease the Property to a developer ("Developer") that will develop the Project. Owner will require that Developer own, operate, and manage the Project in a manner consistent with the terms of the Affordable Housing Agreement and this Covenant Agreement.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the aforementioned funding, Owner and Agency hereby agree as follows:

DEFINITIONS

The following terms have the meanings and content set forth in this section wherever used in this Covenant Agreement or attached exhibits.

1. "**Actual Household Size**" shall mean the actual number of persons in the applicable household.

2. "**Adjusted Income**" shall mean the total anticipated annual income of all persons in a household, as calculated in accordance with 25 California Code of Regulations Section 6914 or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income.

3. **"Affordable Housing Cost"** shall mean the affordable housing cost as defined by the California Health and Safety Code Section 50052.5(b) and Section 50053 (b) for rental and ownership housing; provided however with respect to a rental housing project that has received low income tax credits then affordable housing cost shall mean the rents allowed under the federal Low Income Housing Tax Credit ("LIHTC") Program for a rental housing project which has received an LIHTC allocation. For purposes of this definition, the parties will agree on an affordable housing cost for Sixty Percent Households using the same formula as applied to Fifty Percent Households. Affordable housing costs shall be determined for Eighty Percent Households using the applicable formula under the above listed provisions of the California Health and Safety Code.

4. **"Affordable Units"** shall mean rental or ownership housing made available to an Eligible Household at an Affordable Housing Cost.

5. **"Agency"** means the Community Redevelopment Agency of the City of Los Angeles, California, a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California and its authorized representatives, assigns, transfers, or successors-in-interest thereto. The principal office of the Agency is located at 354 South Spring Street, Suite 800, Los Angeles, California 90013.

6. **"Area Median Income"** shall mean the median gross yearly income, adjusted for Actual Household Size, in the County of Los Angeles, California as determined by the U.S. Department of Housing and Urban Development and as published from time to time by the State of California Department of Housing and Community Development.

7. **"City"** is the City of Los Angeles, a municipal corporation, and its officers, officials, directors, employees, agents and authorized representatives.

8. **"Developer"** means the entity that constructs, owns, operates and manages the Project.

9. **"Eighty Percent Household"** shall mean a household with an Adjusted Income which does not exceed eighty percent (80%) of Median Income, adjusted for Actual Household Size.

10. **"Eligible Households"** means a Fifty Percent Household, a Sixty Percent Household and/or an Eighty Percent Household.

11. **"Fifty Percent Household"** shall mean a household with an Adjusted Income which does not exceed fifty percent (50%) of Area Median Income, adjusted for Actual Household Size.

12. **"Improvements"** shall mean the _____ () apartment, or ownership as applicable, units located at _____, _____, CA _____, which shall be affordable to Fifty Percent Households, Sixty Percent Households, and Eighty Percent Households.

13. **"Owner"** means either FCLC or Land Trust, whichever owns fee title to the Property at the time in question.

14. **"Project"** means any buildings or Improvements now or hereafter situated on said the Property containing of Affordable Housing Units.

15. **"Property"** means the real property described in the attached in Exhibit A, which is hereby incorporated into this Covenant Agreement by this reference.

16. **"Sixty Percent Household"** shall mean a household with an Adjusted Income which does not exceed sixty percent (60%) of Area Median Income, adjusted for Actual Household Size.

OWNER'S & DEVELOPER'S OBLIGATIONS

17. **COMPLIANCE WITH AFFORDABLE HOUSING AGREEMENT.** Owner's actions with respect to the Property and the use of the Moinian Contribution shall at all times be in full conformity with all of the requirements of the Affordable Housing Agreement.

18. **TERM OF AGREEMENT.** This Covenant Agreement shall commence upon execution and shall remain in full force and effect for *thirty (30) years for ownership projects, or for rental projects the lesser of (i) fifty-five (55) years or (ii) the longest affordability term required by any other funding source for the Property which is not less than thirty (30) years* from the date of execution or issuance of a certificate of occupancy or temporary certificate of occupancy, whichever is earlier, for the entire Project, regardless of any expiration of the term of the Affordable Housing Agreement, any assignment of the Affordable Housing Agreement, or any sale, assignment, transfer, or conveyance of the Property, unless terminated earlier by the Agency in writing or extended by the mutual consent of the parties. However, failure to record this Covenant Agreement or the certificate by the Agency shall not relieve Owner of any of the obligations specified herein. This Covenant Agreement will terminate automatically upon recordation of a covenant agreement relating to any funds other than the Moinian Contribution and providing for affordability restrictions equal to or greater than those contained Section 24 of this Covenant Agreement, provided that the entity enforcing the covenant agreement agrees to (a) regularly inform the Agency regarding compliance with the covenant agreement and (b) obtain Agency approval before waiving or modifying any provision of the covenant agreement relating to affordability.

PROJECT OCCUPANCY AND RENTS

19. **OPERATION OF PROPERTY.** Owner and its agents shall ground lease and ensure the operation and management of the Property after completion of the Project in full conformance with the terms of the Covenant Agreement. Owner agrees to maintain the use of the Property so that the Affordable Units provide decent, safe, and sanitary housing.

20. **LEASING THE PROJECT.** The term of any lease for a rental Affordable Unit shall be for no less than one (1) year unless mutually agreed upon by the Developer of the Improvements and tenant and shall not contain any provision which is prohibited by 24 C.F.R. Section 92.253(b) and any modifications thereto. Any termination of the lease for a rental Affordable Unit or refusal to renew must be in conformance with 24 C.F.R. 92.253(c) and must be preceded by not less than thirty (30) days written notice to the tenant by the Developer or its agent specifying the grounds for the action.

All Affordable Units shall be leased or sold, as applicable, and shall not be withdrawn from the market. Affordable Units shall be rented in a manner consistent with the Space and Occupancy Standards set forth in Section 501, et seq., of the Uniform Housing Code (1982 ed.), and in such a manner that there is no under-utilization of the floor space of Affordable Units.

During the initial lease up of a rental housing Project, and upon vacancies of a rental Affordable Unit, Developer shall make reasonable efforts to advertise to Eligible Households. Owner, or Developer at Owner's request, shall obtain the City's affirmative marketing guidelines.

21. **TENANT SELECTION.** Before leasing the rental Affordable Units of the Project, Developer must provide Agency for its review and approval a written tenant selection plan. The tenant selection plan must, at a minimum, meet the requirements for tenant selection set out in 24 C.F.R. 92.253(d) and any modifications thereto.

Developer may rent the Affordable Units to any Eligible Household according to the tenant selection plan. Developer shall verify the prospective tenant's eligibility and shall require from each tenant documentation that such household's income from all sources does not exceed allowable limits as described in Section 24 of this Covenant Agreement.

Developer must give priority for Affordable Units to Eligible Households who have been displaced as a result of the City of Los Angeles' public projects.

22. **NOTICE TO TENANTS.** There are three (3) points in time when the Developer is required to give written notice to all tenants of rental Affordable Units:

A. Upon initial move-in/lease execution, Developer shall give written notice, to all tenants of rental Affordable Units, of the duration of the rent restrictions under this Covenant Agreement. Developer must maintain, in its files, a copy of each notice containing each tenant's signed acknowledgment of the notice required hereunder. The notice shall, at the least, contain language that the rent restrictions under this Covenant Agreement shall be for *the lesser of (i) fifty-five (55) years or (ii) the longest affordability term required by any other funding source for the Property which is not less than thirty (30) years* and shall terminate on or about , 20 . Upon termination of the rent restriction period under this Covenant Agreement, rents may be set at market rates unless otherwise restricted by some other legal, regulatory, or contractual requirement.

B. Twelve (12) months prior to the termination of the rent restriction period under this Covenant Agreement, or at such other time as may be required by law, Developer must give written notice to its tenants of the termination of the restrictions on the rental Affordable Units before their rents may be raised to market rent levels.

