

Legal Site Description

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

Parcel 1:

Lot 11 of Tract No. 6800, in the City of Los Angeles, County of Los Angeles, State of California, as per map recorded in Book 76 Page(s) 14 of Maps, in the office of the County Recorder of said County.

EXCEPT therefrom all oil, gas, minerals, and other hydrocarbon substances lying below the surface of said land, as provided in deed recorded June 25, 1974 as Instrument No. 565, Official Records.

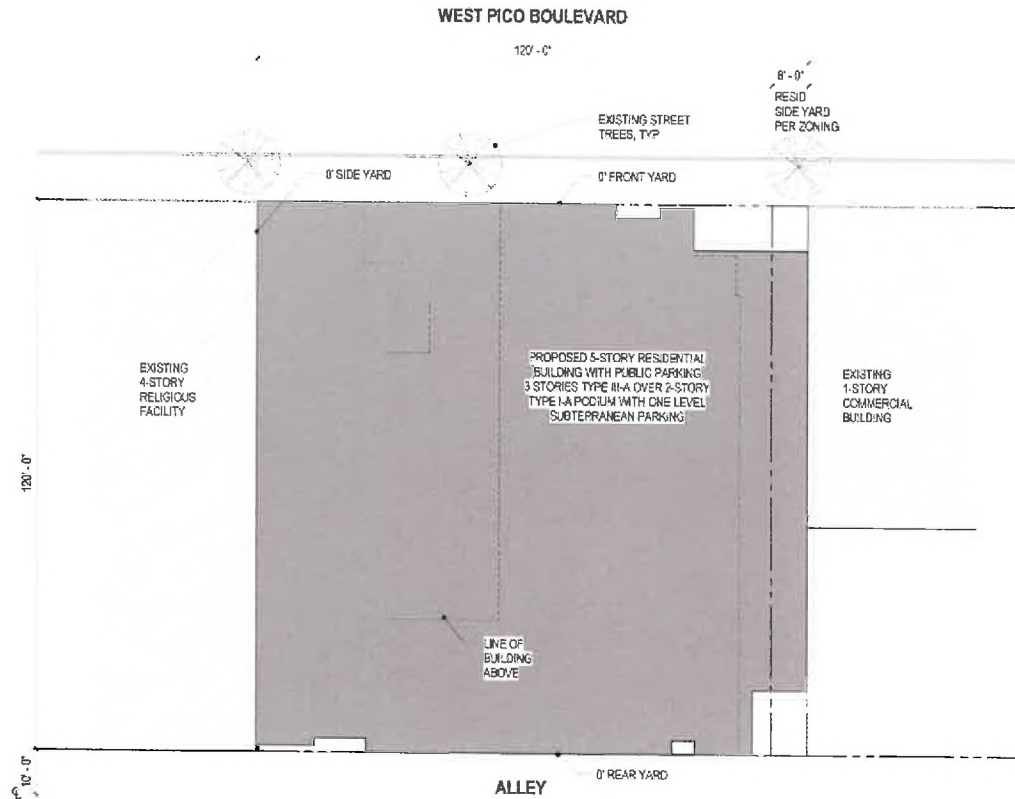
Parcel 2:

Lots 12 and 13 of Tract No. 6800, in the City of Los Angeles, County of Los Angeles, State of California, as per map recorded in Book 76 Page(s) 14 of Maps, in the office of the County Recorder of said County.

EXCEPT therefrom all oil, gas, minerals, and other hydrocarbon substances lying below the surface of said land, as provided in deeds of record

Assessor's Parcel Number: 4305-014-900, 4305-014-901 & 4305-014-902

Site Plan



**PICO-ROBERTSON
APARTMENTS**
8862-8866 WEST PICO BOULEVARD
LOS ANGELES, CA 90035



Mercy Housing

BENCHMARK
Contractors, Inc.



Killefer Flanagan Architects

1626 OLYMPIC BOULEVARD
SANTA MONICA, CA 90404
PHONE: 310.363.7976

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KILLEFER FLANAGAN ARCHITECTS
AND MAY NOT BE REPRODUCED
WITHOUT WRITTEN PERMISSION

PROPOSAL
DATE: 04.30.09
SCALE: 1/16" = 1'-0"
SHEET NO.

SITE PLAN

A000



8/25/09/01/01

Proposed Development Timeline

Milestone	Month/Year
Admitted to HCIDLA AHTF Pipeline	June 2015
Entitlements Approvals	February 2016
9% TCAC Application	March 2016
9% TCAC Approval	June 2016
Pull Building Permit(s)	November 2016
Start Construction	December 2016
Construction Complete	March 2018
Fully Leased	June 2018

PROJECT NAME:	Pico Robertson Senior Community		
FINANCE TYPE:	9% TCAC		
ADDRESS:	8866 West Pico Blvd. Los Angeles, CA 90035		
HOUSING TYPE:	Senior		
COUNTY:	Los Angeles		
SPONSOR:	MERCY HOUSING CALIFORNIA		
<u>CONSTRUCTION</u> SOURCES OF FUNDS	Amount	Per Unit	% of TDC
Bank Construction Loan	\$11,916,609	\$277,130	63%
Tax Credit Equity	2,108,810	\$49,042	11%
Affordable Housing Program	470,000	\$10,930	2%
HCIDLA	2,080,000	\$48,372	11%
LADOT/Land Donation	2,000,000	\$46,512	11%
Expenses Paid at Conversion to Permanent	419,712	\$9,761	2%
TOTAL CONSTRUCTION SOURCES	\$18,995,131	\$441,748	100%
<u>PERMANENT</u> SOURCES OF FUNDS	Amount	Per Unit	% of TDC
Conventional Mortgage	\$386,400	\$8,986	2%
Tax Credit Equity	14,058,731	\$326,947	74%
Affordable Housing Program	470,000	\$10,930	2%
HCIDLA	2,080,000	\$48,372	11%
LADOT/Land Donation	2,000,000	\$46,512	11%
TOTAL PERMANENT SOURCES	\$18,995,131	\$441,748	100%
USES OF FUNDS	Amount	Per Unit	% of TDC
Acquisition	\$2,035,000	\$47,326	10.70%
Hard Costs	10,940,578	\$254,432	57.60%
Architectural	656,435	\$15,266	3.50%
Engineering	110,000	\$2,558	0.60%
Construction Interest and Fees	806,763	\$18,762	4.20%
Permanent Financing	48,864	\$1,136	0.30%
Legal	50,000	\$1,163	0.30%
Reserves	293,467	\$6,825	1.50%
Contingencies	1,378,788	\$32,065	7.30%
Other Costs	1,175,236	\$27,331	6.20%
Developer Costs	1,400,000	\$32,558	7.30%
Syndication	100,000	\$2,326	0.50%
TOTAL USES	\$18,995,131	\$441,748	100.00%
SURPLUS/GAP	\$0	\$0	

**JOINT DEVELOPMENT AGREEMENT
(Pico Robertson Senior Community)**

Dated as of _____

by and between

The City of Los Angeles Department of Transportation

**The City of Los Angeles Housing and Community Investment
Department**

and

Mercy Housing California

**JOINT DEVELOPMENT AGREEMENT
(Pico Robertson Senior Community)**

THIS JOINT DEVELOPMENT AGREEMENT ("Agreement") effective as of _____ ("Effective Date") is made by and between MERCY HOUSING CALIFORNIA, a California non-profit public benefit corporation ("Developer") and THE CITY OF LOS ANGELES, a municipal corporation ("City"). City and Developer are hereinafter sometimes individually referred to as "Party" and collectively referred to as "Parties."

RECITALS

A. Capitalized terms used and not otherwise defined in this Agreement are defined in Article 13.

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B. The City of Los Angeles Department of Transportation ("LADOT") currently owns a public parking lot, (No. 689) consisting of three (3) parcels located near the intersection of Pico and Robertson Boulevards in the City of Los Angeles, as more particularly described on the legal description attached hereto as Exhibit "A" ("Site") consisting of: Parcel 1, at address 8866 W. Pico Blvd., Assessor Parcel Number - 4305-014-900, containing approximately 4,800 square feet; Parcel 2, at address 8870 W. Pico Blvd., Assessor Parcel Number - 4305-014-901, containing approximately 4,800 square feet; and Parcel 3, at address 8874 W. Pico Blvd., Assessor Parcel Number - 4305-014-902, containing approximately 4,800 square feet (collectively, the "Site" or "Project Site").

C. In response to a Request for Proposals (RFP) issued by The City of Los Angeles Housing and Community Investment Department ("HCID") and LADOT, the DEVELOPER has submitted a proposal for a joint development project ("Project") at the Site (DEVELOPER's Proposal).

D. The Project proposed by DEVELOPER is an affordable senior residential housing and replacement public parking development near the intersection of Pico and Robertson Boulevards in the City of Los Angeles.

E. On November 9, 2010 the Los Angeles City Council approved (Council File: 08-2698) the selection of the DEVELOPER for the purpose of negotiating the terms of and preparing a Joint Development Agreement ("JDA") and/or ground lease ("Ground Lease") pertaining to the Site under a 180 day Exclusive Right to Negotiate period.

F. Together, HCID, LADOT and the Developer (collectively referred to as "Parties", or if referred to in the singular form "Party") executed an

Exclusive Right to Negotiate agreement ("ENA") with an effective date of August 4, 2014.

G. The Parties intend the Project to be completed as follows:

- i. The project shall consist of construction of a minimum of forty-two (42) affordable rental units for seniors, age 55 and over, one (1) manager's unit and forty-seven (47) public parking spaces.

H. The Parties intend the implementation of the Project to include a ground lease of the Site to Developer.

NOW, THEREFORE, in consideration of the above Recitals and the agreements, representations, warranties, covenants, and conditions set forth in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Developer and City, intending to be legally bound by this Agreement, hereby agree as follows:

AGREEMENT

ARTICLE 1

SUBJECT OF THE AGREEMENT

1.1 Incorporation of Recitals: Agreement Supersedes ENA. The terms of the Recitals above are hereby incorporated by this reference as if set forth in full in the body of this Agreement. This Agreement supersedes any prior agreements regarding the subject matter of this Agreement, including without limitation the Term Sheet and the ENA, by and between the Developer, HCID and LADOT, and each of the terms, covenants, conditions, representations and warranties set forth therein.

1.2 Term of Agreement. The term of this Agreement shall commence on the Effective Date and terminate on the fifth anniversary date of the Effective Date, unless (a) extended by Unavoidable Delay or by the General Managers of both, HCID and LADOT in accordance with this Agreement or (b) earlier terminated in accordance with this Agreement.

ARTICLE 2

HOLDING RENT

2.1 Annual Holding Payment. As described above, development of the

Project will occur on a LADOT-owned parking lot currently generating revenues for the City. In that regard, parking services at the Site will be interrupted, thereby resulting in a loss of revenue to the City until such time as Developer can provide replacement parking spaces. To account for this loss of revenue and in consideration for the rights granted to Developer by this Agreement, annual non-refundable holding payments ("Annual Holding Payments"), determined as set forth in Section 2.2, shall accrue and be paid by Developer to LADOT.

2.2 Determination of Annual Holding Payments. As set forth in further detail below with regard to the Project's development, Developer will pay an Annual Holding Payment to LADOT. In general, the amount of each Annual Holding Payment shall be based on 2014 usage data and analysis performed by LADOT on the parking spaces lost during the construction.

2.2.1 Annual Holding Payment. Beginning on the Effective Date of the Ground Lease, when the public parking can no longer be used because construction has commenced, and continuing thereafter until Developer makes available for use the public parking spaces contemplated by the Parties under this Agreement to replace the thirty-nine (39) existing parking spaces on Site which will be removed during construction, an Annual Holding Payment shall accrue and be paid by Developer to LADOT, once each year, on or before each anniversary of the Effective Date of the Ground Lease. The Annual Holding Payment shall be based on 2014 usage data and analysis performed by LADOT on the thirty-nine (39) existing parking spaces currently utilized on the Site. This holding payment shall only be paid for days that the public parking spaces are actually not in use.

2.2.2 Calculation of CPI Adjustment. On each anniversary of the Effective Date of the Ground Lease, the Annual Holding Payment determined pursuant to Section 2.2.1 shall be increased by (a) the amount of the Annual Holding Payment multiplied by (b) a fraction (i) having a numerator equal to the CPI (defined in Section 2.2.2.1) figure for the calendar month occurring three (3) months prior to the calendar month during which that particular Adjustment Date occurs and (ii) a denominator equal to the CPI figure for the calendar month that is three (3) months prior to the calendar month in which the (1) applicable Effective Date of the Ground Lease or (2) the preceding Adjustment Date occurred, as each may be applicable.

2.2.2.1 The term "CPI" means the Consumer Price Index for Urban Wage Earners and Clerical Workers, Los Angeles/Riverside/Orange County, all items (1982 – 84 = 100), published by the U.S. Department of Labor, Bureau of Labor Statistics, or if such index is no longer published, the U.S. Department of Labor's most comprehensive official index then in use that most nearly corresponds to the index named above. If, at any time, the U.S. Department of Labor calculates the CPI using a base period that is different from the 1982 – 84 = 100 base period, then the CPI figures used for calculating an Annual Holding Payment adjustment pursuant to Section 2.2.2

shall first be converted to the appropriate base period using a conversion formula supplied by the U.S. Department of Labor. If during the Term of this Agreement, the U.S. Department of Labor no longer publishes the CPI, then another index which both City and Developer generally recognize as authoritative shall be submitted.

ARTICLE 3

DEVELOPMENT OF PROJECT

3.1 Scope of Development. As set forth in further detail within the Scope of Development attached hereto as Exhibit B, "Scope of Development", situated within the Project Site, and consistent with other Exhibits hereto, the Project will consist of the construction of the following: Developer shall construct the following:

3.1.1 The Project shall consist of the construction of a minimum of forty-two (42) income restricted, senior (age 55+) residential units and one non-income restricted on-site manager's unit and residential parking, all as depicted on the Site Plan, attached hereto as Exhibit C. The units will include: all one-bedroom units or a mix of one-bedroom and/or two-bedroom and/or studio units. Developer shall also restrict one hundred percent (100%) of the units, except the manager's unit, as affordable to tenants with incomes not more than sixty percent (60%) of Area Median Income. The Project shall also include the construction of forty-seven (47) public parking spaces.

3.1.2

3.2 Costs and Revenues. Except as otherwise explicitly set forth in this Agreement, or in the Ground Lease, the design, development, construction, and operation of the Project shall be at the sole cost and expense of Developer or its permitted successors and assigns. Any and all revenue generated from the use of the Project (subject to rent and other payments to LADOT, under this Agreement, or the applicable Ground Lease) shall inure to Developer or its permitted successors and assigns.

3.2.1 Ownership of the Improvements. During the term of the Ground Lease, Developer shall own a fee interest in the improvements. Upon expiration of the Ground Lease, including any extensions thereto, ownership of improvements, as well as the leasehold interest, shall transfer to the City. LADOT shall own a fee interest in the Replacement Public Parking Improvements.

3.3 Ownership Structure. Subject to certain conditions, as set forth in further detail below in Section 3.4, City will lease the Site to Developer under the Ground Lease. Subject to any legal obligations that the City must fulfill as the current owner of the Site, the Developer shall be responsible for obtaining the following land use and related discretionary approvals, if required, which may be necessary to allow for the proposed development of the Project as contemplated under this Agreement.

- a. Set back waivers may need to be obtained and will be the responsibility of the developer to work with the Planning Department to satisfy these requirements if necessary.
- b. Vesting Tentative Tract Maps (Includes air-rights or Condominium subdivision for legal separation of Public Parking and Residential uses) for the Site.
- c. Specific Plan Project Permit Compliance if required;
- d. And any other discretionary approvals as may be required by the City at the time of application.
- e. LADOT shall accept a technical traffic letter in lieu of a full traffic study.

Such approvals listed above, if required, shall be obtained prior to the Closing of the Construction/Permanent Loans for the Project. The City agrees to cooperate fully with the Developer's efforts to obtain such land use approvals.

3.4 Conveyance of Project Site. Upon the Closing of Escrow, the City will convey the Site to the Developer in the following manner:

Upon the Close of Escrow, LADOT shall lease the Site to the Developer through a ground lease ("Ground Lease") which shall have been negotiated and executed by the Parties and deposited into Escrow pursuant to Section 4.5.3.

3.4.1 Ground Lease Payment. Developer shall pay to LADOT, at close of escrow, an amount equal to the appraised market value of the Site from a qualified real estate appraisal report dated not more than six (6) months prior to the execution of the Ground Lease, as defined herein below as a capitalized long term ground lease payment ("Ground Lease Payment").

3.4.1.2 Loan from City (LADOT) At the close of escrow, LADOT shall loan to Developer, as a source of development funds, an amount equal to the Ground Lease Payment (land value) to be re-paid from residual receipts.

3.4.2 Ground Lease Term. The Term of the Ground Lease shall be for a term of not less than fifty-seven (57) years and include two (2) options to renew, which can be exercised unilaterally by Developer, each with a twenty-one (21) year term.

ARTICLE 4.

DISPOSITION OF PROJECT SITES

4.1 Conditions Precedent to City Disposition.

As conditions precedent to the Close of Escrow of the Site, the conditions set forth in this Section 4.1 must first be met by the Developer by the times specified for such conditions in the Schedule of Performance. Only the HCID and/or LADOT can waive satisfaction of the conditions in this Section 4.1.

4.1.1 Financing Plan.

The Developer has provided the HCID with the Proforma, setting forth the Developer's current estimate of costs and revenue sources for development of the Project. The Proforma is intended to serve as a guide for the preparation of the Financing Plan, although the Parties acknowledge that the actual Financing Plan will be based on more refined cost estimates and upon further discussions with proposed lenders.

No later than the date specified in the Schedule of Performance, the Developer shall submit to HCID a proposed Financing Plan. The Financing Plan shall include: (1) a cash flow projection for operation of the Project; (2) a cost breakdown for development of the entire Project based upon anticipated required government permits and approvals and any design documents; (3) a sources and uses table identifying the proposed use of each source of funding for the Improvements during the construction period; (4) evidence reasonably satisfactory to HCID that the Developer is committing to seek and apply for all necessary, Local, State, Federal and Private funding to fully finance The Project. HCID shall review the proposed Financing Plan and shall approve or disapprove the Financing Plan within thirty (30) days of receipt. Failure of HCID to approve or disapprove the Financing Plan within thirty (30) days of receipt shall be deemed to be approval by HCID.

Furthermore, a true copy of each firm binding commitment for loans (subject to customary lender conditions) for construction and permanent financing and for other financing from external sources in the amounts necessary to fully finance the development of the Project will be provided prior to the start of construction.

HCID's review of the Financing Plan shall be for the purposes of determining if the contemplated financing will be reasonably available, will provide sufficient funds for construction of the Project and for its operation consistent with the terms of this Agreement and will otherwise be provided on terms consistent with the terms and conditions of this Agreement.

Any disapproval of a proposed Financing Plan shall state in writing the

reasons for disapproval and the changes which HCID requests. The Developer shall thereafter submit a revised Financing Plan to HCID for its approval within thirty (30) days of HCID's notification of disapproval. The HCID shall either approve or disapprove the revised Financing Plan within thirty (30) days of receipt. Failure of HCID to approve or disapprove the Financing Plan within thirty (30) days of receipt shall be deemed to be approval by HCID. If the revised Financing Plan is disapproved, then the Developer shall have thirty (30) days to submit a further revised Financing Plan. The periods for submission of a revised Financing Plan, review, and approval or disapproval shall continue to apply until a Financing Plan has been approved by HCID; however, a Financing Plan must be approved by HCID no later than one hundred eighty (180) days following execution of this Agreement, or this Agreement may be terminated by either Party pursuant to Section 10.4.

4.1.2 Marketing Plan/Market Study.

No later than the date specified in the Schedule of Performance, the Developer shall submit to HCID for approval of a Marketing Plan. The Marketing Plan shall illustrate how the Affordable Units will be advertised, financed, and leased. The Marketing Plan shall also set forth the outreach and selection process used to select tenants and buyers meeting the income restrictions assigned to the Affordable Units (the "Eligible Participants"). Developer shall also submit a Market Study analyzing the local residential rental units including absorption and lease rates.

