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And When Recorded Return to:

CITY CLERK
CITY OF MOORPARK
799 Moorpark Avenue
Moorpark, California 93021

EXEMPT FROM RECORDER'S FEES
Pursuant to §§ 6103, 27383 and 27388.1
of the California Government Code

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

BY AND BETWEEN

CITY OF MOORPARK

AND

ESSEX MOORPARK OWNER, L.P.

**SECOND AMENDMENT
TO DEVELOPMENT AGREEMENT**

This SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (“Amendment”) is dated as of _____, 2022, and is entered into by and between the CITY OF MOORPARK, a municipal corporation (“City”), and ESSEX MOORPARK OWNER, L.P., a California limited partnership (“Developer”).

RECITALS

WHEREAS, the City and Developer entered into that certain Development Agreement dated April 17, 2017, which was recorded on April 17, 2017 as Document No. 20170417-00050720-0 in the Official Records of Ventura County, California, and amended it by a First Amendment of Development Agreement (“First Amendment”) dated August 2, 2022 which was recorded on August 4, 2022 as Document No. 2022-000082017 in such Official Records (as amended, the “DA”);

WHEREAS, Developer is the owner of real property within the City, more specifically described in Exhibit "A" attached hereto (referred to hereinafter as the "Property"); and

WHEREAS, City and Developer desire to amend the DA to modify certain portions of the Amended and Restated Affordable Housing Agreement that was attached as Exhibit D to the First Amendment of Development Agreement, extend the date for satisfying certain conditions as set forth herein and make certain corrections to the First Amendment and its exhibits.

NOW, THEREFORE, the parties hereby agree as follows:

1. Amendments.

- a. Section 2 of the First Amendment is hereby amended to change the cross reference of “Section 16” that is contained therein to “Section 19” and to extend the October 29, 2022 date set forth therein to December 31, 2022.
- b. The first paragraph of Section 10 of the First Amendment is hereby deleted in its entirety and revised to read as follows:

“Conveyance of Land for Street Widening; Relocation and Undergrounding of SCE Lines. Substantially concurrently with the conveyance of the Property to Affordable Housing Owner (i.e. immediately after such conveyance), and subject to the issuance of a reasonable owners title policy to City at the cost of the Affordable Housing Owner, Affordable Housing Owner shall, in order to enable the City to widen High Street, convey to

the City by grant deed the 'City Site' as described on Exhibit B to the First Amendment.”

- c. The last paragraph of Section 10 of the First Amendment is hereby deleted in its entirety and revised to read as follows:

“In connection with the development of the Project, Developer shall make commercially reasonable best efforts to relocate and underground the existing overhead Southern California Edison (“Edison”) 66kV utility lines and poles (“Utility Facilities”) located on the Property and the City Site at its sole cost and expense no later than sixty (60) months following the acquisition of the Property by the Affordable Housing Developer. The Developer and City acknowledge that Edison shall determine the location and path of the underground Utility Facilities in compliance with Edison regulations and state law, and in the event that the hard costs (not soft cost, including without limitation project management fees and costs, and design, engineering and administrative fees and costs) of undergrounding the Utility Facilities on the City Property exceeds \$500,000, Developer shall not be required to underground the Utility Facilities on the City Site and Developer shall instead relocate the Utility Facilities as set forth in the Utility Facility redesign by BJ Palmer & Associates and depicted on Exhibit “J” attached hereto (the “Revised Plan”) and Developer shall pay \$400,000 to the City within thirty (30) days after completion of the relocation of the Utility Facilities on the City Site. Developer shall obtain Offsite Improvement Performance Bond and Payment Bond in form and content in substantial compliance with the forms attached hereto as Exhibit K to the First Amendment with any modifications to such forms subject to acceptance by the City Manager, to secure both the completion of the Revised Plan by Developer and the payment to the City of the \$400,000 described in this Section in connection with the relocation of the Utility Facilities herein.”

- d. Exhibit A (Legal Description of Property) to the First Amendment is hereby deleted and replaced in its entirety with Exhibit A to this Second Amendment.
- e. Exhibit D to the First Amendment is hereby deleted and is replaced in its entirety with the Amended and Restated Affordable Housing Agreement attached as Exhibit “B” to this Second Amendment (which contains altered provisions).
- f. Exhibit F to the First Amendment is hereby deleted and replaced in its entirety to with Exhibit “C” to this Second Amendment.

- g. The form and content of the Offsite Improvement Performance and Payment Bonds which are to be Exhibit K of the First Amendment are attached as Exhibit "D" hereto.
- 2. Counterparts. This Amendment may be executed and recorded in counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument.
- 3. Except as amended herein, all other provisions of the DA shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed the day and year first above written.

DEVELOPER:

ESSEX MOORPARK OWNER, L.P.
a California limited partnership

By: Essex Moorpark GP, L.P.
a California limited partnership
Its: General Partner

By: Essex Management Corporation
a California corporation
Its: General Partner

By: _____
Name: _____
Title: _____

CITY:

CITY OF MOORPARK,
a municipal corporation

By: _____
Janice S. Parvin, Mayor

ATTEST:

Ky Spangler, City Clerk

APPROVED AS TO FORM:

By: _____
Kevin G. Ennis, City Attorney

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

TO SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF PROPERTY

(Replaces Exhibit A to First Amendment)

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL "A" AS SHOWN ON LOT LINE OF ADJUSTMENT NO. 2014-1, AS EVIDENCED BY DOCUMENT RECORDED AUGUST 31, 2016 AS INSTRUMENT NO. 20160831-00125261-0 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCEL 2B OF IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 2005-04 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, RECORDED JULY 21, 2005 AS DOCUMENT NO. 20050721-0178764 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF LOT "T", TRACT NO. "L", RANCHO SIMI, AS PER MAP FILED IN BOOK 5, PAGE 5 OF MISCELLANEOUS RECORDS (MAPS) IN THE OFFICE OF SAID COUNTY RECORDER AND A PORTION OF LOT 4, TRACT NO. 3 AS PER MAP ENTITLED "MAP OF M.L. WICKS SUBDIVISION OF PART OF TRACT U AND ADDITION TO MOORPARK, IN THE RANCHO SIMI, VENTURA COUNTY, CALIFORNIA" IN SAID CITY, COUNTY AND STATE AS SHOWN ON MAP FILED IN BOOK 5, PAGE 37 OF SAID MISCELLANEOUS RECORDS (MAPS).

TOGETHER WITH THAT PORTION OF PARCEL 1A OF IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 2005-03 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, RECORDED MAY 3, 2005 AS DOCUMENT NO. 20050503-0108315 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF LOT "T", TRACT NO. "L", RANCHO SIMI AS PER MAP FILED IN BOOK 5 PAGE 5 OF MISCELLANEOUS RECORDS (MAPS) IN THE OFFICE OF SAID COUNTY RECORDER, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT IN EAST LINE OF PARCEL 1A OF SAID LOT LINE ADJUSTMENT NO. 2005-03, DISTANT THEREON NORTH 292.97 FEET FROM THE SOUTHEASTERLY CORNER THEREOF;

1ST THENCE, DEPARTING SAID EAST LINE SOUTH 89°38'32" WEST 752.05 FEET;

2ND THENCE, SOUTH 27°20'34" WEST 36.75 FEET;

3RD THENCE, SOUTH 89°03'54" WEST 293.78 FEET TO A POINT IN THE WEST LINE OF SAID PARCEL 1A.