C. Ninety (90) days prior to the termination of the rent restriction period under this Covenant Agreement, or at such other time as may be required by law, Developer must again give written notice to its tenants of the termination of the restrictions on the rental Affordable Units before their rents may be raised to market rent levels.

23. **INCOME CERTIFICATION.** Owner and Developer shall limit for the full term of the Covenant Agreement to the rental, or sale as applicable, of Affordable Units to Eligible Households. The income levels and other qualifications of applicants for Affordable Units shall be certified within ten (10) business days of the household's expected occupancy of one (1) of the units. Owner and Developer acknowledge that they have received a copy of the current City of Los Angeles rules governing income certification, and Developer and its agents shall comply with these rules as they may be amended.

On an annual basis, Developer or its agent shall provide the Agency with a copy of an occupancy summary report showing the present occupants, rent, and size of the rental Affordable Units on the Property, and any other information which the Agency requests and which relates to the eligibility of these households. If the household size of an Eligible Household changes, the Agency may request additional income documentation to determine eligibility.

The Agency may require the Developer, at any time, to re-examine for compliance with this Covenant Agreement, the income of each tenant household in a rental Affordable Unit and immediately submit its findings to the Agency.

24. **AFFORDABILITY RESTRICTIONS.** The affordability of the Project shall be maintained as follows:

- A. _____ () units out of the total _____ () units in the Project shall at all times be occupied or held vacant and available for rental, or ownership as applicable, by Fifty Percent Households. Income determination shall be made at the time of initial occupancy of a unit by a [tenant/home owner].
- B. _____ () units out of the total _____ () units in the Project shall at all times be occupied or held vacant and available for rental, or ownership as applicable, by Sixty Percent Households. Income determination shall be made at the time of initial occupancy of a unit by a tenant or home owner as applicable.
- C. _____ () units out of the total _____ () units in the Project shall at all times be occupied or held vacant and available for rental, or ownership as applicable, by Eighty Percent. Income determination shall be made at the time of initial occupancy of a unit by a tenant or home owner as applicable.
- D. Notwithstanding the foregoing, Developer or its agent may set aside _____ () of the units for use as a "Manager's Unit," which unit shall be occupied by a person (or household) employed as an on-site manager of the Project. If the "Manager's Unit" is so occupied, it shall not be subject to the income limits set forth above.

25. **PROJECT RENTS.** Rents for Affordable Units in a rental Project shall be limited to the maximum rental charges as set forth in Section 26 of this Covenant Agreement. Eligible Households shall be given at least thirty (30) days written notice prior to any rent increase.

The maximum allowable rent that may be charged for an Affordable Unit may change from time to time when there are changes in the Area Median Income as published by HCD, or when there are changes made to the allowances deducted for tenant paid utilities as calculated by the Los Angeles Housing Authority. In no event, however, will the resulting maximum allowable rent for an Affordable Unit exceed the HCD fair market rents set for rental housing units of the same number of bedrooms for the area.

For projects subject to the City's Rent Stabilization Ordinance, the maximum rent increase allowed by that ordinance may be less or more than that allowed by changes in the Area Median Income. In such instances, the rents on restricted units may only be raised to the lesser of the two (2) allowed increases.

26. **MAXIMUM RENTAL CHARGES.** The total monthly charges for rent, utilities, and related services to each: (i) Fifty Percent Households; (ii) Sixty Percent Households; and (iii) Eighty Percent Households shall not exceed the Affordable Housing Cost as defined in this Covenant Agreement. Initial rents for each rental Affordable Unit shall be as set forth in the Covenant Agreement. Maximum rent increases shall be calculated by the Agency based on the change in permissible rents published by HCD. Developer shall annually certify each tenant household's gross income and make any rent adjustment pursuant to the terms of the Covenant Agreement.

27. **NONDISCRIMINATION.** Developer shall not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of Property units on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any other arbitrary basis; provided however the foregoing shall not prohibit the development of the Property as a senior housing project to the extent permitted by law. Developer shall include a statement in all advertisements, notices and signs for the availability of Project units for rent to the effect that Developer is an Equal Housing Opportunity Provider. The Project shall be developed and the Improvements shall be maintained, for the duration of this Covenant Agreement, to comply with all applicable federal, state and local disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the Unruh Civil Rights Act, Civil Code Section 51, et seq.

GENERAL PROVISIONS

28. **SUBORDINATION.** This Covenant Agreement shall be subordinated in priority to the liens and encumbrances obtained by the Owner or Developer.

29. **DEFAULT AND REMEDIES** In the event of any breach or violation of any agreement or obligation under this Covenant Agreement, or of any Event of Default as defined by the Affordable Housing Agreement, and after the Agency has given written notice to Owner and/or Developer and an opportunity to cure in the same time and manner provided for with respect to Events of Default in said Affordable Housing Agreement, the Agency may proceed with any or all of the following remedies:

- A. Bring an action in equitable relief seeking the specific performance by Owner or Developer, as applicable, of the terms and conditions of this Covenant Agreement, and/or enjoining, abating, or preventing any violation of said terms and conditions, and/or seeking declaratory relief;
- B. After notice provided for herein, make such repairs or replacements to the Property as are necessary and provide for payment thereof;

C. Pursue any other remedy set forth in the Affordable Housing Agreement; or

D. Pursue any other remedy allowed at law or in equity.

30. NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.

The Agency's officers, officials, employees or agents shall not be personally liable to Owner and/or Developer for any obligation created under the terms of this Covenant Agreement except in the case of actual fraud or willful misconduct by such person.

31. INDEMNITY. Developer shall indemnify and hold the Agency and City ("Indemnitees") free and harmless against any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorneys' fees) which the Indemnitees may incur as a direct or indirect consequence of (1) Developer's failure to perform any obligations as and when required by this Covenant Agreement; or (2) any act or omission by Developer or any contractor, subcontractor, management agent, or supplier with respect to the Project or the Property, except where such losses are caused by the sole negligence or willful misconduct of the Indemnitees. Developer shall pay immediately upon the Indemnitees' demand any amounts owing under this indemnity. The duty of the Developer to indemnify includes the duty to defend the Indemnitees in any court action, administrative action, or other proceeding brought by any third party arising from the Project or the Property. The Indemnitees may make all reasonable decisions with respect to its/their representation in any legal proceeding, including, but not limited to, the selection of attorney(s). Developer's duty to indemnify the Indemnitees shall survive the term of this Covenant Agreement.

31. GOVERNING LAW. This Covenant Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

32. AFFORDABLE HOUSING AGREEMENT CONTROLS. In the event that any provisions of this Covenant Agreement and the Affordable Housing Agreement conflict, the Affordable Housing Agreement shall control.

33. TIME. Time is of the essence in this Covenant Agreement.

34. CONSENTS AND APPROVALS. Any consent or approval of the Agency required under this Covenant Agreement shall not be unreasonably withheld. Any approval must be in writing and executed by an authorized representative of the Agency.

35. **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Owner and the Agency shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Owner and the Agency as follows:

Agency: Community Redevelopment Agency of the
City of Los Angeles
354 S. Spring Street, Suite 800
Los Angeles, CA 90013
Attention: _____

Owner: Figueroa Corridor CLT
152 W. 32nd St.
Los Angeles, CA 90007
Attn: Executive Director

Figueroa Corridor Land Company
701 East 3rd St. Suite 400
Los Angeles, CA 90013
Attn: President

Developer (if identified at time of closing):

36. **BINDING UPON SUCCESSORS.** All provisions of this Covenant Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferee, and assigns of Owner and the Agency, and shall run with the land for the full term of this Covenant Agreement, regardless of any assignment, payment, prepayment, expiration, extinguishment of the Affordable Housing Agreement, or any conveyance or transfer of the Property. Any successor-in-interest to Owner and any purchaser or transferee of the Property shall be subject to all of the duties and obligations imposed on Owner under this Covenant Agreement for the full term of this Covenant Agreement. The term "Owner" as used in this Covenant Agreement shall include all such assigns, successors-in-interest, and transferee.