4.1.3 Insurance.

No later than the date specified in the Schedule of Performance, the Developer shall furnish to HCID the type and amounts of insurance required pursuant to Section 7.5 of this Agreement. The City shall be named as loss payee or additional insured on the policies, as applicable. The Developer shall ensure that all worker compensation insurance policies carried by the general contractor and subcontractors working on the Project include a waiver of subrogation in favor of the City.

4.1.4 City Design Requirements.

No later than the dates specified in the Schedule of Performance, the Developer shall submit to HCID and HCID shall have approved the proposed drawings and plans for the Project in accordance with Article 5, below.

4.1.5 City Approvals.

No later than the date specified on the Schedule of Performance, the Developer shall apply for necessary land use, license, or other approvals from the City and any other governmental permits or approvals necessary for construction of the Project, including, but not limited to, those land use approvals set forth in Section 3.3, and shall have obtained such permits and approvals by the times provided in the

Schedule of Performance. The Developer's application for the City approvals shall be consistent with the Scope of Development and the terms and conditions of this Agreement. If, despite the Developer's good faith efforts, the City approvals and any other necessary government permits and approvals have not been obtained prior to the close of escrow for the Site, then this Agreement may be terminated by either party pursuant to Section 10.2 (No Fault of Parties).

4.1.6 Construction Contract.

No later than the date specified in the Schedule of Performance, the Developer shall submit to HCID for review and approval a copy of the construction contract that the Developer and/or a Transferee proposes to enter into with its general contractor for construction of the Project. HCID's review and approval of a proposed construction contract shall be limited to a determination of the following in the exercise of its reasonable judgment: that the scope and cost of work have been clearly fixed and are consistent with the scope and cost set forth in the Project Documents and the Financing Plan; and that the provisions of the construction contract are consistent with the provisions of this Agreement. Within fourteen (14) days after receiving a proposed construction contract, HCID shall approve or disapprove the proposed construction contract based on its reasonable review. Failure of HCID to approve or disapprove the construction contract within fourteen (14) days of receipt shall be deemed to be approval by HCID. Any disapproval of a proposed construction contract shall state in writing the reasons for disapproval and the changes which HCID requests. The Developer shall thereafter submit a revised construction contract to HCID for its approval within ten (10) days of HCID's notification of disapproval. If the revised construction contract is disapproved, then the Developer shall have ten (10) days to submit a further revised construction contract. In all events, the Construction Contract must be approved by the City no later than fifteen (15) days prior to the Close of Escrow for the Site.

4.1.7 Construction Bonds.

No later than the date specified in the Schedule of Performance, the Developer shall deliver to the HCID a copy of a completion guaranty entered into by and between the Developer or its Transferee and the construction lender of the Project. HCID shall consider (but have no obligation to approve) alternate forms of reasonable assurance that the Project will be completed in the manner contemplated by this Agreement, including securing a Letter of Credit.

4.1.8 Security Deposit and Liquidated Damages.

Concurrently with the full execution of this Agreement by the Parties, the Developer shall submit to the City as a good faith deposit, the sum of **twenty-five thousand dollars (\$25,000)** (the "Deposit") to ensure that the Developer will proceed diligently and in good faith to develop the Project. The deposit of twenty-five thousand dollars (\$25,000) paid by Developer in conjunction with the ENA may be applied to the

Deposit due under this Agreement. Upon completion of the Project, as evidenced by the issuance of a Certificate of Completion, the Deposit shall be released to the Developer. At HCID's election, the Developer may provide the Deposit in the form of cash, an irrevocable letter of credit, a pledged certificate of deposit, an interest bearing account that is controlled by HCID, or such other form of security acceptable to HCID in its sole discretion. If the Developer determines, at the Developer's sole discretion, that the Project is infeasible due to community opposition, infeasible financing, inability to gain entry into the HCID Managed Pipeline and get a slotted TCAC round after two attempts, or other reasons out of control of the Developer, the Developer shall have the option to terminate the Agreement and receive a refund of the \$25,000 deposit plus any interest earned.

IF THIS AGREEMENT IS TERMINATED BY HCID AND/OR LADOT IN ACCORDANCE WITH SECTION 10.4 DUE TO A BREACH OF DEVELOPER'S OBLIGATION UNDER THIS AGREEMENT, THEN THE ENTIRE BALANCE OF THE DEPOSIT SHALL BE RETAINED BY HCID AS LIQUIDATED DAMAGES. UPON THE PAYMENT OF LIQUIDATED DAMAGES, THIS AGREEMENT WILL TERMINATE AND THE PARTIES SHALL HAVE NO FURTHER OBLIGATIONS, RIGHTS OR LIABILITIES TO EACH OTHER UNDER THE TERMS OF THE AGREEMENT.

UPON THE PAYMENT OF LIQUIDATED DAMAGES, THE COVENANTS CONTAINED IN THIS AGREEMENT AND RECORDED AGAINST THE DEVELOPMENT SITE SHALL REMAIN IN EFFECT. THE PARTIES FURTHER AGREE THAT THE AMOUNT OF LIQUIDATED DAMAGES ESTABLISHED BY THIS PROVISION IS A REASONABLE ESTIMATE, UNDER THE CIRCUMSTANCES EXISTING ON THE DATE OF EXECUTION OF THIS AGREEMENT, OF WHAT CITY'S DAMAGES WOULD BE IN THE EVENT OF A DEFAULT BY DEVELOPER.

INITIALED BY DEVELOPER: _____

INITIALED BY HCID: _____

INITIALED BY LADOT: _____

4.1.9 No litigation. There is no existing, pending or threatened litigation, suit, action or proceeding before any court or administrative agency affecting the Developer or the Project Site that would, if adversely determined, would adversely affect the Project Site or the Developer's, HCID's or LADOT's ability to perform their obligations under this Agreement or the Developer's ability to develop and operate the Project.

4.1.10 Subdivision Map. No later than the time specified in the Schedule of Performance, the Developer shall submit to LADOT and HCID for their review and approval a copy of the proposed Subdivision Map. Any approval of the Subdivision Map granted pursuant to this Agreement shall not constitute the approval,

or limit the discretion, of the City in approving the Subdivision Map pursuant to the City's regulatory authority. No later than the time specified in the Schedule of Performance, the final Subdivision Map shall be recorded in the Official Records.

4.1.11 Title Policy. The Escrow Holder shall, upon payment of Escrow Holder's regularly scheduled premium, be ready to issue a Title Policy on the Site upon recordation of the Ground Lease.

4.2 Delivery of Project Site.

Provided the conditions precedent in Section 4.1 have been complied with, upon the terms, covenants and conditions set forth in this Agreement, LADOT agrees to lease the Site to Developer under the Ground Lease.

4.3 Condition of the Site.

4.3.1 Due Diligence. The Developer acknowledges that it has availed itself of the opportunity granted by the City prior to execution of this Agreement to conduct all studies and investigations of the Project Site, including any Phase 1 or Phase 2 environmental investigations, that it has deemed necessary to assure itself of the physical condition of the Project Site, including its environmental suitability, and the suitability of the Project Site for the development contemplated by this Agreement.

4.3.2 "As Is" Conveyance.

4.3.2.1 THE DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT LADOT IS CONVEYING THE SITE TO THE DEVELOPER AND THE DEVELOPER IS ACCEPTING FROM LADOT THE SITE ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT THE DEVELOPER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS (EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT) OR IMPLIED, FROM THE LADOT AS TO ANY MATTERS CONCERNING THE AFOREMENTIONED SITE, INCLUDING WITHOUT LIMITATION: (A) THE QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF THE SITE (INCLUDING, WITHOUT LIMITATION, TOPOGRAPHY, CLIMATE, AIR, WATER RIGHTS, WATER, GAS, ELECTRICITY, UTILITY SERVICES, GRADING, DRAINAGE, SEWERS, ACCESS TO PUBLIC ROADS AND RELATED CONDITIONS); (B) THE QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF SOILS, GEOLOGY AND GROUNDWATER, (C) THE EXISTENCE, QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF UTILITIES SERVING THE SITE, (D) THE DEVELOPMENT POTENTIAL OF THE SITE, AND THE SITE'S USES, HABITABILITY, MERCHANTABILITY, OR FITNESS, SUITABILITY, VALUE OR ADEQUACY OF THE SITES FOR ANY PARTICULAR PURPOSE, (E) THE ZONING OR OTHER LEGAL STATUS OF THE SITE OR ANY OTHER PRIVATE OR GOVERNMENTAL RESTRICTIONS ON THE USE OF THE SITE,

(F) THE COMPLIANCE OF THE SITE OR ITS OPERATION WITH ANY APPLICABLE CODES, LAWS, REGULATIONS, STATUTES, ORDINANCES, COVENANTS, CONDITIONS AND RESTRICTIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY OR OF ANY OTHER PERSON OR ENTITY, AND (G) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT THE SITES OR EMANATING FROM THE ADJOINING OR NEIGHBORING PROPERTY. THE DEVELOPER AFFIRMS THAT THE DEVELOPER HAS NOT RELIED ON THE SKILL OR JUDGMENT OF THE CITY OR ANY OF ITS RESPECTIVE AGENTS, EMPLOYEES, CONSULTANTS OR CONTRACTORS TO SELECT OR FURNISH THE SITE FOR ANY PARTICULAR PURPOSE, AND THAT THE LADOT MAKES NO WARRANTY THAT THE SITE IS FIT FOR ANY PARTICULAR PURPOSE. THE DEVELOPER ACKNOWLEDGES THAT IT SHALL USE ITS INDEPENDENT JUDGMENT AND MAKE ITS OWN DETERMINATION AS TO THE SCOPE AND BREADTH OF ITS DUE DILIGENCE INVESTIGATION WHICH IT SHALL MAKE RELATIVE TO THE SITE AND SHALL RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC AND LEGAL CONDITION OF THE SITE (INCLUDING, WITHOUT LIMITATION, WHETHER THE SITE ARE LOCATED IN ANY AREA WHICH IS DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL CITY). THE DEVELOPER UNDERTAKES AND ASSUMES ALL RISKS ASSOCIATED WITH ALL MATTERS PERTAINING TO THE SITE'S LOCATION IN ANY AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL CITY.

4.3.3 Assignment of Soils and Phase 1 Report.

Developer shall, in accordance with the applicable Schedule of Performance, execute and deliver to HCID an Assignment of the soils report and Phase 1 Report conducted on the Project Site. The Assignment grants City, in the event of termination of this Agreement by HCID and/or LADOT, the Developer's rights to: (a) data obtained and findings rendered with regard to the environmental condition of the Project Site; and (b) the contract between Developer and its consultants. If this Agreement is terminated as provided herein, the Developer's rights to all work product prepared pursuant hereto, including, but not limited to, the Soils and Phase 1 Report shall belong to the City, provided, however, Developer's obligation to deliver the Soils and Phase I Reports to the City in the event of a termination hereunder shall be conditioned upon the City's reimbursement of Developer's predevelopment expenses incurred to the date of termination in connection with development of the applicable Site. In the event of any

such termination, the Developer shall, within ten (10) days of such termination and receipt of payment from the City for reimbursement of Developer's predevelopment expenses, transmit all such work product to the City.

4.4 Discovery of Hazardous Materials.

4.4.1 Disclosure Regarding Condition of Property.

LADOT hereby represents and warrants to the Developer that the LADOT has no actual knowledge, and has not received any notice or communication from any governmental agency having jurisdiction over the Site notifying LADOT of the presence of surface or subsurface zone Hazardous Materials in, on or under the Site or any portion thereof. "Actual knowledge," as used herein, shall not impose a duty of investigation, and shall be limited to the actual knowledge of the City's employees and agents who have participated in the preparation of this Agreement.

4.4.2 Developer Precautions After Closing.

Upon the Close of Escrow, the Developer shall use commercially reasonable efforts to prevent the release into the environment of any Hazardous Materials which are located in, on or under the Site. Such precautions shall include compliance with all governmental requirements with respect to Hazardous Materials.

4.4.3 Required Disclosures After Closing.

After Close of Escrow, the Developer shall notify LADOT and HCID, and provide to LADOT and HCID a copy or copies, of all environmental permits, disclosures, applications, entitlements or inquiries relating to the Site, including notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any governmental requirement relating to Hazardous Materials and underground tanks. Upon request, the Developer shall furnish to LADOT and HCID a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Site, including, but not limited to, all permit applications, permits and reports including, without limitation, those reports and other matters which may be characterized as confidential.

4.5 Escrow.

4.5.1 Opening of Escrow.

To accomplish the conveyance of the Site from LADOT to the Developer, at least ninety (90) days before the expected Close of Escrow for the Site, the Parties shall establish an escrow with the Escrow Holder for the conveyance contemplated under this Agreement ("Escrow"). This Agreement shall be deposited in Escrow and

the provisions hereof shall constitute joint primary escrow instructions to the Escrow Holder, however, the Parties shall execute such additional instructions as are reasonably necessary by the Escrow Holder. In the event any such additional instructions are inconsistent with the provisions of this Agreement, the provisions of this Agreement shall govern. Upon the opening of an Escrow, Escrow Holder shall deliver written confirmation of such opening to the Parties. Escrow Holder may open sub-escrows to accommodate multiple closings and each sub-escrow shall be an "Escrow" for the purposes of this Agreement. The Parties shall execute written escrow instructions consistent with this Agreement the Ground Leases, deeds, encumbrances, tract maps, subdivision maps and the other agreements and transactions to be included as part of such Escrow.

4.5.2 Title Review

Within the time provided in the Schedule of Performance, the Developer shall cause the Escrow Holder to deliver to the Developer, HCID and LADOT the Title Report(s) with respect to the title of Site, together with legible copies of the documents underlying the exceptions (the "Exceptions") set forth in the Title Report(s). Within the time specified in the Schedule of Performance, the Developer shall have approved or disapproved the Exceptions, provided, however, the Developer hereby approves the Permitted Exceptions. If the Developer disapproves the Exceptions, then the Developer may terminate this Agreement pursuant to Section 10.2 (no fault). The Developer's failure to disapprove title to the Site within the time set forth in the Schedule of Performance shall be deemed approval of such condition of title. Upon the Developer's approval of title to the Site, the Developer shall have no right to terminate this Agreement on account of the condition of title to the Site, except as provided herein. In the event any new Exceptions appear on a Title Report after delivery of the initial Title Report and prior to the Close of Escrow, and (i) Developer disapproves of such Exception and (ii) LADOT is unable to remove or cure such Exception to Developer's reasonable satisfaction prior to the Close of Escrow, then Developer shall have the right to terminate this Agreement pursuant to Section 10.2. Upon the Developer's approval of title to the Site, the Developer shall have no right to terminate this Agreement on account of the condition of title to the Site, except as provided herein.

4.5.3 Deposit of Documents

Within ten (10) business days of the satisfaction or waiver of all of the conditions set forth in Section 4.1 above, the Parties shall deposit into each Escrow any and all documents necessary to effectuate the Close of Escrow for the Site, including originals of the Ground Lease, the Affordability Covenants as required under Section this Agreement, and such other documents as are required to complete the obligations of the Parties under this Agreement.

4.5.4 Delivery of Rent

4.5.4.1 Ground Lease Payments. Prior to Close of Escrow

for the Site, Developer shall deliver to Escrow an amount equal to any rent payable as of the Close of Escrow under the Ground Lease that is the subject of the Escrow, which amount shall be paid to LADOT at the Close of Escrow for the Site, together with such additional amounts as is necessary to cover Developer's share of costs and expenses hereunder. The Ground Lease payment shall be structured as a capitalized long term lease payment.

4.5.4.2 Loan From City (LADOT) at the close of escrow, as consideration for the construction of the Public Parking Garage, LADOT shall loan, as a source of development funds, an amount equal to the ground lease (land value) to be re-paid from residual receipts.

4.5.5 Close of Escrow. Upon satisfaction, or waiver by the benefited Party, of the conditions set forth in Section 4.1 for an Escrow pertaining to a particular Site, the Escrow Holder shall complete all of the following acts, at which time the "Close of Escrow" for the Site will be deemed to have occurred:

4.5.5.1 Complete all blank spaces in each of the documents listed in Section 4.5.3 above (and all other documents required to be submitted prior to Close of Escrow), including effective dates thereof;

4.5.5.2 Attach thereto final and accurate legal descriptions consistent with the title policies required under this Agreement;

4.5.5.3 Deliver copies of fully executed originals of the Ground Lease and the Affordability Covenants to the appropriate Parties;

4.5.5.4 Cause to be recorded in the Official Records, as applicable: a) any recordable final Subdivision Map; b) the Ground Lease or memorandum of Ground Lease; c) the Affordability Covenants; and d) such other documents or instruments as may be specified in the Parties' escrow instructions.

4.5.6 Closing Costs. For Close of Escrow, Developer shall pay for all recording fees, all documentary transfer taxes, all costs incurred in connection with financing procured by Developer, one-half (1/2) of all escrow costs and fees, and all premiums for the title policy (and any endorsements) issued insuring Developer's leasehold in the Site. For Close of Escrow, LADOT and HCID shall each pay one-quarter (1/4) of all escrow costs and fees. All other closing costs shall be apportioned in the manner customary in Los Angeles County.

ARTICLE 5.

DESIGN REQUIREMENTS

5.1 Design in Conformance with Scope of Development and Schematic Design Drawings.

In designing and constructing the Project, the Developer shall cause all subsequent design documents to be substantially consistent with the Scope of Development unless otherwise approved by the HCID. The Scope of Development shall establish the baseline design standards from which the Developer shall prepare all subsequent Project Documents.

5.2 Project Documents.

The Developer shall cause its architect, to proceed diligently to prepare Project Documents for the proposed Project, consistent with the Scope of Development, including, without limitation, such drawings as may reasonably be required to show the location, bulk, height and other principal external features of the proposed Project. In connection with its submittal to the City for its approval, the Developer shall provide to the City such elevations, sections, plot plans, specifications, diagrams and other design documents at each of the stages described in Section 5.3, as may reasonably be required by the City for its review.

5.3 Submittal and Review of Design and Construction Documents.

Within the times set forth in the Schedule of Performance, the Developer shall submit to the LADOT and/or HCID the Project Documents in the following stages for review and approval in accordance with Section 5.4 below:

5.3.1 Schematic Design Drawings. The Schematic Design Drawings shall include floor plans, elevations, features in public areas, landscape features, locations for signs, parking facilities with all spaces indicated, building sections indicating general construction techniques and major building materials under consideration, potential exterior materials, the colors and textures to be used, and the off-site public improvements to be implemented by the Developer. Key interior, exterior, and structural bay dimensions shall be established and a detailed tabulation of floor area by use provided.

5.3.2 Design Development Drawings. The Design Development Drawings shall evolve from the approved Schematic Design Drawings. The exact wall thickness, structural dimensions, and precise delineation of Site features and elevations, the building core, materials and colors, signs, landscaping, and other features shall be indicated on the Design Development Drawings. The drawings shall fix and describe architectural and landscape portions of Design Development Drawings including all design features, as well as the size, character, and quality of the entire Site and Improvements as to architectural, structural, and mechanical systems. Key details shall be provided in preliminary form. Samples of key materials to be used in publicly visible areas shall accompany these drawings. The Design Development Drawings shall detail the off-site designs for public improvements to be implemented by the Developer.

5.3.3 Final Construction Drawings. The Final Construction Drawings shall be submitted to HCID for review and approval and shall logically evolve from the approved Design Development Drawings submitted to HCID for review and approval. The Final Construction Drawings shall provide all the information necessary to obtain a Building Permit including specifications to build the Improvements, including off-site public improvements, including the landscape and signs, requirements, standards, and specifications. Additionally, the Developer shall provide material samples upon HCID's request. The format for the Final Construction Drawings shall be a set of fifty percent (50%) reduction-sized plans. Approximately seventy five percent (75%) complete Final Construction Drawings may also be prepared and submitted for building permit approval in order to obtain an "Excavation and Foundation Only Permit" to facilitate "fast track" construction.