EXCEPT AS TO A PORTION OF SAID LAND ALL OIL, GAS OR OTHER HYDROCARBON SUBSTANCES, BUT WITHOUT THE RIGHT TO ENTER UPON THE SURFACE OR SUBSURFACE THEREOF WITHIN 500 FEET, MEASURED VERTICALLY FROM THE PRESENT SURFACE AS RESERVED BY MERI V. BURKHOLDER, BY DEED RECORDED IN BOOK 1592, PAGE 487 OF OFFICIAL RECORDS.

ALSO EXCEPT 50% OF A PORTION OF SAID LAND ALL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, AS RESERVED BY WALLY F. MCFFELT, IN THE DEED RECORDED MARCH 28, 1942 IN BOOK 653, PAGE 659 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED 25% IN AND TO A POINT ON SAID LAND THE TOTAL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, WITHOUT HOWEVER, THE RIGHT OF SURFACE OR SUBSURFACE ENTRY UPON SAID LAND WITHIN 500 FEET OF THE PRESENT SURFACE MEASURED VERTICALLY THEREFROM, AS RESERVED BY RILEY SPENCE AND DORA E. SPENCER, IN DEED RECORDED IN BOOK 1587, PAGE 274 OF OFFICIAL RECORDS.

PARCEL 2:

PARCEL "B" AS SHOWN ON LOT LINE OF ADJUSTMENT NO. 2014-1, AS EVIDENCED BY DOCUMENT RECORDED AUGUST 31, 2016 AS INSTRUMENT NO. 20160831-00125261-0 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCEL 1A OF IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 2005-03 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, RECORDED MAY 3, 2005 AS DOCUMENT NO. 20050503-0108315 OR OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF LOT "T", TRACT NO. "L", RANCHO SIMI AS PER MAP FILED IN BOOK 5 PAGE 5 OF MISCELLANEOUS RECORDS (MAPS) IN THE OFFICE OF SAID COUNTY RECORDER.

EXCEPT THEREFROM THAT PORTION CONVEYED TO THE CITY OF MOORPARK BY DEED APRIL 30, 2009 AS INSTRUMENT NO. 20090430-00069389 OF OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPT THEREFROM THAT PORTION LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT IN EAST LINE OF PARCEL 1A OF SAID LOT LINE ADJUSTMENT NO. 2005-03, DISTANT THEREON NORTH 292.97 FEET FROM THE SOUTHEASTERLY CORNER THEREOF;

1ST THENCE, DEPARTING SAID EAST LINE SOUTH 89°38'32" WEST 752.05 FEET;

2ND THENCE, SOUTH 27°20'34" WEST 36.75 FEET;

3RD THENCE, SOUTH 89°03'54" WEST 293.78 FEET TO A POINT IN THE WEST LINE OF SAID PARCEL 1A.

ALSO EXCEPT AS TO A PORTION OF SAID LAND ALL OIL, GAS OR OTHER HYDROCARBON SUBSTANCES, BUT WITHOUT THE RIGHT TO ENTER UPON THE SURFACE OR SUBSURFACE THEREOF, WITHIN 500 FEET, MEASURED VERTICALLY FROM THE PRESENT SURFACE AS RESERVED BY MERI V. BURKHOLDER, BY DEED RECORDED IN BOOK 1592, PAGE 487 OF OFFICIAL RECORDS.

ALSO EXCEPT 50% OF A PORTION OF SAID LAND ALL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, AS RESERVED BY WALLY F. MCFFELT, IN THE DEED RECORDED MARCH 28, 1942 IN BOOK 653, PAGE 659 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED 25% IN AND TO A POINT ON SAID LAND THE TOTAL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, WITHOUT HOWEVER, THE RIGHT OF SURFACE ENTRY UPON SAID LAND WITHIN 500 FEET OF THE PRESENT SURFACE MEASURED VERTICALLY THEREFROM, AS RESERVED BY RILEY SPENCE AND DORA E. SPENCER, IN DEED RECORDED IN BOOK 1587, PAGE 274 OF OFFICIAL RECORDS.

APN: 511-0-020-26 5 AND 511-0-020-275

EXHIBIT "B"

TO SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

"AMENDED AND RESTATED AFFORDABLE HOUSING AGREEMENT"

(Exhibit D to First Amendment)

(Attached.)

Recording Requested By:

CITY OF MOORPARK
799 Moorpark Avenue
Moorpark, California 93021
Attention: City Clerk

OFFICIAL BUSINESS
Document entitled to free
recording per Government Code
Sections 6103 and 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AMENDED AND RESTATED AFFORDABLE HOUSING AGREEMENT

by and between

CITY OF MOORPARK

and

MOORPARK CASEY ROAD LP

Dated as of _____, 2022

AMENDED AND RESTATED AFFORDABLE HOUSING AGREEMENT

THIS AMENDED AND RESTATED AFFORDABLE HOUSING AGREEMENT (this “Agreement”) is to be effective as of _____, 2022, regardless of the date of actual execution hereof, and is entered into by and between the CITY OF MOORPARK, a municipal corporation (“City”), and Moorpark Casey Road LP, a California limited partnership (“Owner”), **and shall upon the recordation hereof, supersede and replace that certain Affordable Housing Agreement between the City and Essex Moorpark Owner, L.P. (“Essex”) dated April 17, 2017 which was recorded on April 17, 2017 as Instrument Number 20170417-00050721-0 1/67 in the Official Records of Ventura County, California and was assigned to Owner pursuant to that certain Assignment and Assumption Agreement dated _____, 2022 (“Assignment Agreement”).**

RECITALS

A. The City and Essex have entered into a Development Agreement dated April 17, 2017, recorded as Instrument No. 20170417-00050720-0 in the Official Records of the County of Ventura on April 17, 2017, which has been amended by a First Amendment to Development Agreement dated August 2, 2022 recorded on August 4, 2022, as Instrument Number 2022000082017 1/96 pages in the Official Records of Ventura County, California, and was assigned to the Owner pursuant to the Assignment Agreement (the “Development Agreement”) pursuant to which Owner will construct a residential development consisting of 200 apartments (198 restricted units and two unrestricted manager’s units) on approximately 10.57 acres (the “Property”), described more specifically on Exhibit No. 1 attached hereto and incorporated herein by reference, which is located within the City of Moorpark.

B. General Plan Amendment No. 2004-05 (“GPA 2004-05”) Residential Planned Development Permit No. 2012-02 (“RPD”), and Zone Change No. 2004-04 (“ZC”) provide for the development of the Property in such manner and the construction of certain off-site improvements in connection therewith (the “Project”). The GPA, ZC, RPD and Mitigation Monitoring Program, as amended, are collectively referred to as the “Project Approvals”.

C. The RPD requires that the apartments described on Exhibit No. 2 attached hereto (located as described on such exhibit) be affordable and available to households with income that does not exceed specified levels, as described on Exhibit No. 2, for the Term (as defined in Article 1 below) of this Agreement.