37. **RELATIONSHIP OF PARTIES.** The relationship of Owner and the Agency for this Project during the term of this Covenant Agreement shall not be construed as a joint venture, equity venture, or partnership. The Agency neither undertakes nor assumes any responsibility or duty to Owner or any third party with respect to the operation of the Property or the actions of Owner. Except as the Agency

may specify in writing, Owner shall have no authority to act as an agent of the Agency or to bind the Agency to any obligation.

38. **WAIVER.** Any waiver by the Agency of any obligation in this Covenant Agreement must be in writing. No waiver will be implied from any delay or failure by the Agency to take action on any breach or default of Owner or to pursue any remedy allowed under this Covenant Agreement or applicable law. Any extension of time granted to Owner to perform any obligation under this Covenant Agreement shall not operate as a waiver or release from any of its obligations under this Covenant Agreement. Consent by the Agency to any act or omission by Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the Agency's written consent to future waivers.

39. **OTHER AGREEMENTS.** Owner represents that it has not entered into any agreements that would restrict or compromise its ability to comply with the terms of this Covenant Agreement. Owner shall not enter into any agreements that are inconsistent with the terms of this Covenant Agreement without an express waiver by the Agency in writing.

40. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Covenant Agreement must be in writing, and shall be made only if executed by both Owner and the Agency.

41. **SEVERABILITY.** Every provision of this Covenant Agreement is intended to be severable. If any provision of this Covenant Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

[signature page follows]

IN WITNESS WHEREOF, the Agency and the Owner have caused this Covenant Agreement to be executed by their duly authorized representatives.

Executed this _____ day of _____,
20__

THE COMMUNITY REDEVELOPMENT
AGENCY
OF THE CITY OF LOS ANGELES

By: _____

1.
2. Name: _____

3.
4. Its: _____

APPROVED AS TO FORM AND LEGALITY
ROCKARD J. DELGADILLO, City Attorney

By: _____

Date

Executed this _____ day of _____,
20__

_____, a

By: _____

5. Name: _____

Its: _____

THIS DOCUMENT MUST BE NOTARIZED FOR RECORDING

AFFORDABLE HOUSING AGREEMENT

This Affordable Housing Agreement (this "Agreement") is made as of this ____ day of 2006 by and among The Community Redevelopment Agency of the City of Los Angeles, California, a public body, corporate and politic (the "Agency"), Figueroa Corridor CLT, a California nonprofit public benefit corporation (the "Land Trust") and Figueroa Corridor Land Company, a California nonprofit public benefit corporation ("FCLC," and collectively with Land Trust, the "Community Partners") (collectively, the "Parties") with reference to the following facts, purposes, and understandings.

RECITALS

A. The City of Los Angeles (the "City") and the L.A. Arena Land Company ("LandCo") have entered into that certain Amended and Restated Development Agreement (the "Development Agreement") which Development Agreement provided LandCo certain rights with respect to the real property contained within the boundaries of the Los Angeles Sports and Entertainment District (LASED) Specific Plan.

B. The Development Agreement imposes an obligation on LandCo and its successors to produce affordable housing units as a condition to developing market rate units within the LASED. The Development Agreement provides that LandCo may meet its affordable housing obligation by making a contribution of not less than Forty Thousand Dollars (\$40,000) per affordable housing unit required to be developed (a "Qualified Contribution") to a Community Partner, as defined in Section 1.3.3.1. of the Development Agreement

C. The Moinian Company or one or more of its affiliates, JM FIG LLC, MG FIG LLC, HS FIG LLC, and CLAD RESOURCES BORROWER, LLC (the "Moinian Group") has acquired one or more parcels of real property within the LASED and intends to develop approximately 860 units of market rate condominiums on that property as a component of a mixed-use development project (the "Project"), which may be developed in one or more phases. The Moinian Group wishes to meet its affordable housing obligation by making a Qualified Contribution in the amount of Six Million, Eight Hundred and Eighty Eight Thousand Dollars (\$6,880,000.00) , or an amount equivalent to twenty percent (20%) of the number of market rate residential units approved for the Project multiplied by \$40,000, to the Community Partners (the "Moinian Contribution") under the terms of an agreement between the Community Partners and the Moinian Group (the "Funding Agreement").

D. The Land Trust and FCLC are designated Community Partners under the Development Agreement. FCLC was created to assist the Land Trust by acquiring and entitling property. The Land Trust intends to ground lease entitled property to affordable housing developers to facilitate the development of affordable housing in the City of Los Angeles.

E. The Land Trust and FCLC intend to work together to utilize the Moinian Contribution to develop affordable housing in the communities surrounding the LASED in conformance with the provisions of the Development Agreement.

F. Pursuant to Section 1.3.3. of Attachment 6 to the Development Agreement, the Community Partners must enter into an agreement with either the Agency or the City so that the Moinian Contribution meets the requirements of a Qualified Contribution (the "Government Agreement"). The Government Agreement must require at a minimum that (i) the Community Partners use the Qualified Contribution for the construction of Affordable Units; (ii) the Affordable Units must be located within a three (3) mile radius of the intersection of 11th Street and Figueroa Streets in Los Angeles; (iii) the Qualified Contribution be deposited in a segregated account; and (iv) performance standards and enforcement provisions are included.

G. The Agency wishes to facilitate the development of affordable housing in the Los Angeles downtown area.

H. This Affordable Housing Agreement is intended to be the Government Agreement for purposes of the Moinian Contribution.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and conditions herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency, the Land Trust and FCLC do hereby agree as follows:

ARTICLE 1.
DEFINITIONS

Section 1. Definitions. When used in this Agreement, the following terms shall have the respective meanings assigned to them in this Article 1.

(a) "Actual Household Size" shall mean the actual number of persons in the applicable household.

(b) "Adjusted Income" shall mean the total anticipated annual income of all persons in a household, as calculated in accordance with 25 California Code of Regulations Section 6914 or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income.

(c) "Affordable Housing Cost" shall mean the affordable housing cost as defined by the California Health and Safety Code Section 50052.5(b) and Section 50053 (b) for rental and homeownership housing or the rents allowed under the federal Low Income Housing Tax Credit ("LIHTC") Program for rental housing project which has received an LIHTC allocation. For purposes of this definition, the parties will agree on an affordable housing cost for Sixty Percent Households using the same formula as applied to Fifty Percent Households.

(d) "Affordable Units" shall mean rental or ownership housing made available to an Eligible Household at an Affordable Housing Cost.

(e) "Agency" shall mean The Community Redevelopment Agency of the City of Los Angeles, a public body, corporate and politic.

(f) "Agreement" shall mean this Affordable Housing Agreement.

(g) "Construction" shall mean land acquisition, pre-development and development related to the development of Affordable Units within the Target Area by the FCLC or Land Trust, an entity acting under contract with the FCLC or the Land Trust, or a subcontractor of such an entity.

(h) "Effective Date" shall mean the date which is the latest of (i) the date this Agreement is executed by the Land Trust or FCLC, (ii) the date this Agreement is approved and executed by the Agency, and (iii) the date the City Council approves this Agreement.

(i) "Eighty Percent Household" shall mean a household with an Adjusted Income which does not exceed eighty percent (80%) of Median Income, adjusted for Actual Household Size.

(j) "Eligible Households" means a Fifty Percent Household, a Sixty Percent Household and/or an Eighty Percent Household.

(k) "Fifty Percent Household" shall mean a household with an Adjusted Income which does not exceed fifty percent (50%) of Median Income, adjusted for Actual Household Size.