5.4 Project Approvals.

Within the times set forth in the Schedule of Performance and Section 5.3 of this Agreement, HCID shall have the right to review and approve the Project Documents. The purpose of the HCID's review of the Project Documents is to ensure consistency with the Scope of Development and the provisions of this Agreement. Provided that the architectural submittals meet the requirements set forth in Section 5.3, HCID shall be required to approve those Project Documents which are logical progressions from concepts set forth in previously approved Project Documents. For purposes of this Article 5, "approval" means approval of HCID's General Manager or his designee.

5.5 New Material Concerns.

If HCID determines that there are material changes which are not logical progressions from previously approved Project Documents or which raise material concerns that were not reviewable in previously approved Project Documents, in approving or disapproving such Project Documents, HCID shall act in its reasonable discretion.

5.6 Approval Process.

HCID and, when applicable, LADOT, shall approve or disapprove submittals under this Article 5 within thirty (30) days following receipt of the submittal from the Developer. In the event HCID disapproves a submittal of the Project Documents pursuant to Section 5.4, HCID shall submit a list of reasons for such disapproval to the Developer, together with its notice of disapproval. Upon receipt of such a list, the Developer shall have thirty (30) days to resubmit a revised submission. Again, upon HCID's receipt of a revised submission, HCID shall have fifteen (15) days (or in the event City Board action is required as soon as reasonably possible) to approve or disapprove of the revised design. If in HCID's reasonable judgment, City Board action is not required to consider the revised submittal, failure to approve or disapprove within

fifteen (15) days shall be deemed to be approval of such change. Notwithstanding the foregoing, no matter shall be deemed approved unless the request for approval contains the following provision, in bold print:

NOTICE IS HEREBY GIVEN THAT FAILURE TO APPROVE THE MATTER REQUESTED WITHIN 30 DAYS SHALL BE DEEMED AN APPROVAL PURSUANT TO SECTION 5.6 OF THE JOINT DEVELOPMENT AGREEMENT.

5.7 No Change in Project Documents.

Once HCID has approved Final Construction Drawings, the Developer shall not make any changes in those documents which would materially change the Project Documents with respect to the matters set forth in Section 5.2 without the prior written approval of HCID, subject to the provisions of Section 5.5.

5.8 Additional Permits and Approvals.

Within the time specified in the Schedule of Performance, Developer shall obtain all permits and approvals necessary to construct the Project including demolition and Building Permits. All applications for such permits and approvals shall be consistent with the approved Project Documents. The Developer shall not obtain a Building Permit until HCID has approved the Final Construction Drawings. The Developer acknowledges that execution of this Agreement by HCID does not constitute approval by HCID of any required permits, applications, or allocations, and in no way limits the discretion of HCID in the permit, allocation and approval process.

5.9 HCID Review.

The Developer shall be solely responsible for all aspects of Developer's conduct in connection with the Project, including, but not limited to, the quality and suitability of the Project Documents, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by HCID with reference to the Project is solely for the purpose of determining whether the Developer is properly discharging its obligations to HCID, and should not be relied upon by the Developer or by any third parties as a warranty or representation by HCID as to the quality of the design or construction of the Project.

5.10 Architect's Assignment.

Developer shall, in accordance with the Schedule of Performance, execute and deliver to HCID the Architect's Assignment, Exhibit E attached hereto. The Architect's Assignment grants HCID, in the event of termination of this Agreement by HCID, the Developer's rights to: (a) the plans prepared pursuant to this Agreement; (b) the

contract between Developer and its architect; and (c) all permits relating to the Project.

If this Agreement is terminated as provided herein, the Developer's rights to all work product prepared pursuant hereto, including, but not limited to, all plans and construction documents, shall belong to HCID, provided, however, Developer's obligation to deliver all work product to the City in the event of a termination hereunder shall be conditioned upon the City's reimbursement of Developer's predevelopment expenses incurred to the date of termination in connection with development of the Site. In the event of any such termination, the Developer shall, within ten (10) days of such termination and receipt of payment from the City for reimbursement of Developer's predevelopment expenses, transmit all such work product to HCID.

ARTICLE 6

CONSTRUCTION AND OPERATION OF THE IMPROVEMENTS.

6.1 Commencement of Construction.

The Developer shall commence construction of the Improvements within the time set forth in the Schedule of Performance.

6.2 Completion of Construction.

The Developer shall diligently prosecute to completion the construction of the Improvements, and shall complete construction of the Improvements within the time set forth in the Schedule of Performance. As between the City and the Developer, the Developer shall be solely responsible for the construction of the Improvements.

6.3 Construction Pursuant to Scope and Plans.

6.3.1 The Developer shall construct the Improvements in accordance with the Scope of Development, the approved Final Construction Drawings, and the terms and conditions of all City and other governmental approvals.

6.3.2 Any proposed material change in the approved Final Construction Drawings shall be submitted by the Developer for HCID approval. The City shall approve or disapprove a proposed material change within fifteen (15) days after receipt by the City. Failure to approve or disapprove within fifteen (15) days shall be deemed to be approval of such change. If the HCID rejects the proposed material change, then the HCID shall provide the Developer with the specific reasons therefore, and the approved Final Construction Drawings shall continue to control. For purposes of this Section

6.3.2, a material change in the Final Construction Drawings shall consist of (1) any change (increase or decrease) that exceeds Fifty Thousand Dollars (\$50,000); or (2) any set of changes that cumulatively exceeds Two Hundred Fifty Thousand Dollars (\$250,000) or (3) any change in building materials or equipment, specifications, or the architectural or structural design of the Improvements that is of lesser quality, durability or appearance or which does a poorer job of meeting HCID objectives.

6.3.3 No change which is required for compliance with building codes or other government health and safety regulation shall be deemed material. However, the Developer must submit to HCID any change that is required for such compliance within fifteen (15) days after making such change in the Project Documents (but prior to such work being performed), and such change shall become a part of the approved Final Construction Drawings, binding on the Developer.

6.4 Certificate of Completion.

When the obligations of the Developer under Section 6.1 through Section 6.3 have been met and Developer has obtained a Certificate of Occupancy from The Los Angeles Department of Building and Safety, the Developer may request that HCID issue a certificate to such effect (a "Certificate of Completion") in a form recordable in the Official Records of the County of Los Angeles, which HCID shall issue within thirty (30) days of such a request if the Developer has met the requirements for such issuance. Such certification shall constitute evidence of compliance with the requirements of Section 6.1 through 6.3. Such certification shall not be deemed a notice of completion under the California Civil Code, nor shall it constitute satisfaction of any obligation of the Developer to any holder of deed of trust securing money loaned to finance the Project or any portion thereof. If the Developer requests issuance of a Certificate of Completion, but HCID refuses, then HCID shall provide the Developer with a written explanation of its refusal within ten (10) business days following the Developer's request.

6.5 Compliance with Applicable Law.

The Developer shall cause all work performed in connection with construction of the Improvements to be performed in compliance with (a) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, and (b) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. The work shall proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and the Developer shall be responsible for the procurement and maintenance thereof, as may be required of the Developer and all entities engaged in work on the Site.

6.6 Construction Signs.

The Developer shall incorporate into the Project signage construction signs in

accordance with HCID's standards for such signs. The construction signs shall be erected on the Site prior to the commencement of construction. Such signage shall include the HCID logo, LADOT logo and the City of Los Angeles Seal on signage placed on the Site promoting the Project during predevelopment and construction and through lease-up of the residential units.

6.7 Marketing Material.

The Developer shall include the HCID logo, LADOT logo and the City of Los Angeles Seal on media advertising of the Project including print and internet. In the event Developer has the opportunity to conduct radio spots, Developer shall make mention of HCID and LADOT involvement.

6.8 Progress Reports.

Until a Certificate of Completion has been issued by HCID, the Developer shall provide HCID with periodic progress reports, as reasonably requested by HCID, regarding the status of the construction of the Project.

6.9 Entry by the HCID/LADOT.

Until a Certificate of Completion has been issued by HCID, the Developer shall permit HCID and LADOT, through its officers, agents, or employees, to enter the Site at all reasonable times to inspect the work of construction to determine that such work is in conformity with the Scope of Development and the approved Final Construction Drawings or to inspect the Site for compliance with this Agreement. HCID and LADOT are under no obligation to (a) supervise construction, (b) inspect the Site, or (c) inform the Developer of information obtained by either HCID or LADOT during any inspection. The Developer shall not rely upon HCID or LADOT for any supervision or inspection. The rights granted to HCID and LADOT pursuant to this section are in addition to any rights of entry and inspection they may have in exercising its municipal regulatory authority.

6.10 Mechanics' Liens.

The Developer shall indemnify the City, HCID and LADOT and hold the City, HCID and LADOT harmless against and defend the City, HCID and LADOT in any proceeding related to any mechanic's lien, stop notice or other claim brought by a subcontractor, laborer or material supplier who alleges having supplied labor or materials in the course of the construction of the Project by the Developer. This indemnity obligation shall survive the issuance of a Certificate of Completion by HCID and the termination of this Agreement.

6.11 Zoning of the Site.

It shall be the responsibility of the Developer at the Developer's sole cost and

expense, to ensure that the zoning of the Site shall be such as to permit the development and use of the Site in accordance with the provisions of this Agreement. HCID and LADOT shall cooperate with the Developer in seeking the approvals necessary for the construction of the Improvements from the City.

6.12 Prevailing Wages.

6.12.1 To the extent applicable, the Developer shall pay or cause to be paid to all workers employed in connection with the development of the Improvements, not less than the prevailing rates of wages, as provided in the statutes applicable to City public work contracts, including without limitation Sections 33423-33426 of the California Health and Safety Code and Sections 1770-1780 of the California Labor Code.

6.12.2 If the construction work covered under this Agreement is financed in whole or in part with assistance provided under a program of the U.S. Department of Housing and Urban Development or some other source of federal funding, the Developer shall comply with or cause its general contractor and all subcontractors to comply with the requirements of the Davis-Bacon Act (40 U.S.C. 276 et. seq.). The Davis-Bacon Act requires the payment of wages to all laborers and mechanics at a rate not less than the minimum wage specified by the Secretary of Labor in periodic wage rate determinations as described in the Federal Labor Standards Provisions (HUD-4010). In the event both State Prevailing wages and Davis-Bacon Act wages will be required, all works shall be paid at the higher of the two wage rates.

6.12.3 Prior to the commencement of construction, and as soon as practicable in accordance with the Schedule of Performance, the Developer shall contact HCID to schedule a preconstruction orientation meeting with the Developer and with the general contractor to explain such matters as the specific rates of wages to be paid to workers in connection with the development of the Housing Improvements, preconstruction conference requirements, record keeping and reporting requirements necessary for the evaluation of the Developer's compliance with this Section 6.12.

6.12.4 Developer shall monitor and enforce any applicable prevailing wage requirements imposed on its contractors and subcontractors, including withholding payments to those contractors or subcontractors who violate these requirements. In the event that Developer fails to monitor or enforce these requirements against any contractor or subcontractor, Developer shall be liable for the full amount of any underpayment of wages, plus costs and attorneys' fees, as if Developer were the actual employer, and the City or the State Department of Industrial Relations may withhold monies owed to the Developer, may impose penalties on Developer in the amounts specified herein, may take action directly against the contractor or subcontractor as permitted by law, and/or may declare the Developer in default of this Agreement (subject to the notice and cure rights provided in this Agreement) and thereafter pursue any of the remedies available under this Agreement.

6.12.5 Any contractor or subcontractor who is at the time of bidding debarred by the Labor Commissioner pursuant to Section 1777.1 of the California Labor Code is ineligible to bid on the construction of the Improvements or to receive any contract or subcontract for work covered under this Agreement. The Developer agrees to include, or cause to be included, this Section 6.12 in all bid specifications for work covered under this Agreement.

Any contractor or subcontractor who, at the time of the date of this Agreement, is listed in the Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs issued by the U.S. General Services Administration pursuant to Section 3(a) of the Davis-Bacon Act is ineligible to receive a contract for work covered under this Agreement, if the covered work is Federally funded in whole or in part.

Any contractor or subcontractor that is at the time of bidding debarred or declared non-responsible under the City's Contractor Responsibility Policy or the City's Contractor Responsibility Ordinance is ineligible to bid on the construction of the Improvements or to receive any contract or subcontract for work covered under this Agreement. Participant agrees to include, or cause to be included, this Section 6.12.5 in all bid specifications for work covered under this Agreement.

6.12.6 Developer agrees to include, or cause to be included, the above provisions in all bid specifications for work covered under this Agreement.

6.12.7 Developer shall indemnify, hold harmless and defend (with counsel reasonably acceptable to) the City against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Developer, its contractor and subcontractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq. and implementing regulation or comply with the other applicable provisions of Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations in connection with construction of the improvements or any other work undertaken or in connection with the Site.

6.12.8 Nothing contained in this Agreement is intended to obligate Developer to pay State Prevailing wages and Davis-Bacon Act wages, provided, however, Developer shall comply with the Davis-Bacon Act and Labor Code Sections 1720 et seq.

6.13 Cost of Development.

Developer shall bear all costs and expenses incurred in connection with the construction and maintenance of all Improvements, including, without limitation, all costs incurred in connection with the investigation and preparation of the Site for development, all off-site improvements, building and developer fees, and all costs of investigation, acquisition and/or preparation of any Project Documents or other

submissions made by Developer pursuant to this Agreement.

6.14 Los Angeles City Business Tax Registration Certificate.

Developer represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, sections 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Agreement, Developer shall maintain, or obtain as necessary, all such Certificates required of it under said ordinance and shall not allow any such Certificate to be revoked or suspended.

6.15 Nondiscrimination/Equal Employment Practices.

During the construction of the Development, the Developer, for itself and its successors and assigns, and transferees of its obligations under this Agreement, shall comply with City of Los Angeles Nondiscrimination/Equal Employment Practices. The ordinance and those referred to in paragraphs 6.16 through .20 may be viewed and downloaded at www.lacity.org/conad. All references to "Contractor" in this section shall apply to Developer and its contractors and subcontractors.

6.16 Child Support Assignment Orders Ordinance.

During the construction of the Development, the Developer shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department and the City of Los Angeles Child Support Assignment Orders Ordinance. Developer assures that to the best of its knowledge it is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (1) of the Public Contract Code 7110.

6.17 Contractor Responsibility Ordinance.

During the construction of the Development, Developer, for itself and its successors and assigns, and transferees of its obligations under this Agreement, shall comply with the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of the Los Angeles Administrative Code.

6.18 Americans With Disabilities Act.

During the construction of the Development, Developer, for itself and its successors and assigns, and transferees of its obligations under this Agreement, shall comply with the Americans With Disabilities Act, 42 U.S.C. 12101, et seq., and its implementing regulations.

6.19 Living Wage Ordinance.

During the construction of the Development, Developer, for itself and its successors and assigns, and transferees of its obligations under this Agreement, shall comply with City of Los Angeles Living Wage Ordinance, and shall post a copy of the "Notice Against Retaliation."

6.20 Slavery Disclosure Ordinance.

During the construction of the Development, Developer shall comply with the applicable provisions of the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code.

ARTICLE 7

USE OF THE SITE/OBLIGATIONS DURING AND AFTER CONSTRUCTION

7.1 Use and Operation of the Improvements and Site.

The Developer agrees for itself, its successors, its assigns and every successor in interest to the Site or any part thereof, to devote, use, develop, operate and maintain the Site in accordance with this Agreement, the City Municipal Code, and the recorded documents pertaining to and running with the Site.

7.2 Project As set forth in the Scope of Development, the Project shall consist of the construction of a minimum of forty two (42) senior (age55+) income restricted residential units and one non-income restricted on-site manager's unit, all as depicted on the Site Plan (the "Units"). The Project shall consist of one bedroom units or a mix of one-bedroom and studio units and the manager's unit will be a one-bedroom or two-bedroom unit. Developer shall restrict one hundred percent (100%) of the income restricted units as affordable to tenants with incomes not more than sixty percent (60%) AMI.

7.2.1.1 Affordability Covenants. Within the times set forth in the Schedule of Performance, Developer shall record an Affordability Covenant upon the Site. The Affordability Covenant shall run for a term of fifty-five (55) years and be in substantially the same form as attached hereto as Exhibit F.

7.2.1.2 Tenant Selection. Within the times set forth in the Schedule of Performance, Developer shall submit to HCID for review and approval the Tenant Selection Plan to be utilized by Developer in Eligible Participants to reside in the Site.

Developer shall be responsible for the initial lease of the Units, including responsibility for establishing income eligibility, conducting background and credit checks, and completing the lease of a unit. All initial leases shall be subject to the approval of HCID for the purpose of verifying compliance with the Affordability Covenants, applicable affordable housing requirements and the HCID approved Tenant Selection Plan.

7.2.3 Property Management. Within the times set forth in the Schedule of Performance, Developer shall submit to HCID for review and approval a Final Management Plan. The Parties understand and acknowledge that Mercy Housing Management Group shall be designated as the initial property management firm for the Site (the "Property Manager").

7.2.4 Allowable Rent. The monthly rent charged to tenants of the income restricted units shall not exceed one-twelfth (1/12) of thirty percent (30%) of

sixty percent (60%) AMI, adjusted for assumed household size.

7.2.5 Income Certification. The Property Manager will obtain, complete and maintain on file, prior to initial occupancy and annually thereafter, income certifications from each tenant renting a Unit in conformance with the Affordability Covenants. Copies of household income certifications shall be available to HCID upon request.

7.3 Replacement Public Parking Component. As set forth in the Scope of Development, Developer shall include in its development thirty-nine (39) Replacement Parking Spaces to replace the currently existing spaces that will be removed during the construction of the Improvements plus an additional eight (8) public parking spaces for a total of forty-seven (47) public parking spaces.

7.4.1 Ownership of the Replacement Public Parking Spaces. If The Developer determines that New Market Tax Credit Funds will be included as a source of funds, then the financial and ownership structure for the Replacement Public Parking component will comply with the regulations and requirements of the New Market Tax Credit Program, as described in Section 45D of the Internal Revenue Code.

7.4.2 Design Approvals. The Replacement Public Parking Improvements will be constructed by Developer. Schematic Design, Design Development and Final Construction Drawings of the Replacement Public Parking Improvements will be subject to review and approval by LADOT pursuant to Section 5.3. Design of the exterior public parking signage will be subject to the review and approval Of LADOT.

7.4.3 Parking Rates; Revenue; Maintenance. The City shall, by and through the Board of Transportation Commissioners ("BOTC") from time to time, determine and fix the maximum hourly, daily and monthly parking rates chargeable for the Replacement Public Parking Spaces. All revenue generated by the Replacement Public Parking Spaces shall belong to LADOT. The maintenance, repair, costs to insure and upkeep of the Replacement Public Parking Improvements, shall be at the sole cost and expense of the CITY.

7.4.5 Reciprocal Easement Agreement. LADOT and the Developer (or the applicable assignee) shall enter into a Reciprocal Easement Agreement to govern construction of the Replacement Public Parking Improvements, provide ingress and egress from the Replacement Public Parking Improvements as they relate to the Site, document the rights of the Developer, its assignees and tenants to access and use the Replacement Public Parking Improvements, establish LADOT's obligation to maintain and repair the Replacement Public Parking Improvements,

and establish LADOT's obligation to operate the Replacement Public Parking Improvements, including the hours the Replacement Public Parking Spaces will be available to the public, on terms agreeable to LADOT and Developer, and such other matters as required by the Developer.