D. The Development Agreement requires that this Affordable Housing Agreement be executed and recorded concurrently with the closing of the sale of the Property by Essex to Owner, and that this Affordable Housing Agreement not be subordinate to any liens (except for property taxes and assessments not yet due).

E. The Owner intends to finance the costs of development of the Project in part with federal tax credit equity and tax-exempt bond financing, and all of the restricted

apartment units (i.e., 198 of the 200 units) in the Project will be restricted by a federal tax credit regulatory agreement; such units being described on Exhibit No. 2 attached hereto by income level and bedroom count. Two units will be manager's units. Only forty nine percent (49%) of the units in the project (i.e., the 98 units that are identified/described at the end of Exhibit No. 2) will also be restricted by this Affordable Housing Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Owner hereby agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions. Capitalized terms used herein shall have the following meanings.

"Affordable Rent" shall mean the rent described in Section 2.9, subject to Section 2.10.

"Affordable Units" shall mean the rent-restricted dwelling units for Extremely Low Income Households, Very Low Income Households and Low Income Households described at the end of Exhibit 2 to this Affordable Housing Agreement.

"Agreement" shall mean this Revised Amended and Restated Affordable Housing Agreement.

"City" shall mean the City of Moorpark, California, a municipal corporation.

"County" shall mean Ventura County.

"County Median Income" shall mean the Area Median Income for Ventura County adjusted by actual household size as published annually by the California Tax Credit Allocation Committee (CTCAC), or if CTCAC discontinues such publication, then such reasonable replacement publication as may be selected by City in good faith.

"Density Bonus" shall mean the density bonus granted by the City to Owner in connection with the Project pursuant to the Project Approvals.

"Development Agreement" shall mean Development Agreement dated April 17, 2017, recorded as Instrument No. 20170417-00050720-0 in the Official Records of the County of Ventura on April 17, 2017, which has been amended by a First Amendment to Development Agreement dated August 2, 2022, and recorded as Instrument No. 2022000082017 Pages 1/96 in the Official Records of the County of Ventura.

"Extremely Low Income" shall mean a household income that does not exceed thirty percent (30%) of the County Median Income, adjusted for household size appropriate to the Unit.

“Extremely Low Income Household” or “Extremely Low Income Tenant” means individuals or households qualified on the basis of a “certification of tenant eligibility” as certified by such individual or household, who have a gross income which does not exceed Extremely Low Income, adjusted for household size.

“Extremely Low Income Units” means Units rented to Extremely Low Income Households.

“HCD” shall mean the Department of Housing and Community Development (HCD) of the State of California.

“Initial Rent-Up” shall mean the period between the issuance of a certificate of occupancy for the first residential unit in the Project and “Stabilization” (as defined below).

“Low Income” or “Lower Income” shall mean a household income that does not exceed eighty percent (80%) of the County Median Income, adjusted for household size appropriate to the Unit.

“Low Income Household” or “Lower Income Household” or “Low Income Tenant” means individuals or households qualified on the basis of a “certification of tenant eligibility” as certified by such individual or household, who have a gross income which does not exceed Low Income, adjusted for household size.

“Low Income Units” means Units rented to Low Income Households.

“Owner” shall mean Moorpark Casey Road LP and any permitted assignee of its rights, powers and responsibilities, or any successor in interest to any portion of or interest in the Project or Property.

“Project” is the residential development described in RPD 2012-02 consisting of up to 200 apartments located on the Property, together with structures, improvements, equipment, fixtures, and other personal property owned by Owner and located on or used in connection with all such improvements and all functionally related and subordinate facilities, and all improvements required by the Project Approvals.

“Project Approvals” is defined in Recital B above.

“Property” shall mean that real property in the City of Moorpark, California described on Exhibit No. 1.

“Stabilization” shall mean the time at which the Project achieves ninety percent (90%) occupancy for ninety (90) consecutive days.

“Term” shall mean from the date of recordation of this Agreement until the later of: (i) the date that the Property is no longer zoned for any residential use and cannot be used for any residential use or purpose as a “non-conforming use” and has no residential occupancy; or (ii) fifty-five (55) years after the recordation of this Agreement.

“Units” shall mean residential dwelling units.

“Utility Allowance” shall mean the utility allowance set forth in the chart attached to this Agreement as Exhibit No. 2 and referred to in Section 2.9.

“Very Low Income” shall mean household income that does not exceed fifty percent (50%) of the County Median Income, adjusted for household size appropriate to the Unit.

“Very Low Income Household” means individuals or households qualified on the basis of a “certification of tenant eligibility” as certified by such individual or household, who have a gross income which does not exceed Very Low Income, adjusted for household size.

“Very Low Income Units” means Units rented to Very Low Income Households.

1.2 Rules of Construction.

1.2.1 The words “hereof,” “herein,” “hereunder,” and words of similar import shall refer to this Agreement as a whole.

1.2.2 The singular form of any word used herein, including the terms defined herein shall include the plural and vice versa. The use herein of a word of any gender shall include correlative words of all genders.

1.2.3 All of the terms and provisions hereof shall be construed to effectuate the purposes set forth in this Agreement and to sustain the validity hereof.

1.2.4 Headings or titles of the several articles and sections hereof and the table of contents appended to copies hereof shall be solely for convenience of reference and shall not affect the meaning, construction, or effect of the provisions hereof.

1.2.5 In the event the Development Agreement and this Agreement conflict, the provision more beneficial to the City, as determined by the City Manager, shall govern.

ARTICLE 2 AFFORDABLE HOUSING IMPLEMENTATION AND RENTAL RESTRICTION PLAN AND USE OF PROPERTY

2.1 Purpose of Restrictions.

- A. The provisions of this Agreement are intended to impose affordability restrictions and household income restrictions on the Affordable Units in the Project, as set forth on Exhibit No. 2.
- B. Owner will obtain Federal low income housing tax credits and tax-exempt bonds, and a loan from City (collectively, “Affordable Housing Financing”) to finance the Project, and, although not

enforceable by the City (which may only enforce this Agreement as to the Affordable Units restricted by this Agreement), it is contemplated that such tax credits will necessitate restricting all of the units at the Project (except manager's units) for rent to Extremely Low Income Households, Very Low Income Households and Low Income Households during the periods set forth in the Internal Revenue Code, as the same may be modified by law applicable to the low income housing tax credits (the "Compliance Period and Extend Use Period") and applicable to the tax exempt bonds (the "Qualified Project Period").

2.2 Agreement to be Recorded; Priority. Owner will cause this Agreement to be recorded in the Office of the County Recorder of Ventura County, California concurrently with the closing of the Project Financing, and Owner shall ensure that this Agreement shall be senior in priority to any lien, encumbrance or other matter of record except for property taxes and assessments not yet due and existing easements necessary for the operation of the Project or as otherwise expressly approved in writing by City. The Owner shall pay all fees and charges in connection with any such recordation.