(l) "Funding Agreement" shall mean the agreement between the Moinian Group and the Community Partners under which the Moinian Group will make a Qualified Contribution in the amount of Six Million, Eight Hundred and Eighty Eight Thousand Dollars (\$ 6,880,000.00) , or an amount equivalent to twenty percent of the number of market rate residential units approved for the Project multiplied by \$40,000, to the Community Partners.

(m) "Sixty Percent Household" shall mean a household with an Adjusted Income which does not exceed sixty percent (60%) of Median Income, adjusted for Actual Household Size.

(n) "Median Income" shall mean the median gross yearly income, adjusted for Actual Household Size, in the County of Los Angeles, California as determined by the U.S. Department of Housing and Urban Development and as published from time to time by the State of California Department of Housing and Community Development.

(o) "Project" shall mean the mixed-use development project undertaken by the Moinian Group or one or more of its affiliates located on one or more parcels of real property within the LASED, or any phase thereof.

(p) "Schedule of Performance" shall mean that document attached hereto as Exhibit A setting out the dates and times by which certain obligations must be completed, which document may be amended from time to time by mutual agreement of the Parties.

(q) "Target Area" shall mean a three -mile radius from the intersection of 11th and Figueroa Streets.

ARTICLE 2.
MOINIAN CONTRIBUTION

Section 2.1 Structure of Moinian Contribution. The Funding Agreement provides that the Moinian Group will provide the Moinian Contribution as (a) an initial payment of \$200,000 and (b) a letter of credit in an amount equal to twenty percent of the aggregate number of market rate residential units approved for the Project times \$40,000 less the initial payment described in subparagraph (a). The total amount of the Moinian Contribution is expected to be \$6,880,000. Under the Funding Agreement, the Community Partners will be able to draw on the letter of credit upon the earlier to occur of (i) the issuance of the first temporary certificate of occupancy for the first market rate residential unit in the Project or (ii) the date that is five (5) years following the execution of the Funding Agreement.

Section 2.2 Deposit and Disbursement of the Moinian Contribution. FCLC has obtained or will obtain a commitment from Enterprise Community Loan Fund, Inc. or its affiliate (“Enterprise”) to fund a portion of FCLC’s activities related to the acquisition and entitlement of real properties upon which the Affordable Units will be developed. FCLC will cause the Moinian Contribution to be deposited in a segregated account (the “Segregated Account”) to be administered by Enterprise. The Community Partners and the Agency will enter into an agreement with Enterprise governing the disbursement of the Moinian Contribution from the Segregated Account (the “Enterprise Agreement”), provided, however, that in the event that the Agency, Enterprise and the Community Partners are unable to agree on the form of the Disbursement Agreement, the Agency and the Community Partners will mutually identify a third party to administer the Segregated Account and with whom they will enter into new disbursement agreement (together with the Enterprise Agreement the “Disbursement Agreement”). The Disbursement Agreement will provide that, in the event Community Partners are in Default under this Agreement as defined in Section 4.2 below, Enterprise or the third party disbursement agent will disburse any funds to the Agency then remaining in the Segregated Account after all outstanding FCLC’s debts related to the development of the Affordable Units have been settled in accordance with terms to be set forth in the Disbursement Agreement. The Disbursement Agreement will also provide that Enterprise will disburse funds under the same terms by which Enterprise disburses its own funds to the Community Partners.

Section 2.3 Agency Verification of Community Partners. The Agency hereby acknowledges that Land Trust and FCLC are each named as Community Partners under Section 1.3.3. of Attachment 6 to the Development Agreement. Within five days following receipt of a request by one or both of the Community Partners, the Agency shall provide the Land Trust, FCLC and the Moinian Group with written confirmation that Land Trust and FCLC are each specified as “Community Partners” under Section 1.3.3. of Attachment 6 to the Development Agreement.

Section 2.4 Agency Verification of Qualified Contribution. Within thirty (30) days following the Effective Date, the Agency shall make a good faith effort to obtain written confirmation from the Planning Director that the completion of the transaction contemplated in

the Funding Agreement, subject to final payment of the Moinian Contribution by the Moinian Group to the Community Partners shall be deemed (a) a “Qualified Contribution” to a qualified “Community Partner” pursuant to Section 1.3.3 of Attachment 6 to the Development Agreement, and (b) full and complete satisfaction of Moinian Group’s obligations under Attachment 6 to the Development Agreement regardless of Community Partners’ use, misuse or failure to use all or a part of the Moinian Contribution for the purposes set forth in Attachment 6 and/or this Agreement. The Agency shall provide copies of such written confirmation to the Land Trust, FCLC and the Moinian Group.

ARTICLE 3.
DEVELOPMENT OF AFFORDABLE UNITS

Section 3.1 Use of Moinian Contribution. The Community Partners shall expend the Moinian Contribution for the Construction of Affordable Units within the Target Area.

Section 3.2 Total Number of Affordable Units. Subject to the other requirements of this Agreement, the Community Partners shall cause the Construction of at least one Affordable Unit in the Target Area for each Forty Thousand Dollars (\$40,000) of the Moinian Contribution received by the Community Partners. If the amount of the Moinian Contribution equals the anticipated \$6,880,000, the Community Partners will be required to cause the Construction of 172 Affordable Units.

Section 3.3 Deadline for Completion of Affordable Units. The Community Partners will complete and obtain a temporary or permanent certificate of occupancy for a number of Affordable Units equal to twenty percent (20%) of the number of market rate units approved for the Project, or any phase thereof, under a building permit issued by the City of Los Angeles within five (5) years from the issuance of such building permit, unless such deadline is further extended by the Agency in its reasonable discretion.

Section 3.4 Development of Affordable Units. The Community Partners shall develop the Affordable Units, or cause the Affordable Units to be developed, and perform the tasks set forth in the Schedule of Performance in accordance with the times set forth in the Schedule of Performance, subject to force majeure delays.

Section 3.5 Distribution of Affordable Units. The Community Partners shall require that, in the aggregate, the Affordable Units developed with the Moinian Contribution shall be made available at the appropriate Affordable Housing Cost to the households at the following income levels:

(a) Thirty percent (30%) of the Affordable Units (expected to be 52 units) shall be rented to and occupied by or, if vacant, available for occupancy by a Fifty Percent Household.

(b) Thirty-five percent (35%) of the Affordable Units (expected to be 60 units) shall be rented to and occupied by or, if vacant, available for occupancy by a Sixty Percent Household.

(c) Thirty-five percent (35%) of the Affordable Units (expected to be 60 units) shall be rented to and occupied by or, if vacant, available for occupancy by an Eighty Percent Household.

Section 3.6 Term of Affordability. The Community Partners shall require that: (a) in the case of ownership units, each Affordable Unit will be maintained as an Affordable Unit for a period of no less than thirty (30) years beginning on the date of the certificate of occupancy or temporary certificate of occupancy, whichever is earlier, for such Affordable Unit and (b) in the case of rental units each Affordable Unit will be maintained as an Affordable Unit for a term of the lesser of (x) fifty-five (55) years or (y) the longest affordability term required by any other funding source for the subject property which is not less than thirty (30) years.