The Developer hereby agrees that, after the Close of Escrow on the Residential Parcel and prior to completion of the construction of the portion of the Project located on such Residential Parcel, such Residential Parcel shall be maintained in a neat and orderly condition to the extent practicable and in accordance with industry health and safety standards, and that, once the Project is completed, the Project shall be well maintained as to both external and internal appearance of the buildings, the common areas, and the parking areas. The Developer shall maintain or cause to be maintained the Residential Parcel in good repair and working order, and in a neat, clean and orderly condition, including the walkways, driveways, parking areas and landscaping, and from time to time make all necessary and proper repairs, renewals, and replacements. In the event that there arises a condition in contravention of the above maintenance standard, then HCID shall notify the Developer in writing of such condition, giving the Developer thirty (30) days from receipt of such notice to commence and thereafter diligently to proceed to cure said condition unless such condition cannot reasonably be cured within such thirty (30) days period, in which event the Developer shall commence such cure within thirty (30) days and thereafter diligently prosecute such cure to completion. In the event the Developer fails to cure or commence to cure the condition within the time allowed, HCID shall have the right to perform all acts necessary to cure such a condition, or to take other recourse at law or equity HCID may then have. HCID shall receive from the Developer HCID's cost in taking such action and shall provide reasonable evidence of such costs to the Developer. The Parties hereto further mutually understand and agree that the rights conferred upon HCID expressly include the right to enforce or establish a lien or other encumbrance against any of the parcels comprising the Residential Parcels not complying with this Agreement by recordation of a notice of lien against a Residential Parcel. The foregoing provisions shall be a covenant running with the land until expiration of the term of this Agreement, enforceable by HCID, its successors and assigns. Notwithstanding the foregoing, LADOT shall be responsible at all times for the maintenance and repair of the Replacement Public Parking Improvements of each Site, and shall pay all costs and expenses associated with such maintenance.

7.5 Insurance Requirements.

During the construction of the Project, Developer, for itself and its successors and assigns, and transferees of its obligations under this Agreement, shall comply with City of Los Angeles Insurance requirements, attached hereto as Exhibit I.

7.6 Hazardous Materials.

7.6.1 Certain Covenants and Agreements. Following possession of the Project Site by the Developer, the Developer hereby covenants and agrees that:

(1) The Developer shall not knowingly permit the Site or any portion thereof to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials or otherwise knowingly permit the presence of Hazardous Materials in, on or under the Site in violation of any applicable law;

(2) The Developer shall keep and maintain the Project and each portion thereof in compliance with, and shall not cause or permit the Project or any portion thereof to be in violation of any Hazardous Materials Laws;

(3) Upon receiving actual knowledge of the same the Developer shall within ten (10) days advise HCID in writing of: (A) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted or threatened against the Developer or the Project pursuant to any applicable Hazardous Materials Laws; (B) any and all claims made or threatened by any third party against the Developer or the Project relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in the foregoing clause (A) and this clause (B) are hereinafter referred to as "Hazardous Materials Claims"); (C) the presence of any Hazardous Materials in, on or under the Project Site in such quantities which require reporting to a government City; or (D) the Developer's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Project classified as "borderzone property" under the provisions of California Health and Safety Code, Sections 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Project under any Hazardous Materials Laws. If HCID reasonably determines that the Developer is not adequately responding to a written directive or order from a regulatory body or court regarding a Hazardous Material Claim, HCID shall have the right, upon ten (10) days written notice to the Developer, to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any such Hazardous Materials Claims and, if such claim could result in any liability or damage to HCID, to have its reasonable attorney's fees in connection therewith paid by the Developer.

7.6.2 Indemnity. Except for the gross negligence or willful misconduct of the Indemnified Parties, and without limiting the generality of the indemnification set forth in Section 6.12.7, the Developer hereby agrees to indemnify, protect, hold harmless and defend (by counsel acceptable to the City) the City, HCID, LADOT, their

Board or Council Members, officers, employees and agents from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, reasonable attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of: (1) the failure of the Developer, its agents, employees, or contractors to comply with any Hazardous Materials Law relating in any way whatsoever to the handling, treatment, presence, removal, storage, decontamination, cleanup, transportation or disposal of Hazardous Materials into, on, under or from the Project; (2) the presence in, on or under the Site of any Hazardous Materials not otherwise present before the Close of Escrow or any releases or discharges of any Hazardous Materials into, on, under or from the Project occurring after the Close of Escrow; or (3) any activity carried on or undertaken on or off the Project, subsequent to the conveyance of the Site to the Developer, by the Developer or any employees, agents, contractors or subcontractors of the Developer at any time occupying or present on the Project, in connection with the handling, treatment, removal, storage, decontamination, cleanup, transport or disposal of any Hazardous Materials at any time located or present on or under the Project (collectively "Indemnification Claims"). The foregoing indemnity shall further apply to any residual contamination on or under the Project, or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials by the Developer, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws.

LADOT hereby agrees to indemnify, protect, hold harmless and defend the Developer from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, reasonable attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of the presence in, on or under the Site of any Hazardous Materials present prior to the Close of Escrow (whether or not Developer or the LADOT had knowledge of the presence of such Hazardous Materials at the time of Close of Escrow) or any releases or discharges of any Hazardous Materials into, on, under or from the Site which occurred prior to the Close of Escrow. Any and all clean-up or remediation costs associated with Hazardous Materials present on the Site prior to the Close of Escrow or any releases or discharges of any Hazardous Materials into, on, under or from the Site which occurred prior to the Close of Escrow, shall be paid solely by the LADOT, with no contribution from the Developer.

7.6.3 No Limitation. The Developer hereby acknowledges and agrees that the Developer's duties, obligations and liabilities under this Agreement are in no way limited or otherwise affected by any information the City may have concerning the Site and/or the presence within the Site of any Hazardous Materials, whether the City obtained such information from the Developer or from its own investigations.

(i) To LADOT's actual knowledge, the Project Site and all current uses and conditions of the Project Site are in compliance with all Environmental Laws. Neither LADOT nor, to the best of LADOT's knowledge, any predecessor in interest to City, has received any written notice of violation issued pursuant to any Environmental Law with respect to the Project Site.

(ii) To LADOT's actual knowledge, there are no Hazardous Materials present on, in or under the Project Site and no Hazardous Materials are stored on the Project Site.

(iii) To LADOT's actual knowledge, neither LADOT nor any other present or former owner, tenant, occupant or user of the Project Site has used, handled, generated, produced, manufactured, treated, stored, transported, released, discharged or disposed of any Hazardous Material on, under or from the Project Site in violation of any Environmental Law.

(iv) LADOT has no knowledge of and has received no written notice of any Release or threatened Release of any Hazardous Material existing on, beneath or from or in the surface or ground water associated with the Project Site, and no Release or threatened Release of Hazardous Materials on, beneath or from the Project Site at any time, including, to the best of LADOT's knowledge, during any period prior to LADOT's ownership of the Project Site.

(v) To LADOT's actual knowledge, without investigation or inquiry, no above-ground or underground storage tanks have been installed upon the Project Site during LADOT's ownership of the Project Site.

(vi) To LADOT's actual knowledge, without investigation or inquiry, no asbestos abatement or remediation work has been performed on the Project Site during LADOT's ownership of the Project Site.

(vii) To LADOT's actual knowledge, without investigation or inquiry, no PCB-containing equipment or PCB-containing material has been installed upon Project Site during LADOT's ownership of the Project Site.

(viii) There are no reports, data, surveys, maps, assessments or other documents in the possession or control of LADOT or its contractors or consultants concerning the environmental condition of the Project Site or the presence of Hazardous Materials on or under the Project Site or in the ambient air at the Project Site which have not been delivered to Developer (collectively, the "Environmental Reports").

For purposes of this Agreement:

"Environmental law(s)" mean any applicable federal, state or local statute, law, rule, regulation, ordinance, code, guideline, policy or rule of law, now or hereafter in effect and in each case as amended, or any judicial or administrative interpretation thereof, including, without limitation any judicial or administrative order, consent decree or judgment, relating to the environment, employee health and safety or Hazardous Materials, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Solid Waste Disposal Act, 42 U.S.C. Section 6901, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Clean Air Act, 42 U.S.C. Section 7401, et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. Sections 300f through 300j, the Occupational Safety and Health Act, 29 U.S.C. Section 651, et seq., and any similar state and local counterparts or equivalents now or hereafter in effect and in each case as amended.

7.7 Non-Discrimination.

The Developer covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, national origin, ancestry, disability, medical condition, age, marital status, domestic partner status, sex, sexual orientation, Acquired Immune Deficiency Syndrome (AIDS) – acquired or perceived, or retaliation for having filed a discrimination complaint (non-discrimination factors) in the construction, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site or the Project, nor shall the Developer or any person claiming under or through the Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, vendees or employees in the Project Site or the Project. The foregoing covenant shall run with the land and shall remain in effect in perpetuity.

7.7.1 Mandatory Language in All Subsequent Deeds, Leases and Contracts.

All deeds, leases or other real property conveyance contracts entered into by the Developer on or after the date of execution of this Agreement as to any portion of the Project Site or the Project shall contain the following language:

(a) In Deeds:

"Grantee herein covenants by and for itself, its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, national origin, ancestry, disability, medical condition, age, marital status, domestic partner status, sex, sexual preference/orientation, Acquired

Immune Deficiency Syndrome (AIDS) – acquired or perceived, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed nor shall the grantee or any person claiming under or through the grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, vendees, or employees in the property herein conveyed. The foregoing covenant shall run with the land."

(b) In Leases:

"The lessee herein covenants by and for the lessee and lessee's heirs, personal representatives and assigns and all persons claiming under or through the lessee that his lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, religion, creed, national origin, ancestry, disability, medical condition, age, marital status, domestic partner status, sex, sexual preference/orientation, Acquired Immune Deficiency Syndrome (AIDS) – acquired or perceived, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the land herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, vendees, or employees in the land herein leased."

(c) In Contracts:

"There shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, creed, national origin, ancestry, disability, medical condition, age, marital status, domestic partner status, sex, sexual preference/orientation, Acquired Immune Deficiency Syndrome (AIDS) – acquired or perceived, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or

occupancy of tenants, lessees, subtenants, sublessees, vendees, or employees of the land."

7.8 Taxes, Assessments, Encumbrances and Liens.

Developer shall pay when due any and all real estate taxes and assessments (including any possessory interest tax) assessed and levied on the Project Site or any portion thereof and Developer hereby agrees to indemnify, defend and hold City, all City Representatives, HCID, and LADOT free and harmless against any and all Losses and Liabilities arising from such taxes and assessments.

Prior to issuance of a Certificate of Completion for the Project Site, Developer shall not place or allow to be placed on the Project Site, or any portion thereof, any Encumbrance, unless it first obtains the written consent of City (not to be unreasonably withheld). Developer shall promptly notify the City of any Encumbrance that has been created or attached to the Project Site, or a portion thereof, prior to issuance of a Certificate of Completion for the construction of the Improvements on the Project Site and shall promptly remove, or shall have removed, any such unauthorized Encumbrance and any levy or attachment made on the Project Site, or any portion thereof, or shall assure the satisfaction thereof, within a reasonable time. Nothing contained herein shall be deemed to prohibit the Developer from contesting the validity or amounts of any tax assessment or any other Encumbrance, or limit the remedies available to Developer with respect thereto.

7.9 Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction.

The covenants established in this Agreement and the Affordability Covenant shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City, its successors and assigns, as to those covenants which are for its benefit. The covenants contained in this Agreement shall remain in effect for the periods of time specified therein. The covenants against discrimination shall remain in effect in perpetuity. The City is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement and the covenants shall run in favor of the City, without regard to whether the City has been, remains or is an owner of any land or interest adjacent to the Site. The City shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled.

ARTICLE 8

ASSIGNMENT AND TRANSFERS

8.1 Definitions.

As used in this Article 8, the term "Transfer" means:

(a) Any total or partial sale, assignment or conveyance, of any trust or power, or any transfer in any other mode or form, of or with respect to this Agreement, or of the Site or any part thereof or any interest therein or of the Project constructed thereon, or any contract or agreement to do any of the same; or

(b) Any total or partial sale, assignment or conveyance, of any trust or power, or any transfer in any other mode or form, of or with respect to any ownership interest in the Developer, or any contract or agreement to do any of the same.

8.2 Purpose of Restrictions on Transfer.

This Agreement is entered into solely for the purpose of development and operation of the Project on the Project Site and its subsequent use in accordance with the terms of this Agreement. It is the intent of the City and Developer that the Site shall not be the subject of real estate speculation. The qualifications and identity of the Developer are of particular concern to the City, in view of:

(a) The importance of the development of the Project to the general welfare of the community; and

(b) The fact that a Transfer as defined in Section 8.1 above is for practical purposes a transfer or disposition of the Site.

It is because of the qualifications and identity of the Developer that the City is entering into this Agreement with the Developer and that Transfers are permitted only as provided in this Agreement.

8.3 Prohibited Transfers.

The limitations on Transfers set forth in this Section 8.3 shall apply from the date of this Agreement until the later of (i) issuance of a Certificate of Completion by the City to the Developer; (ii) the date the Affordability Covenants expire; . Except as expressly permitted in this Agreement, the Developer represents and agrees that the Developer has not made or created, and will not make or create or suffer to be made or created, any Transfer, either voluntarily or by operation of law, without the prior approval of the City. Any Transfer made in contravention of this Section 8.3 shall be void and shall be deemed to be a default under this Agreement, whether or not the Developer knew of or participated in such Transfer.

8.4 Permitted Transfers.

Notwithstanding the provisions of Section 8.3, the following Transfers shall be permitted (subject to satisfaction of the conditions of Section 8.5):

- (a) Any Transfer creating a Security Financing Interest.
- (b) Any Transfer directly resulting from the foreclosure of a Security Financing Interest or the granting of a deed in lieu of foreclosure of a Security Financing Interest.
- (c) The removal of a general partner pursuant to the Developer's limited partnership agreement and its replacement by an entity approved by the City in its reasonable discretion, provided, however, if replaced by an Affiliate of the limited partners, then such approval would not be required.
- (d) Any Transfer of an ownership interest in the Developer resulting directly from the death of an individual.
- (e) A Transfer of a limited partnership interest to an Affiliate of the initial investment limited partner.
- (f) The assignment of a partnership interest in Developer as security for the repayment of the Project's construction loan or such partner's obligations to the partnership.
- (g) A Transfer otherwise approved by the City.
- (h) A Transfer of this Agreement, in whole or in part, to a limited partnership in which the Developer, or an affiliate thereof, is a general partner and/or a limited liability company in which the Developer, or an affiliate thereof, is a member.

8.5 Effectuation of Permitted Transfers.

8.5.1 No Transfer otherwise authorized or approved pursuant to Section 8.4, shall be permitted unless, at the time of the Transfer, the person or entity to which such Transfer is made, by an agreement reasonably satisfactory to the City and in form recordable among the land records, expressly agrees to perform and observe, from and after the date of the Transfer, the obligations, terms and conditions of this Agreement; provided, however, that no such transferee shall be liable for the failure of its predecessor to perform any such obligation. Any proposed transferee for which the City's approval is required shall have the qualifications, development experience and financial capability necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer. The City shall grant or deny approval of a proposed Transfer within sixty (60) days of receipt by the City of the Developer's request for approval of a Transfer, which request shall include evidence of the proposed transferee's business expertise and financial capacity. Failure by the City to approve or

disapprove the proposed Transfer within sixty (60) days after receipt of the Developer's written request shall be deemed to be approval of the proposed Transfer by the City if the request for a Transfer includes the fee/deposit required by Section 8.5.3 and the following warning printed in bold type not smaller than 12 point:

**NOTICE IS HEREBY GIVEN THAT FAILURE TO
APPROVE THE REQUESTED MATTER WITHIN 60 DAYS
SHALL BE DEEMED AN APPROVAL PURSUANT TO
SECTION 8.5 OF THE JOINT DEVELOPMENT
AGREEMENT**

8.5.2 Any assignment of rights and/or delegation of obligations under this Agreement in connection with a Transfer (whether or not City approval is required) shall be in writing executed by Developer and the assignee or transferee, which written agreement shall name the City as an express third party beneficiary with respect to such agreement (the "Assumption Agreement") with a copy thereof delivered to the City within ten (10) days after the effective date thereof. Upon assignment or transfer of this Agreement pursuant to an Assumption Agreement, the assignor shall be relieved of liability with respect to any such obligations relating to the Project assumed by the assignee. Notwithstanding the foregoing, unless such assignee specifically assumes pursuant to the Assumption Agreement the obligations under this Agreement to indemnify City with respect to the Project, the assignor will retain such obligations and remain jointly and severally liable for such indemnity obligations with such assignee.

8.5.3 Developer shall reimburse the City for all actual staff time and consultant (legal and financial) costs associated with the City's review and consideration of any request for approval of a Transfer. Developer shall deposit the sum of not less than THREETHousand Dollars (\$3,000) with its request for approval of any transfer. If the costs of City review are less than the amount deposited, the excess deposit shall be returned to Developer. If the costs of City review exceed the deposit amount, the City shall send the Developer a bill for the costs and Developer shall promptly pay the City the additional costs. The Parties acknowledge that this agreement will need to be transferred to a tax credit Limited Partnership to be formed by Developer at future date and that section 8.5.3 shall not apply to this transfer conditioned upon Developer agreeing to use a City pre-approved form of transfer agreement. Section 8.5.3 shall apply to any additional transfers.

ARTICLE 9

SECURITY FINANCING AND RIGHTS OF HOLDERS

9.1 No Encumbrances Except for Development Purposes.

Until a Certificate of Completion has been issued by HCID, mortgages, deeds of trust, and other real property security instruments are permitted to be placed upon the Developer's interest in the Project Site only as permitted pursuant to this Section 9.1.

Such permitted security instruments and related interests shall be referred to as "Security Financing Interests." The Developer shall promptly notify HCID of any Security Financing Interest that has been or will be created or attached to the Project Site in accordance with the Financing Plan. The documents evidencing the Security Financing Interests shall provide that in the event of a Developer default, the holder of the Security Financing Interest shall send notice of the default to HCID concurrently with its notice to the Developer.

The Developer may place mortgages, deeds of trust, or other reasonable methods of security on the Developer's interest in the Project Site only for the purpose of securing construction loans and permanent financing approved by HCID as part of the approved Financing Plan pursuant to Section 4.1.1, and any refinance of any such approved financing subject to HCID's consent.

9.2 Holder Not Obligated to Construct.

The holder of any Security Financing Interest authorized by this Agreement is not obligated to construct or complete any improvements or to guarantee such construction or completion, nor shall any covenant or any other provision of this Agreement be construed so to obligate such holder. However, nothing in this Agreement shall be deemed to permit or authorize any such holder to devote the Project Site or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

9.3 Notice of Default and Right to Cure.

Whenever HCID pursuant to its rights set forth in Article 10 delivers any notice or demand to the Developer with respect to the commencement, completion, or cessation of the construction of the Project, HCID shall at the same time deliver to each holder of record of any Security Financing Interest creating a lien upon the Project Site or any portion thereof a copy of such notice or demand. Each such holder shall (insofar as the rights of HCID are concerned) have the right, but not the obligation, at its option, within thirty (30) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default or breach which is subject to the lien of the Security Financing Interest held by such holder and to add the cost thereof to the security interest debt and the lien on its security interest. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect such improvements or construction already made) without first having expressly assumed in writing the Developer's obligations to HCID under this Agreement. The holder in that event must agree to complete, in the manner provided in this Agreement, the development of the Project. Any such holder properly completing the development of the Project pursuant to this section shall assume all rights and obligations of Developer under this Agreement and the Ground Lease, and shall be entitled, upon written request made to HCID, to a Certificate of Completion from HCID and a new Ground Lease.

9.4. Failure of Holder to Complete Project.

In any case where six (6) months after default by the Developer in completion of construction of the Project under this Agreement, the holder of record of any Security Financing Interest, having first exercised its option to construct, has not proceeded diligently with construction, HCID shall be afforded those rights against such holder it would otherwise have against the Developer under this Agreement.

9.5. Right of City to Cure.

In the event of a default or breach by the Developer of a Security Financing Interest prior to the completion of construction of the Project, and if the holder has not exercised its option to complete the construction of the Project, HCID may, upon prior written notice to the Developer, cure the default, prior to the completion of any foreclosure. In such event HCID shall be entitled to reimbursement from the Developer of all costs and expenses incurred by HCID in curing the default. HCID shall also be entitled to a lien upon the Project and/or Site to the extent of such costs and disbursements. HCID agrees that such lien shall be subordinate to any Security Financing Interest, and HCID shall execute from time to time any and all documentation reasonably requested by the Developer to effect such subordination.