2.3 Use of the Property. Owner represents, warrants, and covenants to develop and operate the Project and Property as a multifamily residential rental property and uses incidental thereto and for no other purposes. Amenities for the Affordable Units shall include, without limitation, air conditioning/heating, plumbing and electrical fixtures, garbage disposal, flooring, cabinets, counter tops, trim, built-in dishwasher, clothes washer and dryer hookups or community laundry, sinks, bathtub, solar and/or solar ready, water heater, built-in oven, microwave, stove, bathroom fan, doors and door hardware, and floor and window coverings.

Owner agrees not to convert the Project or any part thereof to any type of common interest development, for-sale condominiums, community apartments, planned development, stock cooperative, hotel, motel, or any type of congregate care or assisted living facility. Owner agrees that they shall not knowingly permit any of the Units in the Project to be used on a transient basis and shall not rent any Unit for a period of less than thirty (30) days. At no time shall any of the Affordable Units be rented to an employee, agent, officer, contractor of any owner of any portion of the Property or Project or of any company affiliated with any such owner, or to any such affiliated company.

2.4 INTENTIONALLY OMITTED

2.5 Rules. In addition to the conditions and restrictions to be contained in leases or rental agreements as provided in this Agreement, ongoing operation of the Project will be subject to reasonable house rules, policies and regulations issued from time to time by Owner and approved by City which approval shall not be unreasonably withheld, conditioned, or delayed ("Rules"). Owner shall submit such Rules to City during the Initial Rent-Up for the City's approval, which will not be withheld, conditioned or delayed. Annually, Owner shall submit any amendments, modifications or changes to

such Rules to the City at least forty-five (45) days prior to their proposed effective date and all of such amendments, modifications and changes shall be subject to the City's prior written consent, which will not be withheld, conditioned or delayed. If City does not consent, City shall specify the reasons in writing so that Owner can revise the amendment(s), modification(s) or change(s) and re-submit them for City approval, which will not be withheld, conditioned or delayed. In addition, Owner shall submit to the City on an annual basis a certification that the Rules previously submitted to City, as amended, remain in effect (with a copy of the Rules and any amendments). If applicable, this Agreement shall be consistent with any Extended Use Agreement entered into between Owner and the California Tax Credit Allocation Committee.

2.6 Single Owner. All of the Affordable Units shall be and remain owned by the Owner for the term of this Agreement. No Affordable Unit may be sold separately.

2.7 Affordable Units Generally.

2.7.1 Accessible Compliant Units. Four (4) Affordable Units shall be compliant with all laws regarding disabled persons (including, without limitation, the Americans with Disabilities Act) and shall be reserved for and occupied by persons eligible for such accommodations. Owner shall maintain a waiting list for the affordable accessible-compliant units, shall promptly deliver a copy thereof to City and shall thereafter deliver a copy of the revised list to City whenever the list changes. Should there be a qualified Extremely Low or Very Low Income or Low Income prospective tenant desiring to rent such a unit but all such units are rented, Owner shall add such prospective tenant to the waiting list for the affordable accessible-compliant units. At the earliest possible time an Extremely Low or Very Low or Low Income non-accessible compliant affordable unit becomes available, the non-accessible Extremely Low or Very Low or Low Income tenant who occupies the affordable accessible compliant unit shall be relocated to another affordable unit in order to allow the qualified disabled household to occupy the accessible compliant unit. Owner shall include a provision in the non-accessible compliant affordable lease for any accessible-compliant affordable unit that the non-accessible Extremely Low or Very Low or Low Income tenant agrees to be relocated, at Owner's cost, as soon as a non-accessible compliant unit becomes available. While any of the four (4) affordable accessible-compliant units are not being leased to disabled persons (due to unavailability of such persons to lease), the applicable Affordable Unit shall be leased in accordance with this Agreement.

At all times, Owner shall keep City informed in writing of the income level applicable to each accessible compliant unit.

The accessible compliant units shall be consistent with accessibility design criteria established by the State of California, and Owner shall promptly make any changes to such units required by new laws or changes in laws. Reasonable accommodation shall be made, as may be requested by specific Extremely Low or Very Low or Low Income disabled tenants in such units, to provide features such as smoke alarms with flashing lights, for instance, if requested by hearing impaired Extremely Low or Very Low or Low Income tenants in an accessible compliant unit.

2.7.2 [Intentionally Deleted].

2.7.3 Preference Policies. To the extent permitted by applicable state and federal law, priority shall be granted to eligible City of Moorpark residents. A waiting list for the Affordable Units shall be maintained from which vacancies shall be filled. The waiting list shall be established through a fair process for the selection of the next eligible households to fill the vacancies allowing for priority for City of Moorpark residents to the extent permitted by applicable state and federal law. Details of this process shall be submitted in writing to the City for review and approval prior to the issuance of the first building permit for this project. Additionally, Owner shall submit to City an annual report, no later than January 30 of each calendar year for the pervious calendar year, describing the vacancies filled from households on the list, total vacancies filled and the number of households on the list.

2.7.4 Occupancy Reporting. As specified in Section 2.12, Owner will advise City on a quarterly basis in writing of the number of Affordable Units in the entire Project occupied by Extremely Low or Very Low or Low Income Tenants by delivery of a certificate in the form specified by the City, which is attached hereto as Exhibit No. 3, which shall include a statement as to whether or not the tenant was a City of Moorpark resident who on the waiting list and was given priority. Any reporting schedule less frequent than quarterly must be expressly approved in writing by the City Manager.

2.7.5 Unit Classification. Subject to the rules and regulations of the California Tax Credit Allocation Committee, an Affordable Unit occupied by an Extremely Low or Very Low or Low Income Tenant shall be deemed, upon termination of occupancy by such tenant (whether voluntarily or involuntarily), to be continuously occupied by an Extremely Low or Very Low or Low Income Tenant, as applicable, until re-occupied other than for a temporary period (not to exceed 60 days), at which time the classification of the Unit shall be redetermined (provided that upon such reclassification, Owner must remain in compliance with this Agreement). Owner shall use commercially reasonable efforts to prevent such temporary periods from exceeding sixty (60) days. Owner will also obtain and maintain on file such Certifications of Tenant Eligibility in the form of Exhibit No. 3 attached hereto, for each Extremely Low and Very Low and Low Income Tenant. Owner shall make a good faith effort to verify that the income declared by an applicant in an income certification is accurate by reviewing any one or more of the following documents, which shall be provided by the applicant:

- (a) A pay stub for the most recent pay period;
- (b) An income tax return for the most recent tax year;
- (c) An income verification form from the applicant's current employer;
- (d) An income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of those agencies; or

(e) If the applicant is unemployed and has no tax return, another form of independent verification is needed.

In addition to the above-referenced income certification and subject to fair housing laws and the rules and regulations of the California Tax Credit Allocation Committee, eligible Extremely Low and Very Low and Low Income applicants for the ADA compliant units shall submit a letter from a physician or other document acceptable to the City and Owner which confirms the accessibility needs of the applicant.