Section 3.7 Covenant Affecting Real Property. Upon the acquisition of one or more parcels of real property acquired by either of the Community Partners with all or part of the Moinian Contribution, the Land Trust or FCLC, as the case may be, as the owner of the property, shall enter into a covenant agreement (the "Covenant Agreement") substantially in the form of Exhibit B, attached hereto. The Covenant Agreement will incorporate the required affordability restrictions contained in Sections 3.5 and 3.6 of this Agreement and shall be recorded as an encumbrance against the acquired property. Notwithstanding the forgoing, the distribution of Affordable Units set forth in Section 3.5 may be met in the aggregate among all properties constructed using funds from the Moinian Contribution and not necessarily within individual buildings or developments and the Agency will modify the affordability requirements of any Covenant Agreement upon reasonable request of the Community Partners to enable such aggregated compliance. The Agency will subordinate the Covenant Agreement to the ground lease, to the acquisition, construction and permanent financing funding for the development of the Affordable Units including without limitation any loan from Enterprise, and to any regulatory agreements associated with governmental funding programs. The Agency's obligation to subordinate the Covenant Agreement to the lien of a lender's deed of trust shall be subject to the Agency receiving notice and cure rights from such lender, which rights the Agency will reasonably negotiate in good faith. In the event that a covenant agreement relating to any funds other than the Moinian Contribution is recorded against a property then subject to a Covenant Agreement and provides for affordability restrictions equal to or greater than those contained in Sections 3.5 and 3.6 of this Agreement, the Agency will terminate and remove the Covenant Agreement, provided that the entity enforcing the covenant agreement agrees to (a) regularly inform the Agency regarding compliance with the covenant agreement and (b) obtain Agency approval before waiving or modifying any provision of the covenant agreement relating to affordability.

ARTICLE 4.
GENERAL PROVISIONS

Section 4.1 Indemnity: Agency. The Community Partners undertake and agree to indemnify, hold harmless and defend (by counsel reasonably satisfactory to the Agency) the Agency, its commissioners, officers, employees, agents, and its successors (the "Indemnified Parties"), from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, reasonable attorney's fees and costs of litigation and litigation-related matters, damage or liability of any nature whatsoever, arising in any manner by reason of or incident to the performance of this Agreement, except to the extent caused by the sole gross negligence or willful misconduct of the Indemnified Parties.

Section 4.2 Enforcement. A "Default" hereunder shall mean the failure of any Party to perform an obligation in accordance with this Agreement, if such failure is not cured

(a) for a monetary default, within thirty (30) days after the nondefaulting Party has notified the defaulting Party in writing of the default or, if the default cannot reasonably be cured within thirty (30) days, if the defaulting party has failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure; and

(b) for a nonmonetary default, within ninety (90) days after the nondefaulting Party has notified the defaulting Party in writing of the default or, if the default cannot reasonably be cured within ninety (90) days, if the defaulting party has failed to commence to cure within ninety (90) days and thereafter diligently pursue such cure

In the event of Default, the nondefaulting Party shall have the right to enforce this Agreement by any or all remedies provided by law or equity.

Section 4.3 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of its provision.

Section 4.4 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of California.

Section 4.5 Severability. If any term, provision, covenant or condition of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 4.6 Governing Law. This Agreement shall be governed by the laws of the State of California.

Section 4.7 Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the real property records of the County of Los Angeles, California.

Section 4.8 Notice. All notices given or certificates delivered under this Agreement shall be in writing and be deemed received on the delivery or refusal date shown on the delivery

receipt, if: (i) personally delivered by a commercial service which furnishes signed receipts of delivery or (ii) mailed by certified mail, return receipt requested, postage prepaid, addressed as shown below. Any of the parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or communications shall be sent.

Agency: The Community Redevelopment Agency
of the City of Los Angeles
354 South Spring Street Suite 800
Los Angeles, CA 90013
Attn: Chief Executive Officer

With a copy to: The Community Redevelopment Agency of the City of Los Angeles
354 South Spring Street
Suite 800
Los Angeles, CA 90013
Attn: Agency General Counsel

Land Trust Figueroa Corridor CLT
152 W. 32nd St.
Los Angeles, CA 90007
Attn: Executive Director

With a copy to: Benjamin S. Beach, Esq.
Legal Aid Foundation of Los Angeles
8601 S. Broadway
Los Angeles, CA 90003

FCLC Figueroa Corridor Land Company
701 East 3rd St. Suite 400
Los Angeles, CA 90013
Attn: President

With copies to: Lance Bocarsly, Esq
Bocarsly Emden Cowan Esmail Parker & Arndt LLP
633 West Fifth Street, 70th Floor
Los Angeles, CA 90071

Section 4.9 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement shall not in any way be affected or impaired thereby.

Section 4.10 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

IN WITNESS WHEREOF, the Agency, the Land Trust and FCLC have executed this Agreement by duly authorized representatives, all as of the date first written above.

AGENCY:

THE COMMUNITY REDEVELOPMENT
AGENCY OF THE CITY OF LOS
ANGELES, a public body, corporate and
politic

Date: _____

By: _____
Cecilia V. Estolano
Its: Chief Executive Officer

PROVED AS TO FORM
Rockard J. Delgadillo,
City Attorney


By: _____
Agency General Counsel

Goldfarb & Lipman LLP

By: _____
Agency Special Counsel

Date: _____

FIGUEROA CORRIDOR COMMUNITY
LAND TRUST, a California non-profit
corporation:

By: 
Alina Bokde
Its: Executive Director

Date: _____

FIGUEROA CORRIDOR LAND
COMPANY, a California non-profit
corporation:

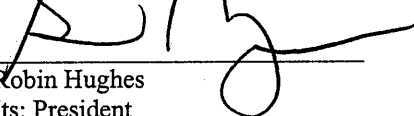
By: 
Robin Hughes
Its: President

EXHIBIT A

Figueroa Corridor Community Land Trust
And
Figueroa Corridor Land Company

Schedule of Performance

<u>Activity</u>	<u>Time Frame</u>
1. <u>Execute Affordable Housing Agreement:</u> Community Partners and Agency shall execute the Affordable Housing Agreement.	On or before January 31, 2007.
2. <u>Execute Funding Agreement with Moinian Group:</u> Community Partners shall execute the Funding Agreement with the Moinian Group.	On or before January 31, 2007.
3. <u>Verification of Community Partners:</u> Agency shall deliver a written confirmation that the Land Trust and FCLC are a Community Partner per Attachment 6 to the Development Agreement to the Land Trust, FCLC and Moinian Group.	Within five (5) days from receipt of a request from the Land Trust and FCLC.
4. <u>Verification of Qualified Contribution:</u> Agency shall obtain written confirmation that the Moinian Contribution is deemed a "Qualified Contribution" to the qualified "Community Partner" from the Planning Director.	Within thirty (30) days from the execution of the Affordable Housing Agreement.
5. <u>Disbursement Agreement:</u> Community Partners, Agency and Enterprise shall enter into a Disbursement Agreement related to the deposit and disbursement of Moinian Contribution.	Within one hundred and twenty (120) days from the execution of the Affordable Housing Agreement.
6. <u>Initial Payment from Moinian Group:</u> The initial payment of the Moinian Contribution shall be deposited into the Segregated Account.	Within thirty (30) days from the receipt of the verification of the qualified contribution from the Planning Director.
7. <u>Final Payment from Moinian Group:</u> The final payment from the Moinian Contribution shall be deposited into the Segregated Account :	Earlier of (i) the issuance of the first temporary certificate of occupancy for the first market rate unit in the Project constructed by the Moinian Group, or (ii) five years from the date of the

EXHIBIT A

Figueroa Corridor Community Land Trust
And
Figueroa Corridor Land Company

Schedule of Performance

<u>Activity</u>	<u>Time Frame</u>
1. <u>Execute Affordable Housing Agreement:</u> Community Partners and Agency shall execute the Affordable Housing Agreement.	On or before January 31, 2007.
2. <u>Execute Funding Agreement with Moinian Group:</u> Community Partners shall execute the Funding Agreement with the Moinian Group.	On or before January 31, 2007.
3. <u>Verification of Community Partners:</u> Agency shall deliver a written confirmation that the Land Trust and FCLC are a Community Partner per Attachment 6 to the Development Agreement to the Land Trust, FCLC and Moinian Group.	Within five (5) days from receipt of a request from the Land Trust and FCLC.
4. <u>Verification of Qualified Contribution:</u> Agency shall obtain written confirmation that the Moinian Contribution is deemed a "Qualified Contribution" to the qualified "Community Partner" from the Planning Director.	Within thirty (30) days from the execution of the Affordable Housing Agreement.
5. <u>Disbursement Agreement:</u> Community Partners, Agency and Enterprise shall enter into a Disbursement Agreement related to the deposit and disbursement of Moinian Contribution.	Within one hundred and twenty (120) days from the execution of the Affordable Housing Agreement.
6. <u>Initial Payment from Moinian Group:</u> The initial payment of the Moinian Contribution shall be deposited into the Segregated Account.	Within thirty (30) days from the receipt of the verification of the qualified contribution from the Planning Director.
7. <u>Final Payment from Moinian Group:</u> The final payment from the Moinian Contribution shall be deposited into the Segregated Account :	Earlier of (i) the issuance of the first temporary certificate of occupancy for the first market rate unit in the Project constructed by the Moinian Group, or (ii) five years from the date of the

Funding Agreement.