9.6. Right of City to Satisfy Other Liens.

After the Close of Escrow and after the Developer has had a reasonable time to challenge, cure, or satisfy any liens or encumbrances on the Project or any portion thereof, and has failed to do so, in whole or in part, HCID shall, upon prior written notice to the Developer, have the right to satisfy any such lien or encumbrances; provided, however that nothing in this Agreement shall require the Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount therein and so long as such delay in payment shall not subject the Project Site or any portion thereof to forfeiture or sale. Notwithstanding the foregoing, HCID shall not satisfy a lien of a Security Financing Interest until the Security Financing Interest has issued a notice of default to the Developer or, if no notice of default is required to be issued, if HCID has a good faith reason to believe that the Developer is in default under the Security Financing Interest loan.

9.7. Holder to be Notified.

The Developer shall procure acknowledgement of each term contained in this Article 9 by each holder of a Security Financing Interest prior to its coming into any security right or interest in the Project Site or portion thereof.

9.8. Modifications.

If a holder of a Security Financing Interest should, as a condition of providing

financing for development of all or a portion of the Project, request any modification of this Agreement in order to protect its interests in the Project or this Agreement, HCID shall consider such request in good faith consistent with the purpose and intent of this Agreement and the rights and obligations of the Parties under this Agreement. Any modification of this Agreement shall require the prior approval of the HCID Manager.

ARTICLE 10

DEFAULT AND REMEDIES

10.1 Application of Remedies.

This Article 10 shall govern the Parties' remedies for breach or failure of condition under this Agreement.

10.2 No Fault of Parties.

10.2.1 The failure of any condition to the Close of Escrow which does not constitute a breach under this Agreement following good faith efforts to meet or satisfy such condition by the Party obligated thereto shall constitute a basis for either Party, not then in default of its obligations hereunder, to terminate this Agreement prior to the Close of Escrow without any remedy arising and resulting in a full refund of the \$25,000 deposit plus any interest earned to Developer.

10.2.2 Upon the occurrence of any of the above-described events, and at the election of either Party, this Agreement may be terminated by ten (10) days written notice to the other Party. Upon the effective date of the notice of termination neither Party shall have any rights against or liability to the other, and except further that the provisions of this Agreement that are specified to survive in this Agreement shall remain in full force and effect.

10.3 Fault of HCID/LADOT.

10.3.1 Each of the following events, if uncured after expiration of the applicable cure period, shall constitute an "Event of Default" on the part of either HCID or LADOT.

(1) LADOT without good cause fails to lease the Project Site within the time and in the manner specified in this Agreement, and the Developer is otherwise entitled to such lease.

(2) HCID or LADOT breaches any other material provision of this Agreement.

10.3.2 Upon the occurrence of any of the above-described events, the Developer shall first notify either HCID or LADOT, whichever is the breaching party, in writing of its purported breach or failure, giving said department thirty (30) days from receipt of such notice to cure such breach or failure. In the event that HCID or LADOT does not then cure the default within such thirty-day period (or, if the default is not susceptible of cure within such thirty-day period, the department fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion), then the Developer shall be entitled any rights afforded it in law or in equity by taking any or all of the following remedies: (1) terminating this Agreement by written notice to HCID and/or LADOT; (2) seeking specific performance of this Agreement; or (3) seeking any other remedy available at law or in equity. If the Developer elects to terminate this Agreement, the provisions of this Agreement that are specified to survive termination shall remain in full force and effect.

10.4 Fault of Developer.

10.4.1 Each of the following events, if uncured after expiration of

the applicable cure period, shall constitute a "Developer Event of Default":

(1) The Developer does not attempt diligently and in good faith to cause satisfaction of all conditions in Article 4 after fully approved entry in the HCID Managed Pipeline and slotting for a TCAC round and/or attainment and acceptance of 9% TCAC allocation, as shown in Exhibit D, Schedule Of Performance.

(2) Reserved

(3) The Developer fails to construct the Project in the manner and by the deadline set forth in Article 5 unless such deadlines are extended in accordance with this Agreement. Or unless this Agreement is terminated.

(4) The Developer completes a Transfer except as permitted under Article 8.

(5) The Developer breaches any other material provision of this Agreement.

10.4.2 Upon the happening of an event described in Section 10.4.1, the City shall first notify the Developer in writing of its purported breach or failure. The Developer shall have thirty (30) days (ten (10) days for events specified in Section 10.4.1(3)) from receipt of such notice to cure such breach or failure. If the Developer does not cure the non-monetary default within such thirty (or ten) day period (or if the non-monetary default is not susceptible of being cured within such thirty (or ten) day period, the Developer fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion), then the City shall be afforded all of the following rights and remedies:

(1) **Prior to Closing.** With respect to a Developer Event of Default occurring prior to the Close of Escrow, HCID and LADOT may terminate in writing this Agreement and exercise any rights and remedies afforded it in law or equity.

(2) **Between Closing and Certificate of Completion.** With respect to a Developer Event of Default occurring after the Close of Escrow but prior to the date the Developer is entitled to issuance of an Certificate of Completion, the City may: (A) terminate in writing this Agreement; (B) prosecute an action for damages against the Developer; (C) seek specific performance of this Agreement against the Developer; and (E) exercise any other remedy against the Developer permitted at law or equity.

(3) **After Certificate of Completion.** With respect to a Developer Event of Default occurring in the operation of the Project after the Developer is entitled to a Certificate of Completion, the City may, after notice and an opportunity to

cure: (A) seek specific performance of this Agreement against the Developer; (B) prosecute an action for damages against the Developer; (C) foreclose upon the Site pursuant to the Performance Deed in accordance with California law, and (D) exercise any other remedy against the Developer permitted at law or equity.

10.5 Intentionally Left Blank

10.6 Survival.

Upon termination of this Agreement under this Article 10, the following provisions of this Agreement shall survive; the indemnification obligations in Sections 6.12.7 and 7.6.2. This Section 10.6 exists for reference purposes only, and does not alter the scope or nature of the surviving provisions.

10.7 Rights and Remedies Cumulative.

Except as otherwise provided, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise any right or remedy shall not preclude the exercise, at the same time or different times, of any right or remedy for the same default or any other default.

10.8 Inaction Not a Waiver of Default.

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

10.9 No Attorneys' Fees.

In the event that any Party hereto brings any action or files any proceeding to declare the rights granted herein or to enforce any of the terms of this Agreement or as a consequence of any breach by another Party of its obligations hereunder, the prevailing Party or Parties in such action or proceeding shall not be entitled to have its attorneys' fees and out-of-pocket expenditures paid by the losing Party. Each Party shall bear its own attorneys fees and costs.

ARTICLE 11

GENERAL PROVISIONS

11.1 Developer Representations and Warranties.

The Developer represents and warrants to the HCID and LADOT (collectively referred in this Section as "City"), as follows:

(a) Organization. The Developer is Mercy Housing California who will assign this agreement to a limited partnership whose general partner is wholly controlled by Developer. The Developer is duly organized, validly existing and in good standing under the laws of the State of California, with full power and authority to conduct its business as presently conducted and to execute, deliver and perform its obligations under this Agreement.

(b) Authorization. The Developer has taken all necessary action to authorize its execution, delivery and, subject to any conditions set forth in this Agreement, performance of the Agreement. Upon the date of this Agreement, this Agreement shall constitute a legal, valid and binding obligation of the Developer, enforceable against it in accordance with its terms.

(c) No Conflict. The execution, delivery and performance of this Agreement by the Developer does not and will not materially conflict with, or constitute a material violation or material breach of, or constitute a default under (i) the charter or incorporation documents of the Developer, (ii) any applicable law, rule or regulation binding upon or applicable to the Developer, or (iii) any material agreements to which the Developer is a party.

(d) No Litigation. Unless otherwise disclosed in writing to the City prior to the date of this Agreement, there is no existing or, to the Developer's actual knowledge, pending or threatened litigation, suit, action or proceeding before any court or administrative agency affecting the Developer or, to the best knowledge of the Developer, the Project Site that would, if adversely determined, materially and adversely affect the Developer or the Project Site or the Developer's ability to perform its obligations under this Agreement or to develop and operate the Project.

(e) Licenses, Permits, Consents and Approvals. Developer and/or any person or entity owning or operating the Site has duly obtained and maintained, or will duly obtain and maintain, and will continue to obtain and maintain, all licenses, permits, consents and approvals required by all applicable governmental authorities to own and operate the business on the Site.

11.2 Notices, Demands and Communications.

Formal notices, demands, and communications between the City and the Developer shall be sufficiently given if, and shall not be deemed given unless, delivered personally, or dispatched by certified mail, return receipt requested, or by facsimile transmission with the original to follow by reputable overnight delivery service with a receipt showing date of delivery, to the principal offices of the City and the Developer as follows:

HCID:	City of Los Angeles Housing and Community Investment Department 1200 West Seventh Street, 8 th floor
-------	---

Los Angeles, CA 90017
Attn: Housing Development Central

with copies to: Los Angeles Department of
Transportation
100 S. Main Street, 10th Floor
Los Angeles, CA 90012
Attn: Parking Facilities Division

Developer: Mercy Housing California
1500 S. Grand Ave. Suite 100
Los Angeles, CA 90015
Attn: Ed Holder
Mercy Housing Inc.
With copies to: 1999 Broadway, Suite 1000
Denver, CO 80202
Attn: Joe Rosenblum

With copies to: Gubb and Barshay LLP
505 14th Street, Suite 1050,
Oakland, CA 94612
Attn: Natalie Gubb

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section 11.2. Delivery shall be deemed to have occurred at the time indicated on the receipt for delivery or refusal of delivery.

11.3 Non-Liability of Officials, Employees and Agents.

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

11.4 Enforced Delay.

In addition to specific provisions of this Agreement, the Schedule of Performance shall be extended and performance by either Party shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; quarantine restrictions; freight embargoes; acts of god; severe or unusual shortages of materials or labor; uncommon inclement weather of an extreme or exceptional nature, unavoidable casualty; or court order; or any other similar causes (other than lack of funds of the Developer or the Developer's inability to finance the construction of the Project) beyond the control or without the fault of the Party claiming

an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within fifteen (15) days from the commencement of the cause and such extension of time is not rejected in writing by the other Party within ten (10) days of receipt of the notice.

11.5 Inspection of Books and Records.

Until the issuance of a Certificate of Completion by HCID to the Developer, the City has the right at all reasonable times and upon reasonable notice of no less than 48 hours to inspect on a confidential basis the books, records and all other documentation of the Developer pertaining to its obligations under this Agreement. In addition, for the term of the Affordability Covenant, the City shall have and retain the right at all reasonable times and upon reasonable notice to inspect the books, records and all other documentation of Developer pertaining to its obligations under the Affordability Covenant.

11.6 Indemnification.

Except for the active negligence or willful misconduct of the City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Developer undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, reasonable attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Developer's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Developer or its subcontractors of any tier, excluding any suits, causes of action, claims, losses, demands, expenses, damages or liability relating to Hazardous Materials or violations of Environmental Laws. Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States, the State of California, and the City. The provisions of this Section 11.6 shall survive expiration or termination of this Agreement.

11.7 Use of Project Images.

Developer hereby consents to and approves the use by City of images of the Project, its models, plans and other graphical representations of the Project and its various elements ("Project Images") in connection with marketing, public relations, and special events, websites, presentations, and other uses required by the City in connection with the Project. Such right to use the Project Images shall not be assignable by the City to any other party (including, without limitation, any private party)

without the prior written consent of Developer. Developer shall obtain any rights and/or consents from any third parties necessary to provide these Project Image use rights to City.

11.8 Plans and Data.

If Developer does not proceed with the lease or development of the Project, or if this Agreement is terminated for any reason, other than the breach or bad faith breach of this Agreement by City, Developer shall deliver to City, in accordance with section 5.10 of this Agreement, any and all plans, drawings, studies, designs, reports, surveys, and data pertaining to the Project and its development (collectively, "Site Designs") which are in the possession of Developer, together with a Bill of Sale there for, which Site Designs shall thereupon be the sole property of City, free of all claims or interests of Developer or any other person; and which City may use, grant, license or otherwise dispose of to any person for development of the Site or any other purpose.

11.9 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.

11.10 Applicable Law.

This Agreement shall be interpreted under and pursuant to the laws of the State of California.

11.11 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.

11.12 Binding Upon Successors; Covenants to Run With Land.

This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, and assigns of each of the Parties; provided, however, that there shall be no Transfer except as permitted in Article 7. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any successor, heir, administrator, executor, successor, or assign of such Party who has acquired an interest in compliance with the terms of this Agreement or under law.

The terms of this Agreement shall run with the land, and shall bind all successors

in title to the Site until the termination of this Agreement, except that the provisions of this Agreement that are specified to survive termination of this Agreement shall run with the land in perpetuity and remain in full force and effect following such termination. Every contract, deed, or other instrument hereafter executed covering or conveying the Site or any portion thereof shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the City expressly releases the Site or the applicable portion of the Site from the requirements of this Agreement.

11.13 City As Third-Party Beneficiary.

The City shall be a third-party beneficiary retaining enforcement rights with respect to this Agreement.

11.14 Entire Understanding of the Parties.

This Agreement constitutes the entire understanding and agreement of the Parties with respect to the Ground Lease of the Site and the development of the Project.

11.15 City Approval.

Whenever this Agreement calls for City approval, consent, or waiver, the written approval, consent, or waiver of the applicable department Manager shall constitute the approval, consent, or waiver of the City, without further authorization required from the City Board. The City hereby authorizes the applicable department Manager to deliver such approvals or consents as are required by this Agreement, or to waive requirements under this Agreement, on behalf of the City. However, any amendment or modification to this Agreement will require approval by the City Council.

11.16 Incorporation of Exhibits.

All Exhibits referred to in this Agreement are incorporated herein by such reference and made a part hereof.

11.17 Time of Essence; Context and Construction.

Time is of the essence of this Agreement. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The term person as used in this Agreement, includes a natural person, corporation, association, partnership, organization, business, trust, individual, or a governmental authority, City. "Day" or "days" is used herein, such shall refer to calendar day or days, unless otherwise specifically provided herein. Whenever a reference is made herein to a particular Article of this Agreement, it shall mean and include all sections, subsections and subparts thereof, and, whenever a reference is made herein to a particular section

or subsection, it shall include all subsections and subparts thereof.

11.18 Effectiveness of Agreement.

This Agreement is dated for convenience only and shall only become effective on the Agreement Date.

11.19 Counterparts.

This Agreement may be executed in counterparts and multiple originals.

11.20 Amendments.

The Parties can amend this Agreement only by means of a writing signed by both Parties.

11.21 Police Power.

Nothing contained herein shall be deemed to limit, restrict, amend or modify, nor to constitute a waiver or release of, any ordinances, notices, orders, rules, regulations or requirements (now or hereafter enacted or adopted and/or as amended from time to time) of the City, its departments, commissions, agencies and boards and the officers thereof and/or the City, including, without limitation, any redevelopment or general plan or any zoning ordinances, or any of City's duties, obligations, rights or remedies thereunder or pursuant thereto or the general police powers, rights, privileges and discretion of City in the furtherance of the public health, welfare and safety of the inhabitants thereof, including, without limitation, the right under law to make and implement independent judgments, decisions and/or acts with respect to planning, development and/or redevelopment matters (including, without limitation, approval or disapproval of plans and/or issuance or withholding of building permits) whether or not consistent with the provisions of this Agreement, any Exhibits attached hereto or any other documents contemplated hereby (collectively, "City Rules and Powers"). In the event of any conflict, inconsistency or contradiction between any terms, conditions or provisions of this Agreement, Exhibits or such other documents, on the one hand, and any such City Rules and Powers, on the other hand, the latter shall prevail and govern in each case. This Section shall be interpreted for the benefit of City.

11.22 No Obligation To Third Parties.

This Agreement shall not be deemed to confer any rights upon, nor obligate either of the Parties to this Agreement to, any person or entity not a Party to this Agreement other than the City and the Parties explicitly disclaim any intent to create a third party beneficiary relationship with any person or entity as a result of this Agreement.

11.23 Brokers.

City and Developer each represents that it has not engaged any broker, agent or finder in connection with this transaction. Developer agrees to defend, indemnify and hold City and all City Representatives harmless from and against any Losses and Liabilities with respect to such commissions based upon the alleged acts of Developer. City agrees to defend, indemnify and hold Developer harmless from and against Losses and Liabilities with respect to such commissions based upon the alleged acts of City.

11.24 Standard of Approval.

Any consents or approvals required or permitted under this Agreement shall not be unreasonably or untimely withheld or made, except where it is specifically provided that a sole discretion standard applies.

11.25 Submittals and Approvals.

Various submittals are required by the Developer pursuant to this Agreement. As expressly provided by this Agreement, the City shall approve or disapprove certain submittals from Developer within specified timeframes or else such submittal shall be deemed approved by the City. Notwithstanding the provisions for deemed approval, no submittal or matter shall be deemed approved unless the request for approval contains the following provision, in bold print with the appropriate time period stated:

**NOTICE IS HEREBY GIVEN THAT PURSUANT TO
SECTION ____ OF THE GROUND LEASE THAT FAILURE
TO APPROVE THE REQUESTED MATTER WITHIN ____
DAYS SHALL BE DEEMED AN APPROVAL.**

**ARTICLE 12.
DEFINITIONS**

"Affordability Covenants" shall mean those covenants to be recorded on the Site in accordance with Section 7.2.1. of this Agreement, in the form attached hereto as Exhibit

F.

"Area Median Income" shall mean the median gross yearly income, adjusted for actual household size as specified herein, in the County of Los Angeles, California as determined by the U.S. Department of Housing and Urban Development ("HUD") and as published from time to time by the State of California Department of Housing and Community Development ("HCD").

"Building Permit" shall mean an excavation, foundation, or other building permit issued by the City in connection with the construction of the Improvements.

"Close of Escrow" shall mean the close of escrow for the ground lease, and transfer of a leasehold interest in the Site by LADOT, as lessor and the Developer, or its successors and assigns, as lessee, as provided in Section 4.5.5 of this Agreement.

"Design Development Drawings" shall mean the construction drawings described in Section 5.3.2 of this Agreement.

"Eligible Participants" shall mean those tenants meeting the income restrictions assigned to the affordable units constructed in accordance with this Agreement and the Eligible Participant Selection Criteria.

"ENA" shall mean the Exclusive Negotiation Agreement, as amended, executed by the Developer on May 23, 2014, HCID on July, 30 2014 and LADOT on August 4, 2014.

"Encumbrance" shall mean any mortgages, deeds of trust, assignment of rents and security agreements, and other real property security instruments recorded against title to the Site.

"Environmental Agency" means (a) the United States Environmental Protection Agency; (b) the California Environmental Protection Agency and all of its sub-entities having jurisdiction over the Premises, including any Regional Water Quality Control Board, the State Water Resources Control Board, the Department of Toxic Substances Control, the South Coast Air Quality Management District, and the California Air Resources Board; (c) the City; (d) any Fire Department or Health Department with jurisdiction over the Premises; (e) and/or any other federal, state or local Governmental Authority that has or asserts jurisdiction over Releases or the presence, use, storage, transfer, manufacture, licensing, reporting, permitting, analysis, disposal or treatment of Hazardous Substances.

"Escrow Holder" shall mean the escrow agent selected by the Developer, and approved by LADOT, to administer the Escrow required by this Agreement.

"Final Construction Drawings" shall mean the construction drawings described in Section 5.3.3 of this Agreement.

"Financing Plan" shall mean the Developer's plan for financing the Project submitted to HCID pursuant to 4.1.1 of this Agreement.

"Improvements" shall mean all buildings, structures, fixtures, fences, walls, paving, parking areas, driveways, walkways, plazas, landscaping, permanently affixed utility systems, and other improvements to be constructed by Developer pursuant to the terms of this Agreement, and existing or located on the Site] from time-to time (other than those improvements and equipment constituting a portion of the Replacement Public Parking Improvements).