2.7.6 Lease Provisions. Subject to the rules and regulations of the California Tax Credit Allocation Committee, the Owner shall include provisions in all signed leases or rental agreements for all Affordable Units which authorize the Owner to immediately terminate the tenancy of any tenant occupying an Affordable Unit where one or more of such tenants have misrepresented any fact material to the qualification of such an individual or household as an Extremely Low or Very Low or Low Income Tenant and/or for qualification for occupancy of an Affordable Unit, and Owner shall reasonably enforce such termination rights (i.e., Owner shall exercise them and not waive them). Each lease or rental agreement for an Affordable Unit shall also provide that the tenants of such Affordable Unit shall be subject to annual certification or recertification of income, as required by the City, and shall be subject to rental increases in accordance with Section 2.11 of this Agreement.

2.7.7 Management Diligence. Owner shall use commercially reasonable efforts not to allow any rent-ready Affordable Unit to remain vacant.

2.7.8 Administration by City; Administrative Fee. City shall appoint a staff person to oversee the implementation of this Agreement, and shall notify Owner in writing of the name and phone number of such staff person and any replacements. On or before the first day of June of each year during the Term of this Agreement, commencing after the first residential occupancy of the Project, Owner shall pay to the City for the administration of this Agreement (and be jointly and severally liable for) an annual fee equal to twenty-five thousand dollars (\$25,000.00), subject to adjustment annually by the larger of (a) or (b) below:

(a) The percentage increase in the Consumer Price Index during the prior year, which shall be determined by using the Consumer Price Index by the U. S. Department of Labor, Bureau of Labor Statistics, for all urban consumers, all items, for the Los Angeles/Riverside/Orange County metropolitan area (i.e., the Los Angeles-Long Beach-Anaheim index). The calculation shall be made by copying such CPI for the month of October to the CPI for the previous October.

(b) The annual percentage amount paid to City by the Local Agency Investment Fund (LAIF), calculated as follows: The sum of the quarterly effective yield amounts paid by LAIF for the City's Pooled Money Investment Account for the most recent four (4) calendar quarters divided by four (4).

In the event the CPI or LAIF is discontinued or revised, such successor index with which they are replaced shall be used to achieve substantially the same result, or if there is no successor index, then another index shall be used to achieve substantially the same result.

2.7.9 Lease Provisions. The provisions relating to certification and recertification of income in the form of lease or rental agreement used by the Owner for the lease or rental of the Affordable Units shall be subject to review and approval by the City, the approval of which shall not be unreasonably withheld, conditioned, or delayed. If the lease or rental agreement provisions specified in this Section are not approved or disapproved within thirty (30) days after submittal to City, they shall be deemed approved.

2.8 Rent-Up Periods and Occupancy Procedures.

2.8.1 In connection with the Initial Lease-Up of the Project, Owner will adopt outreach programs to locate qualified tenants for the Project and shall establish such procedures for occupancy, rental, and rent grievances as may be reasonably required by the City. Not later than ten (10) days prior to the commencement of marketing, Owner shall prepare and submit to the City for reasonable approval a marketing and outreach program which shall contain, among other things, the following: how a potential tenant would apply to rent a Unit in the Project, including where to apply, applicable income limits and rent levels; support documentation needed such as pay stubs, tax returns, or confirmation of disability, if applicable, a description of procedures Owner will follow to publicize vacancies in the Project, including notice in newspapers of general circulation, including at least one Spanish-language newspaper and mailing notices of vacancies to or contacting by telephone potential tenants on the waiting list maintained by Owner. Notices shall also be given to organizations in Ventura County which provide referrals or other services to persons with disabilities.

2.8.2 In the event that any Affordable Unit is rendered unfit for occupancy (including by damage or destruction), then until the Affordable Unit is repaired/reconstructed (so that it is available for leasing in compliance with this Agreement), Owner shall pay the City a single fee of \$10 (which shall increase by \$2 every five (5) years) per day until the Affordable Unit is placed back in service except that such fee shall not be payable for so long as Owner is diligently attempting to repair or rebuild the Affordable Unit in question, as shown by reasonable evidence provided to City.

2.9 Affordable Rent.

2.9.1 Monthly rent charged to Extremely Low Income households shall be no greater than thirty percent (30%) of thirty percent (30%) of County Median Income, adjusted for family size appropriate for the Unit, less the Utility Allowance. "Family size appropriate to the Unit", as shown on Exhibit No. 2 is defined in Section 50052.5(h) of the California Health and Safety Code to be 2 persons for a 1 bedroom unit, 3 persons for a 2 bedroom unit and 4 persons for a 3 bedroom unit.

2.9.2 Monthly rent charged to Very Low Income households shall be no greater than thirty percent (30%) of fifty percent (50%) of County Median Income, adjusted for family size appropriate for the Unit, less the Utility Allowance. "Family size appropriate to the Unit", as shown on Exhibit No. 2 is defined in Section 50052.5(h) of the California Health and Safety Code to be 2 persons for a 1 bedroom unit, 3 persons for a 2 bedroom unit and 4 persons for a 3 bedroom unit.

2.9.3 Monthly rent charged to Low Income households shall be no greater than thirty percent (30%) of sixty percent (60%) of County Median Income, adjusted for family size appropriate for the Unit, less the Utility Allowance. "Family size appropriate to the Unit", as shown on Exhibit No. 2 is defined in Section 50052.5(h) of the California Health and Safety Code to be 2 persons for a 1 bedroom unit, 3 persons for a 2 bedroom unit and 4 persons for a 3 bedroom unit.

2.9.4 Utility Allowances will be adjusted annually using the most current "Allowances for Tenant Furnished Utilities and Other Services" (form HUD-52667) based on Apartment/Walk Up unit type as posted and updated annually by the Area Housing Authority of the County of Ventura based on the following appliances/utilities to be provided to the units:

Natural Gas – Heating, cooking, water heating

Water, Sewer, Trash, Other Electric allowance (for lights and other electric uses)

2.10 Alternative Affordable Rent Calculations. If the requirements or practices of the California Tax Credit Allocation Committee (CTCAC), the California Debt Limit Allocation Committee (CDLAC), any lender as Bond owner, or other entity or entities similarly associated with anticipated financing of the construction of this project, or future prudent refinancing of this project, utilizes definitions, sources of information, etc., other than those which have been herein defined and utilized in calculating Affordable Rent, then the procedure or input which produces the **lowest affordable rent**, will prevail as to the applicable Affordable Unit restricted by this Agreement.

2.11 Income Recertification; Rent Increases.

2.11.1 Owner shall cause the income of each Tenant of an Affordable Unit to be re-certified on an annual basis on the anniversary date of each such tenant's initial rental date. This recertification shall be submitted in writing to the City within thirty (30) days of such action.

2.11.2 Rents for the Affordable Units may be increased only once per calendar year, concurrently with or subsequent to any increase in the County Median Income when and as determined by HCD. The rents charged for the Affordable Units following such an increase, or upon a vacancy and new occupancy by an Extremely Low or Very Low or Low Income Tenant, as the case may be, shall not exceed the allowable rent calculated in compliance with Sections 2.9, 2.12.1, 2.12.2, and 2.12.3 below.