8. Commence Acquisition; FCLC shall commence acquisition of properties with the Moinian Contribution for the purpose of constructing the Affordable Units. Within twelve (12) months from the execution of the Funding Agreement.
9. Complete Acquisition: FCLC shall complete acquisition of the properties with the Moinian Contribution for the purpose of constructing the Affordable Housing Units. Within twenty four (24) months from commencement of acquisition.
10. Select Affordable Housing Developer: Land Trust shall select and enter into disposition and development agreement(s) with affordable housing developer(s) Within sixty (60) days of acquisition of each property.
11. Secure Entitlement(s): FCLC shall secure all necessary entitlement(s) and land use approval(s) for the properties acquired with the Moinian Contribution to construct the Affordable Housing Units. Within thirty (30) months from commencement of acquisition.
12. Obtain Affordable Housing Financing Commitments: Affordable housing developer(s) shall obtain financing commitments necessary to construct the Affordable Housing Units. Within twelve to eighteen months from securing all necessary entitlement(s) and land use approval(s).
13. Execute Ground Lease(s): Land Trust shall execute ground lease agreements with affordable housing developer(s). Within six months (6) months from obtaining all necessary affordable housing financing commitments.
14. Commence Construction: Affordable housing developer(s) shall commence construction of the Affordable Housing Units. Within forty-five (45) days from execution of ground lease agreements.
15. Complete Construction: Affordable Housing Developer shall complete construction of the Affordable Housing Units. Later of eighteen (18) months from commencement of construction or within five (5) years from the issuance of a building permit for the Project as provided for in Section 3.1 of this agreement.

EXHIBIT B

Covenant Affecting Real Property

NO FEE DOCUMENT

Recording requested by and
when recorded, mail to:

The Community Redevelopment Agency
of the City of Los Angeles, California
354 South Spring Street

(A) Los Angeles, CA 90013

Attn: _____

Assessor's Identification Number: _____

AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY
(Loan # _____)

This AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY ("Covenant Agreement") is made this _____ day of _____, 20____, by and between the Community Redevelopment Agency of the City of Los Angeles, a public body, corporate and politic (the "Agency"), and Figueroa Corridor CLT, a California nonprofit public benefit corporation (the "Land Trust"), and Figueroa Corridor Land Company, a California nonprofit public benefit corporation ("FCLC," and together with the Land Trust the "Community Partners").

RECITALS

A. The Agency wishes to promote the redevelopment of its _____ Project Area through the construction of rental housing, or ownership housing as applicable, affordable to Fifty Percent Households, Sixty Percent Households, and Eighty Percent Households.

B. The Agency has entered into an Affordable Housing Agreement with the Community Partners regarding the development of affordable housing financed in whole or in part by the Moinian Company or one or more of its affiliates (the "Moinian Group") in satisfaction of the Moinian Group's affordable housing obligations under Attachment 6 to the Amended and Restated Development Agreement between the City of Los Angeles and L.A. Arena Land Company. The Community Partners intend to use funds provided by the Moinian Group (the "Moinian Contribution"), in accordance with the terms of the affordable housing agreement entered into by the Community Partners and the Agency ("Affordable Housing Agreement"), to cause the construction of affordable housing units. This Covenant Agreement is generally described in Section 3.7 of Affordable Housing Agreement, and is also included as Exhibit B thereto, as a means of ensuring the

affordability of units required to be developed under the Affordable Housing Agreement. Terms not explicitly defined herein shall have the meanings set forth in the Affordable Housing Agreement.

C. Owner has acquired, using a portion of the Moinian Contribution in the amount of _____ DOLLARS (\$ _____), the real property located at _____, CA _____ (as more particularly described in Exhibit A) (the "Property") for the development of a project containing residential units (the "Project") of which, _____ (____) *shall be rented, or sold as applicable, to Fifty Percent Households*, _____ (____) *shall be rented, or sold as applicable, to Sixty Percent Households*, and _____ (____) *shall be rented, or sold as applicable, to Eighty Percent Households*, as defined in Section 3.5 of the Affordable Housing Agreement.

D. As required by Section 3.7 of the Affordable Housing Agreement, FCLC or Land Trust (or Owner) shall enter into this Covenant Agreement, which shall be recorded against the Property. This instrument is intended to secure the Agency's continuing interest in the affordability of the Project, as well as to secure performance of other covenants contained in this agreement.

E. The covenants in this Covenant Agreement are intended to run with the land and be binding on Owner and Owner's successors for the full term of this Covenant Agreement.

F. As described in the Affordable Housing Agreement, Land Trust plans to ground lease the Property to a developer ("Developer") that will develop the Project. Owner will require that Developer own, operate, and manage the Project in a manner consistent with the terms of the Affordable Housing Agreement and this Covenant Agreement.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the aforementioned funding, Owner and Agency hereby agree as follows:

DEFINITIONS

The following terms have the meanings and content set forth in this section wherever used in this Covenant Agreement or attached exhibits.

1. "**Actual Household Size**" shall mean the actual number of persons in the applicable household.

2. "**Adjusted Income**" shall mean the total anticipated annual income of all persons in a household, as calculated in accordance with 25 California Code of Regulations Section 6914 or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income.

3. **"Affordable Housing Cost"** shall mean the affordable housing cost as defined by the California Health and Safety Code Section 50052.5(b) and Section 50053 (b) for rental and ownership housing; provided however with respect to a rental housing project that has received low income tax credits then affordable housing cost shall mean the rents allowed under the federal Low Income Housing Tax Credit ("LIHTC") Program for a rental housing project which has received an LIHTC allocation. For purposes of this definition, the parties will agree on an affordable housing cost for Sixty Percent Households using the same formula as applied to Fifty Percent Households. Affordable housing costs shall be determined for Eighty Percent Households using the applicable formula under the above listed provisions of the California Health and Safety Code.

4. **"Affordable Units"** shall mean rental or ownership housing made available to an Eligible Household at an Affordable Housing Cost.

5. **"Agency"** means the Community Redevelopment Agency of the City of Los Angeles, California, a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California and its authorized representatives, assigns, transfers, or successors-in-interest thereto. The principal office of the Agency is located at 354 South Spring Street, Suite 800, Los Angeles, California 90013.

6. **"Area Median Income"** shall mean the median gross yearly income, adjusted for Actual Household Size, in the County of Los Angeles, California as determined by the U.S. Department of Housing and Urban Development and as published from time to time by the State of California Department of Housing and Community Development.

7. **"City"** is the City of Los Angeles, a municipal corporation, and its officers, officials, directors, employees, agents and authorized representatives.

8. **"Developer"** means the entity that constructs, owns, operates and manages the Project.

9. **"Eighty Percent Household"** shall mean a household with an Adjusted Income which does not exceed eighty percent (80%) of Median Income, adjusted for Actual Household Size.

10. **"Eligible Households"** means a Fifty Percent Household, a Sixty Percent Household and/or an Eighty Percent Household.