"New Market Tax Credit Program" shall mean that program described in Section 7.4.1 of this Agreement.

"Phase I Report" shall mean the Phase 1 environmental report to be conducted on the Project Site by Developer.

"Proforma" shall mean the preliminary development proforma described in Section 4.1.1, a copy of which is attached as Exhibit J.

"Project Documents" shall mean those documents described in Sections 5.2 and 5.3 of this Agreement.

"Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, disposing, or dumping of Hazardous Substances onto or from the Sites.

"Remediate" or "Remediation" shall mean any response or remedial action as defined under Section 101(25) of CERCLA, and similar actions with respect to Hazardous Substances as defined under comparable state and local laws, and any other clean-up, removal, containment, abatement, monitoring, treatment, disposal, closure, restoration or other mitigation or remediation of Hazardous Substances or Releases required by any Environmental Agency or within the purview of any Environmental Law.

"Replacement Public Parking Improvements" shall mean any or all of the public parking spaces to be located on the Site, consisting of the applicable Replacement Parking Spaces, and buildings, structures, fixtures, fences, walls, paving, parking areas, driveways, walkways, plazas, elevators, landscaping, permanently affixed utility systems, and other improvements to be constructed on the Public Parking Parcel by the Developer subject to the terms and conditions of this Agreement, all as depicted on the Site Plan

"Replacement Public Parking Spaces" shall mean the public parking spaces to be constructed by Developer subject to the terms and conditions of this Agreement, in an amount not to exceed thirty-nine (39) replacement public parking spaces plus eight (8) additional public parking spaces for a total of forty-seven (47) public parking spaces

"Residential Parcel" shall mean any or all of the Site Residential Parcel

"Residential Project" shall mean any portion of the Project consisting of the Units or any Improvements existing or located on the Residential Parcel, and excluding the Public Parking Parcel and the Replacement Public Parking Improvements.

"Schematic Design Drawings" shall mean the initial drawings for the Project more fully described in Section 5.3.1 of this Agreement.

"Ground Lease" shall mean that certain ground lease to be entered into by LADOT, as lessor, and the Developer, or its successors and assigns, as lessee, for the lease of the Site.

"Subdivision Map" means a Tract Map creating a subdivision within the Site, which will result in the division of such Site into two, or more, legal parcels constituting a Residential Parcel, a Parking Parcel and/or a ground parcel.

"Term Sheet" shall mean that document titled Pico Robertson Senior Community Joint Development Agreement Terms and Conditions dated September, 15 2014.

"Title Policy" shall mean an ALTA Leasehold Owner's policy insuring the Developer, or its successors and assigns, leasehold interest in the Residential Parcel, with coverage in an amount requested by Developer and containing only those Exceptions approved by Developer in accordance with Section 4.5 of this Agreement. Within ten (10) days after Escrow Holder's request, LADOT, HCID, or Developer (as applicable) shall deliver all affidavits and information reasonably required by the title insurer issuing such Title Policy to Developer.

"Title Reports" shall mean a preliminary title report for the Site, for a standard form ALTA owner's policy of title insurance underwritten by the title company showing the condition of LADOT's title to the Site, together with legible copies of all documents referred to therein.

"Tract Map" means collectively any lot line adjustment, lot split, certificate of compliance, permit, approval, record of survey, parcel map, tract map, subdivision map, or any other map as may be sought by Developer or as may be required for the creation and leasing of the Residential Parcel pursuant to the California Subdivision Map Act.

"Unavoidable Delay" means the period of any delay directly affecting the Developer, the Project or this Agreement which is beyond the reasonable control of a party to this Agreement and is caused by: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of a public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; or unseasonable weather conditions.

IN WITNESS WHEREOF, the Parties have executed this Joint Development Agreement as of the date first above written.

"CITY"

THE CITY OF LOS ANGELES, a municipal corporation

DEPARTMENT OF TRANSPORTATION

By: _____
SELETA J. REYNOLDS, GENERAL MANAGER

APPROVED AS TO FORM:
MICHAEL N. FEUER, CITY ATTORNEY

By: _____

HOUSING AND COMMUNITY INVESTMENT
DEPARTMENT

By: _____
RUSHMORE CERVANTES, GENERAL MANAGER

APPROVED AS TO FORM:
MICHAEL N. FEUER, CITY ATTORNEY

By: _____

"DEVELOPER"

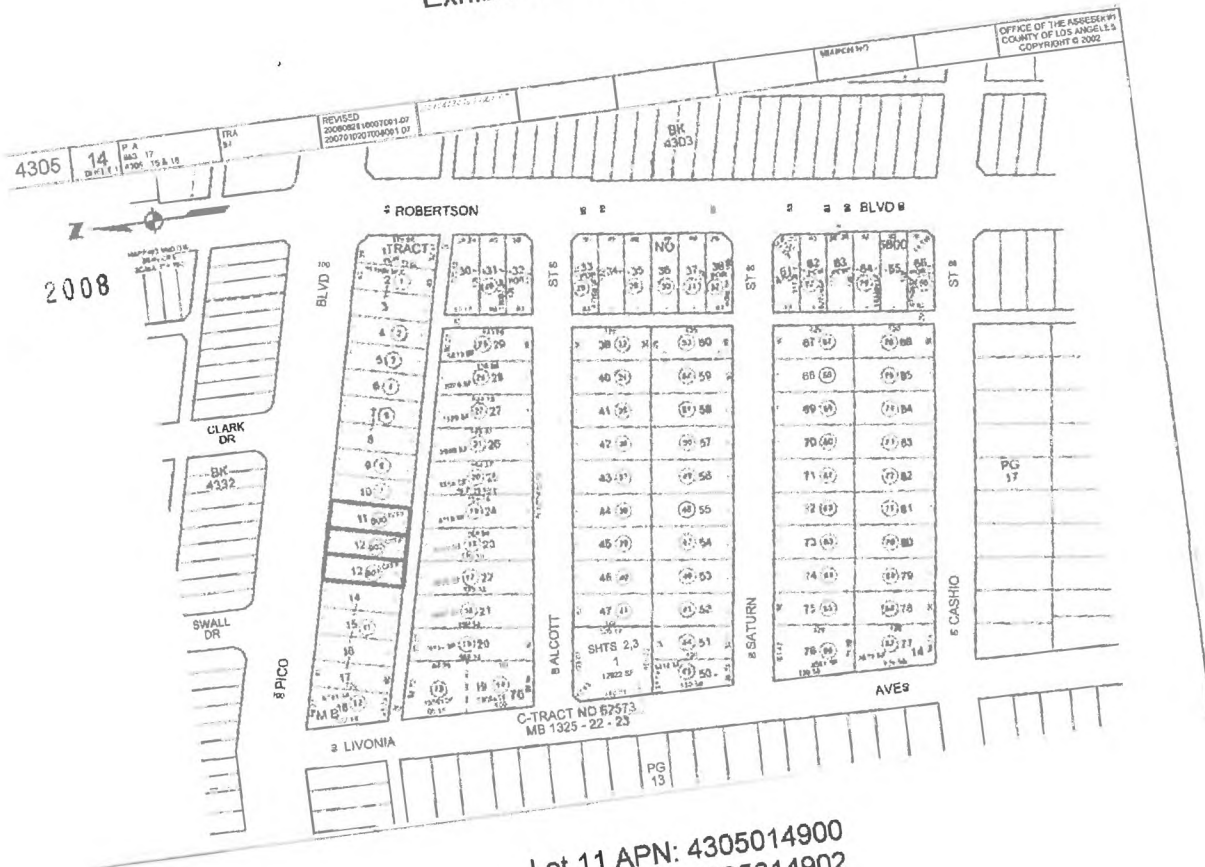
MERCY HOUSING CALIFORNIA
a California nonprofit public benefit corporation

By: _____
Name: _____
Its: _____

EXHIBITS

- Exhibit A: Project Site
- Exhibit B: Scope of Development
- Exhibit C: Site Plan
- Exhibit D: Schedule of Performance
- Exhibit E: Architect's Assignment
- Exhibit F: Form of Affordability Covenants
- Exhibit G: City of Los Angeles Insurance Requirements
- Exhibit H: Proforma

Exhibit A – Project Site



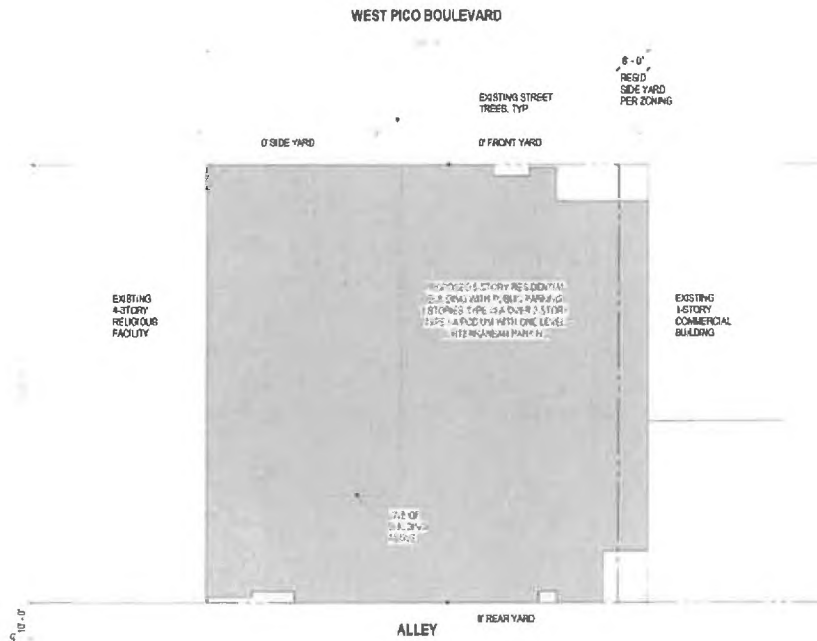
Lot 11 APN: 4305014900
Lot 12 APN: 4305014902
Lot 13 APN: 4305014901

Exhibit B – Scope of Development

The Project shall consist of the construction of a minimum of forty-two (42) income restricted, senior (age 55+) residential units and one non-income restricted on-site manager's unit and residential parking per code. The units will include: all one-bedroom units or a mix of one-bedroom and studio units. One hundred percent (100%) of the units, except the manager's unit, as affordable to tenants with incomes not more than sixty percent (60%) of Area Median Income.

The Project shall also include the construction of thirty-nine (39) replacement public parking spaces plus eight (8) additional public parking spaces for a total of forty-seven (47) public parking spaces. The public parking spaces will be located at grade and one level above grade garage with access from Pico Blvd.

Exhibit C – Site Plan



PICO-ROBERTSON APARTMENTS

8802-8866 WEST PICO BOULEVARD
LOS ANGELES, CA 90005

Mercy Housing

BENCH MARK
CONSTRUCTION, INC.

1400 OLYMPIC BOULEVARD
SANTA MONICA, CA 90405
PHONE 310 359 7275
FAX 310 359 7275
WWW.BENCHMARKCONSTRUCTION.COM

ALL INFORMATION CONTAINED HEREIN
IS THE COPYRIGHTED WORK OF
BENCH MARK CONSTRUCTION, INC.
AND MAY NOT BE REPRODUCED
WITHOUT THE WRITTEN PERMISSION
OF BENCH MARK CONSTRUCTION, INC.

PROPOSAL
DATE 04.30.08
SCALE 1/16" = 1'-0"

SITE PLAN

A000



Exhibit D – Schedule of Performance

JDA Effective Date – _____

Subject	Description	Time (days)
1. HCID Pipeline	Apply for entry into HCID Pipeline and TCAC slot	N/A
2. HCID Pipeline*	Gain fully approved entry into HCID Pipeline and TCAC slot*	N/A*
3. Financing Plan	Cash flow, cost breakdown, sources and uses	30
4. Subdivision Map	Proposed Tentative Tract Map for City to review	270
5. City Approvals	Planning - Application date	330
6. Design Documents	Submit Schematic Design Drawings for City review	360
7. City Approvals	Planning - Approval date	420
8. Financing	Apply for 9% TCAC with HCID support**	480
9. Financing***	Obtain and accept 9% TCAC allocation***	540***
10. Design Documents	Submit Design Development Drawings for City review	90
11. Market Study	Submit Market Study to City	30
12. Design Documents	Submit Final Construction Drawings for City review	120
13. Construction	Pre-Construction meeting with LAHD, Contractor & Owner	120
14. Construction Contract	Copy of draft contract for City to review	120
15. Insurance	Evidence of Developer and Contractor Insurance to City	120
16. Assignments	Assign Phase 1, Geotech Report, and Architectural Drawings to The City	180
17. Affordability Covenant	Record Affordability Covenant	180
18. Construction Bonds	Completion Guaranty by General Contractor	180
19. Permits and Approvals	Obtain all permits and approvals	180
20. Title	City review of Title Report, Exceptions	180
21. Title	Developer to approve or disapprove the Exceptions	180
22. Construction	Commence Construction	180
23. Subdivision Map	Recordation of Final Map with the County Recorder	540
24. Management Plan	Submit Property Management Plan to City	540
25. Marketing Plan	Submit Marketing Plan to City	540
26. Tenant Selection Criteria	Submit Tenant Selection Criteria to City	540
27. Construction	Complete Construction	720

*Successful completion of this item shall trigger the requirement to complete items 3-9 in the time shown from the date of fully approved entry into the HCID managed pipeline and approved selection for a TCAC round.

**This requires HCID approval and support.

*** Due to the Project having to compete in the highly competitive TCAC 9% "Senior Housing Type", which regularly reaches TCAC funding capacity prior to other housing types, The Developer shall be granted an automatic 360 day extension on this item and all subsequent items if the Project is not funded in the first TCAC application attempt. Successful completion of this item shall trigger the requirement to complete items 12-28 in the time shown from the date of Developer's obtaining and accepting a 9% TCAC allocation.

Exhibit E: Architect's Assignment

EXHIBIT E

ASSIGNMENT OF ARCHITECT'S CONTRACT PLANS SPECIFICATIONS AND PERMITS (With Architect's Consent and Certificate)

ASSIGNMENT OF ARCHITECT'S CONTRACT AND PLANS AND SPECIFICATIONS AND PERMITS (With Architect's Consent and Certificate)

Sample form

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged _____, a California _____ (the "Borrower"), as security for the obligations incurred and to be incurred by Borrower pursuant to the Loan Agreement of _____, 2008 (the "Loan Agreement") between Borrower and the City of Los Angeles, a municipal corporation ("City"), relating to the financing of acquisition, predevelopment, construction and permanent expenses on certain real property located in the City of Los Angeles, County of Los Angeles, California (the "Site"), as described in the Loan Agreement, hereby assigns and transfers to the City of Los Angeles ("City"), its successors and assigns, all of (1) Borrower's rights in and to those certain Plans and Specifications together with all amendments, modifications, supplements, general conditions and addenda thereto relating to the Site, prepared pursuant to the Loan Agreement (the "Plans") by _____ ("Architect"), (2) Borrower's right, title and interest in that certain agreement dated _____, between Borrower and Architect, a true and complete copy of which is attached hereto and incorporated herein by reference as Exhibit (the "Contract"), and (3) all permits to be obtained by or for the benefit of Borrower relating to the Plans or the Project ("Permits"). Architect consents to this Assignment, and has executed the Consent and Certificate attached hereto as Exhibit # and incorporated herein by this reference.

Neither this Assignment nor any action or actions on the part of the City shall constitute an assumption by the City of any of Borrower's obligations under the Contract unless and until the City shall have given written notice to Architect of its election to complete construction of the Project following a default by Borrower under the Loan Agreement. Borrower shall continue to be liable for all obligations under the Contract and Borrower hereby agrees to perform each and all such obligations. In the event of a default under the Loan Agreement, the City may elect to reassign its rights to the Plans, the Permits and the specifications under the Contract to any person or entity selected by the City to complete the Project. Such person or entity shall succeed to all of the rights of Borrower thereunder without the necessity of any consent from Borrower or Architect and the City shall have no liability for any failure of such person or entity to perform the obligations under the Contract. Provided, however, that in the event the City reassigns its rights to the Plans to another person or entity, the Architect's name shall not be used in connection therewith unless the Architect so approves in writing.

Borrower hereby represents and warrants to the City that (1) the Contract is in full force and effect with no defaults thereunder by either Borrower or Architect, (2) no event has occurred that would constitute a default under the Contract upon the giving of notice or the lapse of time or both, and (3) Borrower has made no previous assignment of, and granted no security interest in, its rights to the Plans, the Permits or the specifications under the Contract. Borrower agrees that (a) it will not assign, transfer or encumber its rights to the Plans, the Permits or under the Contract so long as any obligation under the Loan Agreement remains unsatisfied, (b) it will not agree to any amendment of the Contract without the prior written consent of the City, (c) it will not terminate the Contract or accept a surrender thereof, or waive, excuse, condone or in any manner release or discharge Architect of or from the obligations and agreements by Architect to be performed thereunder, in the manner and at the place and time specified therein without the prior written consent of the City, and (d) it will indemnify the City against any liabilities, losses, costs and expenses, including reasonable attorneys' fees, which may be incurred by the City as a result of the exercise of its rights under this Assignment.

The City shall have the right at any time (but shall have no obligation) to take in its name or in the name of Borrower or otherwise such action as the City may at the time or from time to time determine to be necessary to cure any default under the Contract, to protect the rights of Borrower or the City thereunder, or enforce all rights of Borrower under the Contract. Borrower hereby irrevocably constitutes and appoints the City its true and lawful attorney in Borrower's name or in the City's name or otherwise to take all such action. The exercise of the City's

rights hereunder shall not constitute a waiver of any of the remedies of the City under the Loan Agreement or any other document or agreement or otherwise existing at law or otherwise.

Executed this _____ day of _____, 200_

A California _____

By: _____
A California _____
Its: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

**ASSIGNMENT OF ARCHITECT'S CONTRACT
AND PLANS AND SPECIFICATIONS AND PERMITS
(With Architect's Consent and Certificate)
(_____ PROJECT)**

CONSENT AND CERTIFICATE

Pursuant to that certain assignment of Architect's Contract and Plans and Specifications and Permits (the "Assignment") executed by _____, a California _____ ("Borrower") on _____, the undersigned, as Architect, hereby consents to the assignment by Borrower of the Plans (all defined terms herein shall have the meaning defined in the Assignment), the Permits and the Contract to the City of Los Angeles, a municipal corporation and charter city ("the City"), and to each and all of the terms and conditions of such attached assignment and confirms to the City that (a) the Contract constitutes the entire agreement between the undersigned and Borrower relating to the Project, (b) the Contract is in full force and effect with no defaults thereunder, (c) no event has occurred that would constitute a default under the Contract upon the giving of notice or the lapse of time or both, (d) no material modification shall be made in the Contract without the prior written consent of the City, (e) the undersigned agrees to be bound by the provisions of the Loan Agreement restricting the ability of Borrower to make changes in the Plans without the prior written consent of the City, (f) the undersigned is not aware of any prior assignment of the Plans, the Permits or the Contract by Borrower, and (g) a complete copy of the Plans and all Permits will be delivered to the City. The undersigned agrees that in the event of any default by Borrower under the Contract, the undersigned will give written notice to the City thereof and the City shall have the right, but not the obligation, to cure said default within sixty (60) days from the City's receipt of such notice.

The undersigned further agrees that in the event the City becomes the owner of the Project, or undertakes to complete construction thereof, or assigns its rights to the Plans, the Permits and the specifications under the Contract to another person or entity, or otherwise requires the use of the Plans, the Permits and the specifications, the City, its successors and assigns are authorized to use the Plans, the Permits and the specifications without additional cost or expense beyond that stated in the Contract, all rights under the Contract otherwise exercisable by Borrower may be exercised by the City or such successor or assign, and the undersigned will perform its obligations in conformity with the Contract for the benefit of the City, its successors or assigns.