2.12 Increased Income of Occupying Households. Only after the last to expire of the Compliance Period and Extended Use Period or the Qualified Project Period with respect to the Extremely Low Income Units and Very Low Income Units, the following shall apply:

2.12.1 If, upon income recertification, the Owner determines that the household income of an Extremely Low Income Tenant has increased above the maximum allowable household income level of an Extremely Low Income Tenant, but remains equal to or below that of a Very Low Income household, then, except as provided below in this Section 2.12, the Owner shall not be required to evict the Tenant and the monthly rent charged to such Tenant shall be not greater than one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of the County Median Income for the size household appropriate to the unit (less the utility allowance), upon sixty (60) days written notice to the occupants thereof. In that event, the next available unit that was previously a Very Low Income Unit must be rented to (or held vacant and available for immediate occupancy by) an Extremely Low Income household.

2.12.2 If, upon income recertification, the Owner determines that the household income of a Very Low Income Tenant has increased above the maximum allowable household income level of a Very Low Income Tenant, but remains equal to or below that of a Low Income household, then, except as provided below in this Section 2.12, the Owner shall not be required to evict the Tenant and the monthly rent charged to such Tenant shall be not greater than one-twelfth (1/12) of thirty percent (30%) of sixty percent (60%) of the County Median Income for the size household appropriate to the unit (less the utility allowance), upon sixty (60) days written notice to the occupants thereof. In that event, the next available unit that was previously a Low Income Unit must be rented to (or held vacant and available for immediate occupancy by) a Very Low Income household.

Notwithstanding the foregoing, any such Tenant shall have the right to request a recertification of income (not later than sixty (60) days prior to the date they are supposed to vacate). If the recertification shows that income is not greater than the maximum allowable household income level due to a documented voluntary reduction of income, then the notice to vacate shall be withdrawn.

Until the last to end of the Compliance Period and Extended Use Period or the Qualified Project Period, Owner shall comply with laws and regulations of CTCAC, CDLAC and any separate/additional recorded restrictions or "Regulatory Agreement" required by the Affordable Housing Financing and such requirements with respect to over-income tenants shall prevail.

Owner shall promptly deliver to City copies of all Affordable Housing Financing regulatory agreements or similar agreements restricting Units in the Project, and shall notify City and all affected tenants in writing of the expiration of the period at least one (1) calendar year (but not more than fourteen (14) months) prior to expiration of the Compliance Period and Extended Use Period or Qualified Project Period, whichever expires later, of any effect on the affordability level of their Affordable Units.

Additionally, Owner shall notify City in writing of any re-syndication or extension of tax credit financing and any defeasance or refinancing of bond financing as soon as they become reasonably likely.

2.13 Specific Enforcement of Affordability Restrictions.

2.13.1 Owner hereby agrees that specific enforcement of Owner's agreements to comply with the allowable rent and occupancy restrictions of this Agreement is one of the reasons for the City's issuing the Project Approvals and entering into the Amendment to Development Agreement.

2.13.2 Owner further agrees that, in the event of any breach of such requirements, potential monetary damages to City, as well as prospective Extremely Low and Very Low Income Tenants, would be difficult, if not impossible, to evaluate and quantify.

2.13.3 Therefore, in addition to any other relief or damages to which the City may be entitled as a consequence of the breach hereof, Owner agrees to the imposition of the remedy of specific performance against it in the case of any event of default by Owner in complying with the allowable rent, occupancy restrictions or any other provision of this Agreement. Nothing herein shall impair City's rights to liquidated damages under Section 6.4 below.

2.14 [INTENTIONALLY OMITTED]

2.15 Reporting Requirements.

2.15.1 From the commencement of construction until the end of the first quarter or the end of the calendar quarter in which construction of the Project was completed, whichever occurs later, Owner shall prepare and submit to the City, on a quarterly basis, written reports, setting forth the rental activity for the previous month, and the current total number of Affordable Units occupied by tenants.

2.15.2 Commencing with the first full calendar quarter after the last period covered by monthly reports pursuant to Section 2.15.1, Owner shall prepare and submit to the City, on a quarterly basis, not later than the 15th day of each calendar quarter, a Certificate of Continuing Program Compliance in a form substantially similar to Exhibit No. 4 attached hereto, stating: (a) the number and percentage of Affordable Units in the Project which were occupied by Extremely Low, Very Low, and Low Income Tenants, or held vacant and available for occupancy by such Tenants during said period; and (b) that to the knowledge of Owner, no default has occurred under the provisions of this Agreement; and (c) such other information as may be requested in writing by the City Manager.

2.15.3 Owner shall prepare and submit to the City, on an annual basis, a report in form and substance reasonably satisfactory to the City, not later than March 31st of each year for the preceding calendar year, summarizing the vacancy rate of the Affordable Units in the Project on a month-to-month basis for such calendar year.

2.15.4 Owner shall also deliver to City from time to time any other information about the Affordable Units and the rental thereof as may be reasonably requested in writing by City within ten (10) days after any such written request.

ARTICLE 3 OPERATIONS

3.1 [INTENTIONALLY OMITTED]

3.2 Management Agent.

3.2.1 The Project shall at all times be managed by the Owner or a single third-party management agent with demonstrated ability to operate, and experience in operating, residential housing including restricted affordable housing, in a manner that will provide decent, safe and sanitary residential facilities to occupants thereof, including experience in complying with reporting requirements and occupancy restrictions similar to those imposed upon the Project by the terms of this Agreement. (There may only be one manager for the entire Project at any one time.)

3.2.2 The Owner, directly or through an affiliate, may be the “manager” of the Project. The Owner may retain on-site personnel and other consultants and service providers to assist Owner to operate the Project effectively and in compliance with the provisions of this Agreement and state and federal law.

3.2.3 In the event that Owner seeks to appoint a replacement management entity to manage the Project, they shall advise the City of the identity of any such qualified management agent not later than thirty (30) days prior to the effective date of such appointment. The Owner shall also submit such additional information about the background, experience and financial condition of any proposed management agent as is reasonably requested by the City.

3.2.4 Upon the City’s written request, the Owner shall cooperate with the City in an annual review of the management practices and status of Project. The purpose of each annual review will be to enable the City to determine if the Project is being operated and managed in accordance with the requirements and standards of this Agreement.

3.3 Day-to-Day Management Responsibility. The following procedure shall be followed to ensure effective day-to-day operation of the Project and cooperation among the City, the Owner and the management agent:

3.3.1 Day-to-day operation of the Project will be under the direct supervision of an on-site management agent, or a resident manager who will report to the management agent.

3.3.2 There will be regular meetings as necessary between the Owner and the management agent for the purpose of reviewing policies, procedures, resident relations and budget control.

3.3.3 Owner shall notify the City in writing of the direct phone number and email address of the management agent (so that City may contact the management agent directly), and shall cause the management agent or its personnel to be available on a twenty-four hour a day basis to respond to City inquiries.

3.4 Staffing Arrangements. Owner shall provide for adequate on-site staffing of management personnel to manage the Project in a prudent and businesslike manner. In addition, Owner shall provide such security services as may be necessary or appropriate for the Project. All hiring of on-site personnel shall conform to applicable equal opportunity guidelines, without regard to race, religion, color, national origin or sex. All hiring materials will indicate that the Project is an "Equal Opportunity Employer." Employment grievances, terminations and promotions will be conducted according to personnel policies and procedures which conform with equal opportunity laws. All personnel employed at the Project will receive training specific to Owner's policies and procedures.