11. **"Fifty Percent Household"** shall mean a household with an Adjusted Income which does not exceed fifty percent (50%) of Area Median Income, adjusted for Actual Household Size.

12. **"Improvements"** shall mean the _____ () apartment, or ownership as applicable, units located at _____, _____, CA _____, which shall be affordable to Fifty Percent Households, Sixty Percent Households, and Eighty Percent Households.

13. **"Owner"** means either FCLC or Land Trust, whichever owns fee title to the Property at the time in question.

14. **"Project"** means any buildings or Improvements now or hereafter situated on said the Property containing of Affordable Housing Units.

15. **"Property"** means the real property described in the attached in Exhibit A, which is hereby incorporated into this Covenant Agreement by this reference.

16. **"Sixty Percent Household"** shall mean a household with an Adjusted Income which does not exceed sixty percent (60%) of Area Median Income, adjusted for Actual Household Size.

OWNER'S & DEVELOPER'S OBLIGATIONS

17. **COMPLIANCE WITH AFFORDABLE HOUSING AGREEMENT.** Owner's actions with respect to the Property and the use of the Moinian Contribution shall at all times be in full conformity with all of the requirements of the Affordable Housing Agreement.

18. **TERM OF AGREEMENT.** This Covenant Agreement shall commence upon execution and shall remain in full force and effect for *thirty (30) years for ownership projects, or for rental projects the lesser of (i) fifty-five (55) years or (ii) the longest affordability term required by any other funding source for the Property which is not less than thirty (30) years* from the date of execution or issuance of a certificate of occupancy or temporary certificate of occupancy, whichever is earlier, for the entire Project, regardless of any expiration of the term of the Affordable Housing Agreement, any assignment of the Affordable Housing Agreement, or any sale, assignment, transfer, or conveyance of the Property, unless terminated earlier by the Agency in writing or extended by the mutual consent of the parties. However, failure to record this Covenant Agreement or the certificate by the Agency shall not relieve Owner of any of the obligations specified herein. This Covenant Agreement will terminate automatically upon recordation of a covenant agreement relating to any funds other than the Moinian Contribution and providing for affordability restrictions equal to or greater than those contained Section 24 of this Covenant Agreement, provided that the entity enforcing the covenant agreement agrees to (a) regularly inform the Agency regarding compliance with the covenant agreement and (b) obtain Agency approval before waiving or modifying any provision of the covenant agreement relating to affordability.

PROJECT OCCUPANCY AND RENTS

19. **OPERATION OF PROPERTY.** Owner and its agents shall ground lease and ensure the operation and management of the Property after completion of the Project in full conformance with the terms of the Covenant Agreement. Owner agrees to maintain the use of the Property so that the Affordable Units provide decent, safe, and sanitary housing.

20. **LEASING THE PROJECT.** The term of any lease for a rental Affordable Unit shall be for no less than one (1) year unless mutually agreed upon by the Developer of the Improvements and tenant and shall not contain any provision which is prohibited by 24 C.F.R. Section 92.253(b) and any modifications thereto. Any termination of the lease for a rental Affordable Unit or refusal to renew must be in conformance with 24 C.F.R. 92.253(c) and must be preceded by not less than thirty (30) days written notice to the tenant by the Developer or its agent specifying the grounds for the action.

All Affordable Units shall be leased or sold, as applicable, and shall not be withdrawn from the market. Affordable Units shall be rented in a manner consistent with the Space and Occupancy Standards set forth in Section 501, et seq., of the Uniform Housing Code (1982 ed.), and in such a manner that there is no under-utilization of the floor space of Affordable Units.

During the initial lease up of a rental housing Project, and upon vacancies of a rental Affordable Unit, Developer shall make reasonable efforts to advertise to Eligible Households. Owner, or Developer at Owner's request, shall obtain the City's affirmative marketing guidelines.

21. **TENANT SELECTION.** Before leasing the rental Affordable Units of the Project, Developer must provide Agency for its review and approval a written tenant selection plan. The tenant selection plan must, at a minimum, meet the requirements for tenant selection set out in 24 C.F.R. 92.253(d) and any modifications thereto.

Developer may rent the Affordable Units to any Eligible Household according to the tenant selection plan. Developer shall verify the prospective tenant's eligibility and shall require from each tenant documentation that such household's income from all sources does not exceed allowable limits as described in Section 24 of this Covenant Agreement.

Developer must give priority for Affordable Units to Eligible Households who have been displaced as a result of the City of Los Angeles' public projects.

22. **NOTICE TO TENANTS.** There are three (3) points in time when the Developer is required to give written notice to all tenants of rental Affordable Units:

A. Upon initial move-in/lease execution, Developer shall give written notice, to all tenants of rental Affordable Units, of the duration of the rent restrictions under this Covenant Agreement. Developer must maintain, in its files, a copy of each notice containing each tenant's signed acknowledgment of the notice required hereunder. The notice shall, at the least, contain language that the rent restrictions under this Covenant Agreement shall be for *the lesser of (i) fifty-five (55) years or (ii) the longest affordability term required by any other funding source for the Property which is not less than thirty (30) years* and shall terminate on or about _____, 20____. Upon termination of the rent restriction period under this Covenant Agreement, rents may be set at market rates unless otherwise restricted by some other legal, regulatory, or contractual requirement.

B. Twelve (12) months prior to the termination of the rent restriction period under this Covenant Agreement, or at such other time as may be required by law, Developer must give written notice to its tenants of the termination of the restrictions on the rental Affordable Units before their rents may be raised to market rent levels.

C. Ninety (90) days prior to the termination of the rent restriction period under this Covenant Agreement, or at such other time as may be required by law, Developer must again give written notice to its tenants of the termination of the restrictions on the rental Affordable Units before their rents may be raised to market rent levels.

23. **INCOME CERTIFICATION.** Owner and Developer shall limit for the full term of the Covenant Agreement to the rental, or sale as applicable, of Affordable Units to Eligible Households. The income levels and other qualifications of applicants for Affordable Units shall be certified within ten (10) business days of the household's expected occupancy of one (1) of the units. Owner and Developer acknowledge that they have received a copy of the current City of Los Angeles rules governing income certification, and Developer and its agents shall comply with these rules as they may be amended.

On an annual basis, Developer or its agent shall provide the Agency with a copy of an occupancy summary report showing the present occupants, rent, and size of the rental Affordable Units on the Property, and any other information which the Agency requests and which relates to the eligibility of these households. If the household size of an Eligible Household changes, the Agency may request additional income documentation to determine eligibility.

The Agency may require the Developer, at any time, to re-examine for compliance with this Covenant Agreement, the income of each tenant household in a rental Affordable Unit and immediately submit its findings to the Agency.

24. **AFFORDABILITY RESTRICTIONS.** The affordability of the Project shall be maintained as follows:

- A. _____ () units out of the total _____ () units in the Project shall at all times be occupied or held vacant and available for rental, or ownership as applicable, by Fifty Percent Households. Income determination shall be made at the time of initial occupancy of a unit by a [tenant/home owner].
- B. _____ () units out of the total _____ () units in the Project shall at all times be occupied or held vacant and available for rental, or ownership as applicable, by Sixty Percent Households. Income determination shall be made at the time of initial occupancy of a unit by a tenant or home owner as applicable.
- C. _____ () units out of the total _____ () units in the Project shall at all times be occupied or held vacant and available for rental, or ownership as applicable, by Eighty Percent. Income determination shall be made at the time of initial occupancy of a unit by a tenant or home owner as applicable.
- D. Notwithstanding the foregoing, Developer or its agent may set aside _____ () of the units for use as a "Manager's Unit," which unit shall be occupied by a person (or household) employed as an on-site manager of the Project. If the "Manager's Unit" is so occupied, it shall not be subject to the income limits set forth above.