In order to induce the City to enter into the Loan Agreement and make the advances contemplated therein, the undersigned certifies to the City as follows:

- (a) As represented in the Plans, the Development will comply with (1) all statutes, rules, regulations and ordinances of all governmental agencies having jurisdiction over the Project, including, without limitation, those relating to zoning, building, pollution control and energy use; (2) all applicable covenants, conditions and restrictions affecting the Site and the Project, and (3) the requirements of the appropriate board of fire underwriters.
- (b) Construction of the Project in accordance with the Plans will not result in any encroachment on any adjoining property or on any surface easement.
- (c) The Plans will include (1) any recommendations contained in any soil or other geological test performed on the Site, and (2) parking for cars sufficient to meet the requirements of all applicable statutes, rules, regulations, ordinances, tract map conditions and leases.
- (d) The undersigned is duly licensed to conduct its business in the jurisdiction where its services are to be performed and will maintain such license in full force and effect throughout the term of the Contract.

The City shall have the right at any time to use all plans, specifications and drawings from the Project

prepared by or for the undersigned for the Project, including, without limitation, the Plans, and the ideas, designs and concepts contained therein, without payment of any additional fees or charges to the undersigned for such use.

The undersigned hereby assigns to the City all of the undersigned's right, title and interest in, to and under all subcontracts which are now or hereafter entered into by the undersigned in furtherance of its obligations under the Contract; provided, however, that until a default occurs by the undersigned under the Contract, the City shall not exercise any rights in the subcontracts which are hereby assigned.

The undersigned acknowledges that the City is relying on, among other things, the Consent, confirmations, agreements and assurances provided herein in entering into the Loan Agreement and agreeing to advance funds thereunder to Borrower for construction of the Project.

DATED: _____, 200_.

ARCHITECT:

By: _____

Title: _____

Exhibit F: Form of Affordability Covenants

Exhibit F

EXHIBIT LOAN AGREEMENT (**PROJECT**)

NO FEE DOCUMENT

Recording requested by and
when recorded, mail to:

City of Los Angeles
Los Angeles Housing Department
P.O. Box 532729
Los Angeles, CA 90053-2729
Attn: Asset Management (CBTS No. *)

Assessor's Identification Numbers: *

REGULATORY AGREEMENT

This Regulatory Agreement is made this _____ day
of _____, 2011 by and between the City of
Los Angeles, a municipal corporation (the "City"), and _____,
a California _____ ("Owner").

RECITALS

A. The City wishes to promote the construction of
multifamily rental housing within the City of Los Angeles.

B. *

C. The purpose of this Regulatory Agreement is to regulate and
restrict the occupancy, rents, operation, ownership, and management
of the Property for the benefit of Property, occupants and the
people of the City of Los Angeles. The covenants in this
Regulatory Agreement are intended to run with the land and be
binding on Owner and Owner's successors for the full term of this
Regulatory Agreement.

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

DEFINITIONS

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

K - (1 of 19)

[*Regulatory Agreement]

1. **"AREA MEDIAN INCOME"** means the median income for the Los Angeles Primary Metropolitan Statistical Area (PMSA), with adjustments for household size, as determined from time to time by the U.S. Department of Housing and Urban Development (HUD) pursuant to the United States Housing Act of 1937 as amended, or such other method of median income calculation applicable to the City of Los Angeles that HUD may hereafter adopt in connection with said Act.

2. **"ASSISTED UNIT"** means a housing unit on the Property which is supported by _____.

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

4. **"CITY DEED OF TRUST"** is that deed of trust, assignment of rents, and security agreement placed on the Property as security for the Loan by Owner as trustor with City as beneficiary, as well as any amendments to, modifications of, and restatements of said deed of trust.

5. **"CITY LOAN AGREEMENT"** means the loan agreement(s) executed concurrently with this Regulatory Agreement by Owner and the City which governs the City Loan, as well as any amendments to, modifications of, or restatements of said loan agreement(s). The City Loan Agreement(s) are on file with the Los Angeles Housing Department.

6. **"CITY LOAN"** is any loan of funds provided by the City to Owner for the Project.

7. **"CITY LOAN DOCUMENTS"** are collectively the City Loan Agreement, City Note, City Deed of Trust, and this Regulatory Agreement as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

8. **"CITY NOTE"** means any promissory note executed by Owner in favor of the City, directly or by assignment, evidencing any part of the City Loan, which is secured by the City Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note(s). The City Note(s) is on file with the Los Angeles Housing Department.

9. **"ELIGIBLE COSTS"** means those costs for which Loan proceeds may be used as specified in the City Loan Agreement, and any revisions to the City Loan Agreement that are approved in

writing by City. In addition, other items may be Eligible Costs if approved in writing by City.

10. **"ELIGIBLE HOUSEHOLD"** means a household that qualifies as a _____ Household. For reference purposes, the eligibility income requirements are specified in Exhibit B.

11. **"HOUSEHOLD INCOME"** means the gross amount of income of all Adult Household members that is anticipated to be received during the coming 12-month period determined in accordance with the definition of Annual Income contained in 24 C.F.R. 5.609.

12. **"HUD"** means the United States Department of Housing and Urban Development.

13. **"IMPROVEMENTS"** shall mean _____ (_____) housing units of which _____ (_____) will be affordable to _____ Households.

14. **"LAHD"** shall mean the Los Angeles Housing Department of the City of Los Angeles, California.

15. **"LOAN"** means the loan of funds provided by City to Owner pursuant to this City Loan Agreement.

16. **"LOAN AGREEMENT"** and **"CITY LOAN AGREEMENT"** means the loan agreement entered into between City and Owner.

17. **"LOAN DOCUMENTS"** are collectively the City Loan Agreement, the City Note, the City Deed of Trust, this Regulatory Agreement, and the UCC-1, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

18. **"OWNER"** is _____, a California _____, and its authorized representatives, assigns, transferees, or successors-in-interest thereto.

19. **"PROJECT"** means the construction and operation of the Property for residential use according to the terms of the City Loan Agreement and the Regulatory Agreement.

20. **"PROPERTY"** means the real property described in the attached Exhibit A, which is hereby incorporated into this Regulatory Agreement by this reference, and any buildings or Improvements now or hereafter situated on said real property.

21. "QUALIFYING HOUSEHOLD" means a Household Income not exceeding the maximum income level as established in Exhibit B for an Assisted Unit and who is otherwise eligible to rent an Assisted Unit.

22. "QUALIFYING RENT" means the maximum rent for an Assisted Unit allowed under the City Loan Agreement and this Regulatory Agreement, less an allowance for tenant-paid Utilities as calculated by the Los Angeles Housing Authority for the Section 8 Rental Assistance Program, and is the consideration, including any bonus, benefits or gratuity, demanded or received by Owner for or in connection with the use or occupancy of a rental unit, including parking, laundry facilities, and other housing services and amenities of any kind that are reasonably deemed as part of rent by the City. The following is not permissible: (a) additional service charges resulting in a rent amount above the maximum allowable rent set by this Regulatory Agreement and the Loan Documents; and (b) contracts with other agencies resulting in rent payments on behalf of the tenant for more than the regulatory agreement's qualifying rent, unless the project is designated as a HUD project based rental assisted building.

23. "RESTRICTED UNIT" means a housing unit on the Property which is reserved for occupancy by a household with a **levels of affordability**, or other designated income as set forth in Exhibit B, and which is designated to be rented at a Qualifying Rent as set forth in Exhibit B.

24. "UTILITIES" means the provision of electricity, gas, water, sanitation, or other public services.

25. "** INCOME HOUSEHOLD" means an annual Household Income not exceeding _____ (_____) of the median for the Los Angeles Metropolitan area as determined by HUD with adjustments for smaller and larger households.

OWNER'S OBLIGATIONS

26. COMPLIANCE WITH CITY LOAN DOCUMENTS. Owner's actions with respect to the Property and the use of City Loan funds shall at all times be in full conformity with all of the requirements of the City Loan Documents.

27. TERM OF AGREEMENT. This Regulatory Agreement shall commence upon execution and shall remain in full force and effect

for _____ () years from the date of execution of this Regulatory Agreement, regardless of any expiration of the term of any City Loan, any payment or prepayment of any City Loan, any assignment of a City Note, any reconveyance of a City Deed of Trust, or any sale, assignment, transfer, or conveyance of the Property, unless terminated earlier by the City in writing or extended by the mutual consent of the parties. However, failure to record this Regulatory Agreement or the certificate by the City shall not relieve Owner of any of the obligations specified herein.

28. **COMPLIANCE WITH FUNDING REQUIREMENTS.** The funds are from the _____, Los Angeles Council File * _____. Owner must comply with all the requirements imposed on properties assisted under the applicable sources of funds:

- A.
- B. Any other implementing rules and regulations are incorporated by this reference.
- C. In the event of any conflict between this Regulatory Agreement and the * _____ regulations, * _____ regulations shall govern, unless otherwise waived by the City. In the event of any conflict between the sources of funds requirements, the most restrictive requirement shall govern.

PROJECT OCCUPANCY AND RENTS

29. **OPERATION OF PROPERTY.** Owner and its agents shall lease, operate and manage the Property after completion in full conformance with the terms of the Regulatory Agreement.

Owner agrees to: (1) maintain and operate the Assisted Units so as to provide decent, safe, and sanitary housing; and (2) provide the Assisted Units with the same level of services (including security), amenities, and maintenance as are applied to the other dwelling units on the Property. Amenities that are provided to non-assisted unit households include, but are not limited to, access to recreational facilities, parking, cable TV, and interior amenities such as dishwashers and microwave ovens. Optional services provided must be available to all residents under the same terms and conditions. All incentives such as rent specials must be offered to all new residents, not only residents of non-assisted units.

30. **DESIGNATED ASSISTED UNITS.** The designated Assisted Units on the Property shall meet the following standards:

- A. Generally reflect the average number of bedrooms per dwelling unit and average square footage of non-assisted units on the Property;
- B. Be similarly constructed and of comparable quality to all other units on the Property;
- C. Be dispersed throughout the Property; and
- D. Provide tenants access and enjoyment of all common areas and facilities of the Property on the same basis as tenants of other units.

31. **LEASING THE PROPERTY.** Before leasing any portion of the Property, Owner shall submit its proposed form of lease for City's review and approval. The term of the Lease shall be for no less than one (1) year unless mutually agreed upon by Owner 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 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 Owner specifying the grounds for the action.

A. Assisted Units

- 1. All Assisted Units shall be leased and shall not be withdrawn from the market. Assisted Units shall be rented in a manner consistent with the Space and Occupancy Standards set forth in Chapter 5 of the Uniform Housing Code (1997), and in such a manner that there is no under-utilization of the floor space of Assisted Units.
- 2. If one (1) of the Assisted Units becomes vacated, Owner shall use reasonable attempts to rent that particular Assisted Unit, or identify another unit as an Assisted Unit.
- 3. During the initial lease up, and upon vacancies of an Assisted Unit, Owner shall make reasonable efforts to advertise to Eligible Households. The affirmative marketing requirements and procedures adopted must meet the requirements of federal fair housing laws and the City's affirmative marketing policy. Owner shall obtain and comply with the City's affirmative marketing guidelines contained

within the Property Management Plan Packet from LAHD Contract Compliance Unit.

B. The Owner shall provide to each tenant, the following: (1) a signed copy of the lease and/or rental agreement; and (2) a signed copy of the supplemental agreement to the lease or rental agreement ("Mandatory Addendum").

32. **TENANT SELECTION.** Before leasing the Property, Owner must provide City for its review and approval Owner's written tenant selection plan. The Owner's 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.

Owner shall rent the Assisted Units to any Eligible Household according to the tenant selection plan. Owner 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 Exhibit B.

Owner shall maintain and select tenants from a written waiting list in the chronological order of their application. Owner shall provide said waiting list to any subsequent owner and/or property manager.

Owner shall give priority for Assisted Units to Qualified Households who have been displaced as a result of the City of Los Angeles' public projects.

33. **INCOME CERTIFICATION.** Owner shall limit for the full term of the Regulatory Agreement the rental of Assisted Units to Qualifying Households according to the schedule contained in Exhibit B. The income levels and other qualifications of applicants for Assisted Units shall be certified within ten (10) business days of the household's expected occupancy of one (1) of the units. Owner acknowledges that it has received a copy of the current City of Los Angeles rules governing income certification, and shall comply with these rules as they may be amended.

On an annual basis, Owner shall provide the City with a copy of an occupancy summary report showing the present occupants, rent, and size of the Assisted Units on the Property, and any other information which the City requests and which relates to the eligibility of these households. If the household size of an Eligible Household changes, the City may request additional income documentation to determine eligibility. If the City determines that the Eligible Household is no longer an Eligible Household, such Unit will continue to be treated as an Assisted Unit until the next available unit of comparable size on the Property is rented to

a person who qualifies for an Assisted Unit; or, if HOME Funds are used and the Eligible Household is found to no longer qualify as * the household must pay thirty percent (30%) of their Household Income for rent and Utilities or the maximum increases allowed under the City's Rent Stabilization Ordinance, whichever is less. Notwithstanding the previous sentence, tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent governed by section 42.

The City may require the Owner, at any time, to re-examine for compliance with the Exhibit B, the income of each tenant household and immediately submit its findings to the City.

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

- A. () bedroom units in the Project shall at all times be occupied or held vacant and available for rental by * Income Households (households who do not exceed * () median income for the Los Angeles Metropolitan area as determined by HUD with adjustments for smaller and larger households). Income determination shall be made at the time of initial occupancy of a unit by a tenant.
- C. All units are described and limited as set forth in Exhibit B.
- D. If HOME Funds are used, Owner must comply with the affordability requirements contained in 24 CFR 92.252.

35. **PROJECT RENTS.** Rents for Restricted Units shall be limited to Qualifying Rents as set forth in Exhibit B. Qualifying 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 a Restricted Unit may change from time to time when there are changes in the Area Median Income as published by HUD, 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 a Restricted Unit exceed the HUD 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.

36. **NOTICE TO TENANTS.** There are four (4) points in time when the Owner is required to give written notice to all tenants of Restricted Units:

- A. Upon initial move-in/lease execution, Owner shall give written notice, to all tenants of Restricted Units, of the duration of the rent restrictions under this Regulatory Agreement. Owner 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 Regulatory Agreement shall be for fifty five (55) years, and shall terminate fifty five (55) years from the date of execution of this Regulatory Agreement. Upon termination of the rent restriction period under this Regulatory 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 Regulatory Agreement, Owner must give written notice to its tenants of the termination of the restrictions on the Restricted Units before their rents may be raised to market rent levels. Owner must also give written notice, pursuant to California Government Code Section 65863.10, to the Mayor of the City of Los Angeles, the Housing Authority of the City of Los Angeles, and the Department of Housing and Community Development.
- C. Six (6) months prior to the termination of the rent restriction period under the Regulatory Agreement, Owner must give written notice to its tenants of the termination of the restrictions on the Restricted Units before their rents may be raised to market rent levels. Owner must also give written notice, pursuant to California Government Code Section 65863.10, to the Mayor of the City of Los Angeles, the Housing Authority of the City of Los Angeles, and the Department of Housing and Community Development.
- D. Ninety (90) days prior to the termination of the rent restriction period under this Regulatory Agreement, Owner

must again give written notice to its tenants of the termination of the restrictions on the Restricted Units before their rents may be raised to market rent levels.

37. **MAXIMUM RENTAL CHARGES.** The total charges for rent, Utilities, and related services to each * Income Household shall not exceed thirty percent (30%) of * percent (%) of Area Median Income. Initial rents for each Unit shall be as set forth in the Regulatory Agreement. Maximum rent increases shall be calculated by Lender based on the change in permissible rents published by HUD. Owner shall annually certify each tenant Household Income and make any rent adjustment pursuant to the terms of the Regulatory Agreement.

38. **CONDOMINIUM CONVERSION.** Owner shall not convert Property units to condominium or cooperative ownership or sell condominium or cooperative conversion rights to the Property during the term of this Regulatory Agreement.

39. **NONDISCRIMINATION.** Owner 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. Owner shall include a statement in all advertisements, notices and signs for the availability of Property units for rent to the effect that Owner is an Equal Housing Opportunity Provider.

PROPERTY MANAGEMENT

40. **MANAGEMENT RESPONSIBILITIES.** Owner is specifically responsible, subject to its obligations herein, for all management functions with respect to the Property, including without limitation, the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no responsibility over management of the Property.

41. **MANAGEMENT ENTITY.** The City shall have the right to review and approve the management entity chosen by Owner for the Property and the right to require a change in the management agent at any time during the term of this Regulatory Agreement. Any contracting of management services by Owner shall not relieve Owner

of its primary responsibilities for proper performance of management duties.

42. **FINAL MANAGEMENT PLAN.** At least ninety (90) calendar days prior to completion of construction of the Project, Owner shall submit to the City for review and approval a plan for marketing and managing the Property (the "Final Management Plan").

The Plan shall address in detail how Owner plans to market the availability of Project units to prospective Qualified Households in accordance with the City of Los Angeles's affirmative fair housing marketing guidelines, and how Owner plans to certify the eligibility of Qualified Households. The Plan shall also address how the Owner and the management entity plan to manage and maintain the Property, and shall include appropriate financial information and documentation. The Plan shall include a form lease agreement that Owner proposes to enter into with Project tenants. Owner shall abide by the terms of this Plan in marketing, managing, and maintaining the Property.

At least ninety (90) calendar days prior to completion of construction of the Project, Owner shall also submit a proposed management contract to the City for the City's prior review and approval. The City shall have the right to review and approve any proposed amendments to the management contract or any new management contracts during the term of this Regulatory Agreement.

43. **MAINTENANCE AND SECURITY.** Owner shall at its own expense maintain the Property in good condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions for the benefit of Project occupants. Owner shall not commit or permit any waste on or to the Property, and shall prevent and/or rectify any physical deterioration of the Property. Owner shall provide adequate ongoing security equipment and services for Project occupants. Owner shall maintain the Property in conformance with all applicable state, federal, and local laws, ordinances, codes, and regulations and the Final Management Plan; but Owner's maintenance obligations shall not be limited only to the standards contained in these laws or the Final Management Plan.

In the event that Owner fails to maintain the Property in accordance with these standards and after at least ten (10) business days prior written notice to Owner, the City or the City's contractor or agent may, but shall be under no obligation to, enter upon the Property, make such repairs or replacements as are deemed necessary in the City's discretion, and provide for payment thereof. Any amount advanced by the City to make such repairs, together with interest thereon from the date of such advance at the same rate of indebtedness as specified in the City Note (unless payment of such an interest rate would be contrary to applicable

law, in which event such sums shall bear interest at the highest rate then allowed by applicable law), shall become an additional obligation of Owner to the City and shall be secured by any City Deed of Trust, if not previously reconveyed.

44. **INSPECTION AND RECORDS.** Owner shall maintain records which clearly document Owner's performance of its obligations to operate the Property under the terms of this Regulatory Agreement.

Owner shall submit any records to the City within ten (10) business days of the City's request. Owner shall permit the City to enter and inspect the Property for compliance with obligations under this Regulatory Agreement upon 24 hours advance notice of such visit by the City to Owner or Owner's management agent and to tenants of any inspected Project units.

45. **FEES, TAXES, AND OTHER LEVIES.** Owner shall be responsible for payment of all fees, assessments, taxes, charges and levies imposed by any public authority or utility company with respect to the Property, and shall pay such charges prior to delinquency.

46. **INSURANCE COVERAGE.** Owner shall cause to have in full force and effect during the term of this Regulatory Agreement insurance coverage as required under Exhibit C1 & C2 of this Exhibit K and Article 5 of the City Loan Documents, which are hereby incorporated by reference into this Regulatory Agreement.

47. **PROPERTY DAMAGE OR DESTRUCTION.** If any building or improvements erected by Owner on the Property shall be damaged or destroyed by an insurable cause, Owner shall, at its own cost and expense, diligently repair or restore the Property consistent with the original Plans and Specifications for the Project. Such work or repair shall be commenced within one hundred twenty (120) days after the damage or loss occurs and shall be completed within one (1) year thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Owner shall make up the deficiency.