3.5 City Ability to Modify. If the Project is not timely completed in accordance with the Schedule of Performance in the Development Agreement, the City may modify the development standards and to change the General Plan designation and zoning of the Property, and Owner hereby waives any rights they might otherwise have to seek judicial review of such City actions to change the development standards, General Plan designation and zoning to those development standards and density of permitted development to that in existence prior to the approval of General Plan Amendment No. 2004-05 ("GPA 2004-05") and Zone Change No. 2004-04 ("ZC 2004-04").

3.6 Annual Community Services Fee. Upon the issuance of a Zoning Clearance by the City for occupancy of the first unit of the Project, and on each anniversary thereof, Owner shall pay to City a single community services fee of Eight Thousand Dollars (\$8,000.00) increased by two percent (2%) concurrently with annual payments under the City Note (as defined in the Development Agreement).

ARTICLE 4 MAINTENANCE

4.1 Maintenance, Repair, Alterations. Owner shall maintain and preserve the Project and the Property in good condition and repair and in a prudent and businesslike manner. If any portion of the Project is damaged, restoration of the damaged improvements shall be made by Owner to a condition as good as existed prior to the damage. Owner shall complete promptly and in a good and workmanlike manner any improvements which may now or hereafter be constructed as part of the Project and pay when due all claims for labor performed and material furnished therefor. Owner shall comply with all laws, ordinances, rules, regulations, covenants, conditions, restrictions, and orders of any governmental authority now or hereafter affecting the conduct or operation of the Project and of their businesses on the Project or any part thereof or requiring any alteration or improvement to be made thereon. Owner shall maintain grounds, sidewalks, roads, parking, and landscaped areas in the Project (and on any adjacent areas owned by either of them) in good and neat order and repair. Owner hereby agrees that City may conduct from time to time through representatives of its own choice

who are properly identified as agents of the City, upon reasonable written notice and subject to reasonable security and safety procedures and rights of tenants in possession, on-site inspections and observation of such records of Owner relating to the Project and the Property as City reasonably deems to be necessary or appropriate in order to monitor Owner's compliance with the provisions of this Agreement. The Owner shall conduct an ongoing maintenance program, which shall include the following:

a. Scheduled preventative maintenance and repair of installed equipment in accordance with manufacturers' recommendations.

b. Routine repairs to kitchen appliances, electrical, plumbing and heating equipment.

c. Preventative annual apartment inspections to regularly and consistently ascertain the condition of each apartment unit.

d. Preventative regular inspections of common areas and equipment as well as regular schedules (daily, weekly, monthly, quarterly, etc.) for maintaining the same. This will include maintenance of exterior areas to keep grounds free of graffiti, litter, trash and paper. Parking areas will be maintained in good repair and free from dirt and litter. Common areas such as hallways and laundry rooms will be swept and cleaned regularly and kept free of trash and other debris. Garbage removal will be provided through arrangements with a contractor, consistent with applicable City ordinances. The trash areas will be swept regularly and scrubbed with disinfectant when necessary. Extermination services will be contracted with to provide pest control consistent with high quality apartment management practices.

e. Contract with a landscape firm to maintain the landscaped areas in an attractive and healthy condition.

f. Interior painting and carpet cleaning or replacement in individual apartment units shall be based on need, substantiated by the annual physical inspection, or as occupancy changes, or as the Owner or the management agent may otherwise deem necessary.

g. Owner will employ a maintenance work order procedure in the Project to adequately document requests for work and promptness within which the work has been completed.

4.2 Disclaimer. Nothing in this Agreement shall make City responsible for making or completing capital repairs or replacements to the Project or the Property or require City to expend funds to make or complete the same.

ARTICLE 5 TERM

5.1 Term of Agreement. This Agreement shall remain in full force and effect for the Term.

ARTICLE 6 DEFAULT AND REMEDIES

6.1 An Event of Default. Each of the following shall constitute an “Event of Default” by the Owner hereunder:

6.1.1 Failure by the Owner to duly perform, comply with and observe the conditions of Project approval, conditions, terms, or covenants of the Development Agreement or this Agreement, if such failure remains uncured thirty (30) days after written notice of such failure from the City in the manner provided herein or, with respect to a default that cannot be cured within thirty (30) days, if the Owner or Affordable Housing Owner fails to commence such cure within such thirty (30) day period or thereafter fails to diligently and continuously proceed with such cure to completion. In no event shall the City be precluded from exercising remedies if an Event of Default is not cured within ninety (90) days after the first notice of default is given or such longer period as may be agreed upon by both parties in writing. If a different period or notice requirement is specified under any other section of this Agreement, then the specific provision shall control.

6.1.2 Failure by Owner to cure any default under Section 2.15 within fifteen (15) business days after written notice of such default by City.

6.1.3 Any representation or warranty contained in this Agreement or in any application, financial statement, certificate, or report submitted to the City by Owner proves to have been incorrect in any material respect when made, if such failure remains uncured thirty (30) days after written notice of such failure from City to Owner in the manner provided herein or, with respect to a default that cannot be cured within thirty (30) days, if the Owner fails to commence such cure within such thirty (30) day period or thereafter fail to diligently and continuously proceed with such cure to completion.

6.1.4 A court having jurisdiction shall have made or rendered a decree or order (a) adjudging Owner to be bankrupt or insolvent; (b) approving as properly filed a petition seeking reorganization of Owner or seeking any arrangement on behalf of the Owner under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or of any state or other jurisdiction which is not dismissed within sixty (60) days after filing; (c) appointing a receiver, trustee, liquidator, or assignee for the benefit of creditors of the Owner in bankruptcy or insolvency or for any of its properties which (or who) is not discharged within sixty (60) days after its appointment; or (d) directing the winding up or liquidation of the Owner, providing, however, that any such decree or order described in any of the foregoing subsections shall have continued unstayed or undischarged for a period of ninety (90) days.

6.1.5 The Owner shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment or execution on any substantial part of its property, unless the property so assigned, sequestered, attached, or executed upon shall have been returned or released within ninety (90) days after such event (unless a lesser time period is permitted for cure hereunder) or prior to sale pursuant to such sequestration, attachment, or execution. If the Owner is diligently working to obtain a return or release of the property and the City's interest hereunder is not imminently

threatened in the City's reasonable business judgment, then the City shall not declare a default under this subsection.

6.1.6 The Owner shall have voluntarily suspended its business for a period of thirty (30) consecutive days or dissolved and a subsequent owner has not assumed the obligations of Owner in accordance with this Agreement.

6.1.7 Should any default be declared by any lender under any loan document or deed of trust relating to any loan made in connection with the Project or Property, which loan is secured by a deed of trust or other instrument of record, and is not cured within the applicable cure period, if any, granted in the applicable loan documents.

6.2 Liens.

6.2.1 This Agreement shall be senior in priority to any lien or encumbrance on the Property (other than the Development Agreement) and all liens and encumbrances shall be subordinate and subject to this Agreement, regardless of actual date of recordation. The City shall consider in good faith, reasonable modifications of this Agreement typically required by secured lenders and commonly known as "mortgagee protection" provisions; however, in no event shall any such modification shorten the term of this Agreement or contain or require any subordination of provisions of this Agreement.