25. **PROJECT RENTS.** Rents for Affordable Units in a rental Project shall be limited to the maximum rental charges as set forth in Section 26 of this Covenant Agreement. Eligible Households shall be given at least thirty (30) days written notice prior to any rent increase.

The maximum allowable rent that may be charged for an Affordable Unit may change from time to time when there are changes in the Area Median Income as published by HCD, or when there are changes made to the allowances deducted for tenant paid utilities as calculated by the Los Angeles Housing Authority. In no event, however, will the resulting maximum allowable rent for an Affordable Unit exceed the HCD fair market rents set for rental housing units of the same number of bedrooms for the area.

For projects subject to the City's Rent Stabilization Ordinance, the maximum rent increase allowed by that ordinance may be less or more than that allowed by changes in the Area Median Income. In such instances, the rents on restricted units may only be raised to the lesser of the two (2) allowed increases.

26. **MAXIMUM RENTAL CHARGES.** The total monthly charges for rent, utilities, and related services to each: (i) Fifty Percent Households; (ii) Sixty Percent Households; and (iii) Eighty Percent Households shall not exceed the Affordable Housing Cost as defined in this Covenant Agreement. Initial rents for each rental Affordable Unit shall be as set forth in the Covenant Agreement. Maximum rent increases shall be calculated by the Agency based on the change in permissible rents published by HCD. Developer shall annually certify each tenant household's gross income and make any rent adjustment pursuant to the terms of the Covenant Agreement.

27. **NONDISCRIMINATION.** Developer shall not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of Property units on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any other arbitrary basis; provided however the foregoing shall not prohibit the development of the Property as a senior housing project to the extent permitted by law. Developer shall include a statement in all advertisements, notices and signs for the availability of Project units for rent to the effect that Developer is an Equal Housing Opportunity Provider. The Project shall be developed and the Improvements shall be maintained, for the duration of this Covenant Agreement, to comply with all applicable federal, state and local disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the Unruh Civil Rights Act, Civil Code Section 51, et seq.

GENERAL PROVISIONS

28. **SUBORDINATION.** This Covenant Agreement shall be subordinated in priority to the liens and encumbrances obtained by the Owner or Developer.

29. **DEFAULT AND REMEDIES** In the event of any breach or violation of any agreement or obligation under this Covenant Agreement, or of any Event of Default as defined by the Affordable Housing Agreement, and after the Agency has given written notice to Owner and/or Developer and an opportunity to cure in the same time and manner provided for with respect to Events of Default in said Affordable Housing Agreement, the Agency may proceed with any or all of the following remedies:

- A. Bring an action in equitable relief seeking the specific performance by Owner or Developer, as applicable, of the terms and conditions of this Covenant Agreement, and/or enjoining, abating, or preventing any violation of said terms and conditions, and/or seeking declaratory relief;
- B. After notice provided for herein, make such repairs or replacements to the Property as are necessary and provide for payment thereof;

- C. Pursue any other remedy set forth in the Affordable Housing Agreement; or
- D. Pursue any other remedy allowed at law or in equity.

30. **NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** The Agency's officers, officials, employees or agents shall not be personally liable to Owner and/or Developer for any obligation created under the terms of this Covenant Agreement except in the case of actual fraud or willful misconduct by such person.

31. **INDEMNITY.** Developer shall indemnify and hold the Agency and City ("Indemnitees") free and harmless against any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorneys' fees) which the Indemnitees may incur as a direct or indirect consequence of (1) Developer's failure to perform any obligations as and when required by this Covenant Agreement; or (2) any act or omission by Developer or any contractor, subcontractor, management agent, or supplier with respect to the Project or the Property, except where such losses are caused by the sole negligence or willful misconduct of the Indemnitees. Developer shall pay immediately upon the Indemnitees' demand any amounts owing under this indemnity. The duty of the Developer to indemnify includes the duty to defend the Indemnitees in any court action, administrative action, or other proceeding brought by any third party arising from the Project or the Property. The Indemnitees may make all reasonable decisions with respect to its/their representation in any legal proceeding, including, but not limited to, the selection of attorney(s). Developer's duty to indemnify the Indemnitees shall survive the term of this Covenant Agreement.

31. **GOVERNING LAW.** This Covenant Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

32. **AFFORDABLE HOUSING AGREEMENT CONTROLS.** In the event that any provisions of this Covenant Agreement and the Affordable Housing Agreement conflict, the Affordable Housing Agreement shall control.

33. **TIME.** Time is of the essence in this Covenant Agreement.

34. **CONSENTS AND APPROVALS.** Any consent or approval of the Agency required under this Covenant Agreement shall not be unreasonably withheld. Any approval must be in writing and executed by an authorized representative of the Agency.

35. **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Owner and the Agency shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Owner and the Agency as follows:

Agency: Community Redevelopment Agency of the
City of Los Angeles
354 S. Spring Street, Suite 800
Los Angeles, CA 90013
Attention: _____

Owner: Figueroa Corridor CLT
152 W. 32nd St.
Los Angeles, CA 90007
Attn: Executive Director

Figueroa Corridor Land Company
701 East 3rd St. Suite 400
Los Angeles, CA 90013
Attn: President

Developer (if identified at time of closing):

36. **BINDING UPON SUCCESSORS.** All provisions of this Covenant Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferee, and assigns of Owner and the Agency, and shall run with the land for the full term of this Covenant Agreement, regardless of any assignment, payment, prepayment, expiration, extinguishment of the Affordable Housing Agreement, or any conveyance or transfer of the Property. Any successor-in-interest to Owner and any purchaser or transferee of the Property shall be subject to all of the duties and obligations imposed on Owner under this Covenant Agreement for the full term of this Covenant Agreement. The term "Owner" as used in this Covenant Agreement shall include all such assigns, successors-in-interest, and transferee.

37. **RELATIONSHIP OF PARTIES.** The relationship of Owner and the Agency for this Project during the term of this Covenant Agreement shall not be construed as a joint venture, equity venture, or partnership. The Agency neither undertakes nor assumes any responsibility or duty to Owner or any third party with respect to the operation of the Property or the actions of Owner. Except as the Agency

IN WITNESS WHEREOF, the Agency and the Owner have caused this Covenant Agreement to be executed by their duly authorized representatives.

Executed this _____ day of _____,
20__

THE COMMUNITY REDEVELOPMENT
AGENCY
OF THE CITY OF LOS ANGELES

By: _____

- 1.
- 2.
- 3.
- 4.

Name: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY
ROCKARD J. DELGADILLO, City Attorney

By: _____

Date

Executed this _____ day of _____,
20__

_____, a

By: _____

- 5.

Name: _____

Its: _____

THIS DOCUMENT MUST BE NOTARIZED FOR RECORDING

may specify in writing, Owner shall have no authority to act as an agent of the Agency or to bind the Agency to any obligation.

38. **WAIVER.** Any waiver by the Agency of any obligation in this Covenant Agreement must be in writing. No waiver will be implied from any delay or failure by the Agency to take action on any breach or default of Owner or to pursue any remedy allowed under this Covenant Agreement or applicable law. Any extension of time granted to Owner to perform any obligation under this Covenant Agreement shall not operate as a waiver or release from any of its obligations under this Covenant Agreement. Consent by the Agency to any act or omission by Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the Agency's written consent to future waivers.

39. **OTHER AGREEMENTS.** Owner represents that it has not entered into any agreements that would restrict or compromise its ability to comply with the terms of this Covenant Agreement. Owner shall not enter into any agreements that are inconsistent with the terms of this Covenant Agreement without an express waiver by the Agency in writing.

40. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Covenant Agreement must be in writing, and shall be made only if executed by both Owner and the Agency.

41. **SEVERABILITY.** Every provision of this Covenant Agreement is intended to be severable. If any provision of this Covenant Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

[signature page follows]