48. **HAZARDOUS MATERIALS** Owner shall comply with all of the obligations contained in any City Loan Agreement with respect to Hazardous Materials.

GENERAL PROVISIONS

49. **SUBORDINATION.** This Regulatory Agreement shall be subordinated in priority only to the liens and encumbrances

approved by the City in the City Loan Agreement or otherwise in writing by the City in its sole and absolute discretion.

50. **TRANSFER AND ENCUMBRANCE OF PROPERTY.** During the term of this Regulatory Agreement, Owner shall not make or permit any sale, assignment, conveyance, lease (other than the rental of Project units to Qualifying Households and other eligible residential tenant occupants), or transfer of the this Regulatory Agreement, other City Loan Documents, the Project, or the Property or any part thereof, including the sale of any general or limited partnership interests, without the prior written consent of the City. The City shall give its consent to a sale, transfer, or conveyance provided that all of the following conditions are met: (a) Owner is in compliance with this Regulatory Agreement and the other City Loan Documents, or the sale, transfer, or conveyance will result in the cure of any existing violations of this Regulatory Agreement or the other City Loan Documents; (b) the transferee agrees to assume all obligations of Owner imposed by this Regulatory Agreement and the other City Loan Documents and enter into such an agreement ("Assumption Agreement"); (c) the transferee demonstrates to the City's satisfaction that it is capable of owning and operating the Property in full compliance with this Regulatory Agreement and the other City Loan Documents; (d) the terms of the sale, transfer, or conveyance shall not jeopardize the City's security interest in the Property and is in full compliance with all standards, including eligibility requirements and other conditions imposed by any funding sources for the Project and any loan; and (e) the transferee is not in default on any other obligations.

During the term of this Regulatory Agreement, Owner shall not engage in any financing or other transaction creating any mortgage or other encumbrance or lien upon the Property (except for any financing provided by the City), without the prior written consent of the City. The City may give its consent to such financing if and to the extent necessary to maintain or improve the affordability or condition of the Property.

51. **DEFAULT AND REMEDIES.** In the event of any breach or violation of any agreement or obligation under this Regulatory Agreement, or of any Event of Default as defined by any City Loan Agreement which in any way pertains to or affects the continuing operation of the Property, and after the City has given written notice to Owner and an opportunity to cure in the same time and manner provided for with respect to Events of Default in said City Loan Agreement, the City may proceed with any or all of the following remedies:

- A. Bring an action in equitable relief seeking the specific performance by Owner of the terms and conditions of this

Regulatory Agreement, and/or enjoining, abating, or preventing any violation of said terms and conditions, and/or seeking declaratory relief;

- B. Enter upon, take possession of, and manage the Property, either in person, by agent, or by a receiver appointed by a court, and collect any rents, income, deposits, or reserves and apply them to operate the Property;
- C. After notice provided for herein, make such repairs or replacements to the Property as are necessary and provide for payment thereof; or
- D. Pursue any other remedy allowed at law or in equity.

Notwithstanding anything to the contrary contained herein, City hereby agrees that any cure of any default made or tendered by one or more of Owner's limited partners shall be deemed to be a cure by Owner and shall be accepted or rejected on the same basis as if made or tendered by Owner.

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

53. **INDEMNIFICATION.** Except for the active negligence or willful misconduct of City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Borrower undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Borrower's and any contractor's and subcontractor's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Regulatory Agreement as a result (directly or indirectly) of or in connection with this Regulatory Agreement or the use of the Property by Borrower, its agents, employees, contractor or subcontractor of any tier, including suits, causes of action, claims, losses, demands and expenses relating to the condition of the Property. Rights and remedies available to the City under this

provision are cumulative of those provided for elsewhere in this Regulatory Agreement and those allowed under the laws of the United States, the State of California, and the City. The provisions of this paragraph shall survive expiration or termination of this Loan Agreement.

54. **GOVERNING LAW.** This Regulatory 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.

55. **CONFLICTS BETWEEN CITY DOCUMENTS.** In the event that any monetary provisions of the City Loan Agreement, City Regulatory Agreement, City Deed of Trust, and/or City Note conflict, the terms of the City Note and City Deed of Trust shall control. In the event that any monetary provisions of the City Note and City Deed of Trust conflict or in the event that any non-monetary provisions of the City Loan Agreement, City Regulatory Agreement, City Deed of Trust, and/or City Note conflict, the strictest provision shall control.

56. **TIME.** Time is of the essence in this Regulatory Agreement.

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

58. **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Owner and the City 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 City as follows:

City: City of Los Angeles Housing Department
P.O. Box #532729
Los Angeles, CA 90053-2729
Attention: Asset Management
Copy to:
Director of Housing Development Division

Owner: **
Los Angeles, CA
Attention:

59. **BINDING UPON SUCCESSORS.** All provisions of this Regulatory 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 City, and shall run with the land for the full term of this Regulatory Agreement, regardless of any assignment, payment, prepayment, expiration, extinguishment of any City Loan or City Note, any reconveyance of any City Deed of Trust, 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 Regulatory Agreement for the full term of this Regulatory Agreement. The term "Owner" as used in this Regulatory Agreement shall include all such assigns, successors-in-interest, and transferee.

60. **RELATIONSHIP OF PARTIES.** The relationship of Owner and the City for this Project during the term of this Regulatory Agreement shall not be construed as a joint venture, equity venture, or partnership. The City 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 City may specify in writing, Owner shall have no authority to act as an agent of the City or to bind the City to any obligation.

61. **WAIVER.** Any waiver by the City of any obligation in this Regulatory Agreement must be in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of Owner or to pursue any remedy allowed under this Regulatory Agreement or applicable law. Any extension of time granted to Owner to perform any obligation under this Regulatory Agreement shall not operate as a waiver or release from any of its obligations under this Regulatory Agreement. Consent by the City 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 City's written consent to future waivers.

62. **OTHER AGREEMENTS.** Owner represents that it has not and/or will not enter into any agreements that would restrict or compromise its ability to comply with the terms of this Regulatory Agreement. Owner shall not enter into any agreements that are inconsistent with the terms of this Regulatory Agreement without an express waiver by the City in writing.

63. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Regulatory Agreement must be in writing, and shall be made only if executed by both Owner and the City. No verbal agreement or conversation with any officer or employee of

either party shall affect or modify any terms and conditions of this Regulatory Agreement.

The Owner agrees to comply with all future City Directives or any rules, amendments or requirements promulgated by the City affecting this Regulatory Agreement.

64. **SEVERABILITY.** Every provision of this Regulatory Agreement is intended to be severable. If any provision of this 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.

65. **NONRECOURSE.** The City Loan is a nonrecourse obligation of Owner. Neither Owner nor any other party shall have any personal liability for repayment of the City Loan. The sole recourse of the City for repayment of the principal and interest shall be the exercise of the City's rights against the Property. However, nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement of all the rights and remedies of the City against all such security for the City Notes, or (b) be deemed in any way to impair the right of the City to assert the unpaid principal amount of the City Notes as demand for money within the meaning of the California Code of Civil Procedure.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the City Notes; except nothing contained in the foregoing is intended to relieve the Owner of personal liability for (1) fraud or willful misrepresentation; (2) failure to pay taxes, assessments or other charges (which are not contested by Owner in good faith) which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (3) the Owner's indemnification obligations under the Loan Agreement; (4) misappropriation of any rents, security deposits, insurance proceeds, condemnation awards or any other proceeds derived from the collateral security; and (5) failure to pay to the City any rental income or other income arising with respect to the Property received by the Owner after the City has given notice to the Owner of the occurrence of an Event of Default, subject to the rights of any lender providing a loan secured by the Property to which the lender has subordinated the Deed of Trust.

IN WITNESS WHEREOF, the City of Los Angeles and the Owner have caused this Regulatory Agreement to be executed by their duly authorized representatives.

Executed this _____ day of _____, 2011
THE CITY OF LOS ANGELES
Los Angeles Housing Department

By: _____
HELMI HISSERICH,
Assistant General Manager

APPROVED AS TO FORM:
CARMEN A. TRUTANICH, City Attorney

By: _____
Deputy/Assistant City Attorney

Date: _____

ATTEST:
JUNE LAGMAY, City Clerk

By: _____
Deputy City Clerk

Date: _____

"Owner"

Executed this _____ day of _____, 2011

A California _____

By: _____

A California

Its: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

A California

Its: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

THIS DOCUMENT MUST BE NOTARIZED FOR RECORDING

EXHIBIT A
REGULATORY AGREEMENT
(* PROJECT)

LEGAL DESCRIPTION

**

ASSESSOR'S IDENTIFICATION NUMBERS:

COMMON ADDRESSES:

BORROWER:

K(A) - (1 of 1)

[**PROJECT**
Regulatory Agreement **Date**]

EXHIBIT B
REGULATORY AGREEMENT
(**PROJECT**)

OCCUPANCY AND RENT RESTRICTIONS

EXHIBIT B

K(B) - (1 of 1)

[**PROJECT**
Regulatory Agreement **Date**]

EXHIBIT C1
REGULATORY AGREEMENT
(* PROJECT)

(INSURANCE REQUIREMENTS)

I. INSURANCE COVERAGE.

1. General Conditions. During the term of this Loan Agreement and Regulatory Agreement and without limiting Borrower's indemnification of the CITY, Borrower shall provide, maintain and ensure that any contractor or subcontractor provide and maintain, at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by Borrower and any contractor or subcontractor but not less than the amounts and types listed on the Insurance Requirements Sheet (Form Gen 146/IR in Exhibit Q of the City Loan Agreement), covering its operations hereunder. Such insurance shall conform to CITY requirements established by Charter, ordinance or policy, shall comply with the instructions set forth on Form General 133 and with the conditions set forth on the applicable City Special Endorsement form(s), copies of which are included in Exhibit Q, and shall otherwise be in a form acceptable to the City Attorney. Specifically, such insurance shall: 1) protect CITY as an Insured or an Additional Interest Party, or a Loss Payee As Its Interests May Appear, respectively, when such status is appropriate and available depending on the nature of the applicable coverages; 2) provide CITY at least thirty (30) days advance written notice of cancellation, material reduction in coverage or reduction in limits when such change is made at the option of the insurer; and 3) be primary with respect to CITY'S insurance program. Except when CITY is a named insured, Borrower's and any contractor's and subcontractor's insurance is not expected to respond to claims which may arise from the acts or omissions of the CITY.
2. Modification of Coverage. CITY reserves the right at any time during the term of this Loan Agreement and Regulatory Agreement to change the amounts and types of insurance required hereunder by giving Borrower and any contractor and subcontractor ninety (90) days advance written notice of such change. If such change should result in substantial additional cost to the Borrower and any contractor and subcontractor, CITY agrees to

negotiate additional compensation proportional to the increased benefit to CITY.

3. Failure to Procure Insurance. All required insurance must be submitted and approved by the City Attorney prior to the commencement of any work, inception of any operations, or tenancy by Borrower and any contractor and subcontractor. The required coverages and limits are subject to availability on the open market at reasonable cost as determined by CITY. Non-availability or non-affordability must be documented by a letter from Borrower's and any contractor's and subcontractor's insurance broker or agent indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each.

Within the foregoing constraints, Borrower's and any contractor's and subcontractor's failure to procure or maintain required insurance or a self-insurance program during the entire term of this Loan Agreement and Regulatory Agreement shall constitute a material breach of this Loan Agreement under which CITY may immediately suspend or terminate this Loan Agreement or, at its discretion, procure or renew such insurance to protect CITY'S interests and pay any and all premiums in connection therewith and shall become an additional obligation of Borrower to Lender and shall be secured by the Deed of Trust.

4. Builder's Risk Policy and Physical Damage Policy. During the period of construction, Owner must obtain or cause to be obtained a builder's risk or equivalent policy covering damage or loss up to the value of labor and materials and naming the City as loss payee as its interests may appear.

After completion of the Project, Owner must cause to be issued a physical damage insurance policy covering the replacement value of the property as mutually agreed between Owner and insurer with a lender's loss payable endorsement listing the City and Owner as the loss payee as their interests may appear. This policy must remain in effect throughout the term of the Loan.

5. Proceeds All proceeds of insurance with respect to loss or damage to the Project during the term of the Loan shall be payable, under the provisions of the policy of insurance, jointly to the, Owner, the City, construction

lender[s], permanent lenders and any other lender permitted by the City, and said proceeds shall constitute a trust fund to be used for the restoration, repair or rebuilding of the Project in accordance with plans and specifications approved in writing by the City. To the extent that such proceeds exceed the cost of such restoration, repair or rebuilding, such proceeds shall be applied first to repay the construction lenders and second to repay the City Loan. In the event of any fire or other casualty to the project or eminent domain proceedings resulting in condemnation of the project improvements or any part thereof, the Owner shall have the right to rebuild the improvements, and to use all available insurance or condemnation proceeds therefor, provided that (a) such proceeds are sufficient to keep the City Loan in balance and rebuild the improvements in a manner that provides adequate security to the City for repayment of the City Loan or if such proceeds are insufficient then the Owner shall have funded any deficiency, (b) the City shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material default then exists under the City Loan. If the casualty or condemnation affects only part of the improvements and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the City Loan in a manner that provides adequate security to the City for repayment of the remaining balance of the City Loans.

6. Underlying Insurance

Owner shall be responsible for requiring indemnification and insurance as it deems appropriate from its employees receiving mileage allowance and from its consultants, agents and subcontractors, if any, to protect Owner's and City's interests and for ensuring that such persons comply with any applicable insurance statutes. Owner is encouraged to seek professional advice in this regard.

7. Worker's Compensation. By signing this Loan Agreement, Borrower hereby certifies that it is aware and shall make any contractor and subcontractor aware of the provisions of Section 3700 et seq., of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in

accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Loan Agreement.

A Waiver of Subrogation in favor of CITY will be required when work is performed on CITY premises under hazardous conditions.

COPIED

**EXHIBIT C2
LOAN AGREEMENT
(* PROJECT)**

INSURANCE REQUIREMENTS

Name _____
Address _____

At close of escrow, the LAHD must receive a one (1) year prepaid Certificate of Insurance policy (or binder followed by a certificate within thirty (30) days of loan closing) evidencing the following coverage:

1. HAZARD (PROPERTY)

Perils: All risk; or Fire & Lightning, Extended Coverage, Vandalism & Malicious Mischief, including Loss of Rents coverage for at least 12 months.

Covered Property: Structure; and City-owned equipment and supplies.

Amount: Replacement value (or less if approved by LAHD).

Coinsurance: Not less than 90%.

Deductible: \$2,500 maximum deductible per occurrence; or \$1,000 more with City concurrence.

Loss Payable Endorsement: Lenders Loss Payable Endorsement in favor of the City.

Boiler & Related Machinery: (When applicable) 80% coinsurance; replacement cost coverage is required.

2. FLOOD INSURANCE:

If the project is located in Special Flood Hazard Area (SFHA), replacement cost coverage is required, including Loss of Rents coverage.

3. COMPREHENSIVE GENERAL LIABILITY:

Minimum Amount:

<u>Number of Bedrooms</u>	<u>Liability Ins. Requirements</u>
1 - 8	\$1,000,000
9 - 40	2,000,000
41 - 60	3,000,000
61 - 80	4,000,000
81 - 100	5,000,000
101 +	7,000,000

Evidence of comprehensive general liability insurance should be submitted on either the City's Special Endorsement form or by submitting two (2) certified copies of the policy including the additional insured and cancellation notice endorsements.

4. WORKER'S COMPENSATION

Required by State law if employees are involved.

ALL POLICIES MUST INCLUDE THE FOLLOWING:

Name Insured: Owner

Additional Insured: City of Los Angeles, its officers, agencies and employees shall be included as additional insureds.

Cancellation Clause: The City must be notified 30 days prior to insurance company's cancellation of policy by certified mail.

The City should be identified on all insurance documents as follows, including the project name, street name, street address, city and county:

Los Angeles Housing Department
of the City of Los Angeles
P.O. Box 532729
Los Angeles, CA 90053-2729

Exhibit G: City of Los Angeles Insurance Requirements

Exhibit G

Required Insurance and Minimum LimitsName: Mercy Housing CaliforniaDate: 2/27/15Agreement/Reference: Pico Robertson Senior Community

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

<input checked="" type="checkbox"/> Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)		WC <u>Statutory</u>
<input checked="" type="checkbox"/> Waiver of Subrogation in favor of City	<input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act	EL <u>\$1,000,000</u>
<input checked="" type="checkbox"/> General Liability		<u>\$1,000,000</u>
<input checked="" type="checkbox"/> Products/Completed Operations	<input type="checkbox"/> Sexual Misconduct	
<input type="checkbox"/> Fire Legal Liability		
<input checked="" type="checkbox"/> Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)		<u>\$1,000,000</u>
<input checked="" type="checkbox"/> Professional Liability (Errors and Omissions)		<u>\$1,000,000</u>
Discovery Period <u>12 Months After Completion of Work or Date of Termination</u>		
<input checked="" type="checkbox"/> Property Insurance (to cover replacement cost of building - as determined by insurance company)		
<input checked="" type="checkbox"/> All Risk Coverage	<input type="checkbox"/> Boiler and Machinery	
<input type="checkbox"/> Flood	<input checked="" type="checkbox"/> Builder's Risk	
<input type="checkbox"/> Earthquake		
<input type="checkbox"/> Pollution Liability		
<input checked="" type="checkbox"/> Surety Bonds - Performance and Payment (Labor and Materials) Bonds		<u>100% of the contract price</u>
<input type="checkbox"/> Crime Insurance		

Other: Performance Bond for the total amount of the Projects and Labor and Materials Bond for the total cost of labor and materials prior to contractor's performance of any work.

Exhibit H: Proforma

SOURCES AND USES

Exhibit H

PROJECT NAME: Pico Robertson Senior Community
 FINANCE TYPE: 9% TCAC
 ADDRESS: 8866 West Pico Blvd. Los Angeles, CA 90035
 HOUSING TYPE: Senior
 COUNTY: LA
 SPONSOR: MERCY HOUSING CALIFORNIA

CONSTRUCTION SOURCES OF FUNDS

	Amount	Per Unit	% of TDC
Bank Construction Loan	11,916,609	248,263	63%
Tax Credit Equity	2,108,810	43,934	11%
AHP	470,000	9,792	2%
HCID	2,080,000	43,333	11%
LADOT/Land Donation	2,000,000	41,667	11%
	-		
0			
Expenses Paid at Conversion to Perm	419,711	8,744	2%
GP Contributions			
Deferred Dev. Fee	-	-	0%
GP Equity	-	-	0%
TOTAL CONSTRUCTION SOURCES	18,995,131	395,732	100%

PERMANENT SOURCES OF FUNDS

	Amount	Per Unit	% of TDC
Conventional Mortgage	386,400	8,050	2%
Section 8 Backed Mortgage	-	-	0%
Tax Credit Equity	14,058,731	292,890	74%
AHP	470,000	9,792	2%
HCID	2,080,000	43,333	11%
LADOT/Land Donation	2,000,000	41,667	11%
GP Contributions			
Deferred Dev. Fee	-	-	0%
GP Equity	-	-	0%
TOTAL PERMANENT SOURCES	\$ 18,995,131	\$ 395,732	100%

USES OF FUNDS

	Amount	Per Unit	% of TDC
Acquisition	2,035,000	42,396	10.7%
Hard Costs	10,940,578	227,929	57.6%
Architectural	656,435	13,676	3.5%
Engineering	110,000	2,292	0.6%
Constr. Int and Fees	806,763	16,808	4.2%
Permanent Financing	48,864	1,018	0.3%
Legal	50,000	1,042	0.3%
Reserves	293,467	6,114	1.5%
Contingencies	1,378,788	28,725	7.3%
Other Costs	1,175,237	24,484	6.2%
Developer Costs	1,400,000	29,167	7.4%
Syndication	100,000	2,083	0.5%
TOTAL USES	18,995,131	395,732	100.0%

SURPLUS/GAP \$ 0 \$ 0