6.2.2 Owner shall pay and promptly discharge when due, at their cost and expense, all liens, encumbrances and charges upon their respective interests in the Project or the Property, or any part thereof or interest therein (except the lien of any mortgage, deed of trust or other recorded instrument securing any construction or permanent financing for the Project, which shall, in any event, be junior and subordinate to this Agreement), provided that the existence of any mechanic's, laborer's, materialman's, supplier's, or vendor's lien or right thereto shall not constitute a violation of this Section if payment is not yet due under the contract which is the foundation thereof and if such contract does not postpone payment for more than forty-five (45) days after the performance thereof. Owner shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided that within ten (10) days after service of a stop notice or ninety (90) days after recording of a mechanic's lien, Owner shall deposit with City a bond or other security reasonably satisfactory to City in such amounts as City shall reasonably require, but no more than the amount required to release the lien under California law and provided further that Owner shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged, and shall, in any event, cause such lien, encumbrance or charge to be removed or discharged not later than sixty (60) days prior to any foreclosure sale. If Owner shall fail either to remove and discharge any such lien, encumbrance or charge or to deposit security in accordance with the preceding sentence, if applicable, then, in addition to any other right or remedy of City, City may, but shall not be obligated to, discharge the same, without inquiring into the validity of such lien, encumbrance or charge nor into the existence of any defense or offset thereto, either by paying the amount claimed to be due, or by procuring the discharge of such lien, encumbrance or charge by depositing in a court a bond or the

amount or otherwise giving security for such claim, in such manner as is or may be prescribed by law. Owner shall, immediately upon written demand thereof by City, pay to City an amount equal to all costs and expenses incurred by City in connection with the exercise by City of the foregoing right to discharge any such lien, encumbrance or charge. To the extent not paid, all costs and expenses paid by the City shall be a lien on the Property pursuant to Civil Code Section 2881.

6.3 Costs of Enforcement. If any Event of Default occurs, and is continuing, City may employ an attorney or attorneys to protect its rights hereunder. Subject to California Civil Code Section 1717, the non-prevailing party promises to pay to the prevailing party, on demand, the fees and expenses of such attorneys and all other costs of enforcing the obligations secured hereby including without limitation, recording fees, receiver's fees and expenses, and all other expenses of whatever kind or nature, incurred by the prevailing party in connection with the enforcement of this Agreement, whether or not such enforcement includes the filing of a lawsuit.

6.4 Enforcement of this Agreement; Remedies. Upon the occurrence of any Event of Default by Owner, City shall be entitled to enforce performance of any obligation of Owner arising under this Agreement and to exercise all rights and powers under this Agreement or any law now or hereafter in force. Additionally, without limiting any of City's other rights or remedies, upon any leasing of a particular Affordable Unit in violation of this Agreement, then Owner shall pay the City a single fee of \$10 (which shall increase by \$2 every five (5) years) per day until the violation has been cured (it being understood that if the Affordable Unit is unavailable due to material damage or destruction, Section 2.8.6 above shall govern). Additionally, City shall be entitled to recover from Owner, in addition to enforcement costs and any other damages to which City may be entitled, all rent charged by Owner in excess of the rental amounts permitted under this Agreement, with interest thereon from the date paid to Owner until the date paid by Owner to City at the lesser of eight percent (8%) per annum or the maximum rate permitted by law. Owner stipulates, acknowledges and agrees that the amounts described herein are reasonable estimates of the minimum damages incurred by the City and public as a result of violation(s), and that actual damage would be impractical or impossible to determine with accuracy. No remedy herein conferred upon or reserved to City is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by this Agreement to the City may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the City, and the City may pursue inconsistent remedies. The City shall have the right to mandamus or other suit, action or proceeding at law or in equity to require the Owner to perform its obligations and covenants under this Agreement or to enjoin acts or things which may be unlawful or in violation of the provisions hereof.

ARTICLE 7 GENERAL PROVISIONS

7.1 Notices. All notices, certificates or other communications required or permitted hereunder shall be in writing and shall be delivered by certified mail, postage prepaid, or by reputable overnight messenger service, addressed as follows:

If to the City:

City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
Attention: City Manager

If to the Owner:

Moorpark Casey Road LP
5251 Ericson Way
Arcata, CA 95521
Attn: Chris Dart (cdart@danco-group.com)

Either party may change its address for notices by a written notice given in accordance with this Section. Notices shall be deemed given on the date of actual delivery or refusal to accept delivery, as shown on the return receipt (if sent by certified mail), or one (1) business day after delivery to the messenger service (if sent by overnight messenger).

7.2 Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the City and the Owner, or the City and any agents, employees or contractors of the Owner, and the Owner shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement for the operation of the Project. The Owner have and hereby retains the right to exercise full control of employment, direction, compensation and discharge of all persons assisting in the performance of services hereunder. In regards to the on-site operation of the Project, the Owner shall be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding and all other laws and regulations governing such matters. The Owner each agrees to be solely responsible for its own acts and those of its agents and employees.

7.3 No Claims. Nothing contained in this Agreement shall create or justify any claim against the City by any person the Owner may have employed or with whom the Owner may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the operation of the Project or the Property.

7.4 [INTENTIONALLY OMITTED]

7.5 Limitation of Liability.

7.5.1 No member, official, employee, agent or attorney of the City shall be personally liable to the Owner, or any successor in interest, in the event of any default or breach by the City or for any amount which may become from the City or successor or on any City obligation under the terms of this Agreement. No member, official, employee, attorney, partner or consultant of the Owner shall be personally liable to City in the event of any default or breach by Owner or for any amount which may become due to City or its successor, or on any obligations under the terms of this Agreement or Development Agreement.

7.5.2 Notwithstanding any other provision or obligation to the contrary contained in this Agreement, (i) the liability of Owner under this Agreement to any person or entity, including, but not limited to, City and its successors and assigns, is limited to their interests in the Project and the Property, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Agreement or any other agreement securing the obligations of Owner, under this Agreement, (ii) from and after the date of this Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Agreement), shall be rendered against Owner, or their assets (other than their interests in the Project, and this Agreement), in any action or proceeding arising out of this Agreement.

7.6 Force Majeure. Whenever a party required to perform an act under this Agreement by a certain time, said time shall be deemed extended so as to take into account events of force majeure. As used herein "force majeure" shall mean a delay in performance hereunder due to acts of God, pandemics, fire, earthquake, flood, extreme weather conditions, explosions, war, invasion, insurrection, riot, mob violence, sabotage, acts of terrorism, vandalism, malicious mischief, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, third party litigation, condemnation, requisition, governmental restrictions including, without limitation, inability or delay in obtaining government consents or permits, laws or orders of governmental, civil, military or naval authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the party's control, other than lack of or inability to procure monies to fulfill its commitments or obligations under this Agreement.

7.7 Indemnification of City. Except with respect to claims that arise solely from negligence, fraud or willful misconduct by the City or its officers, employees or agents, Owner shall defend, indemnify and hold City harmless from and against any and all claims, losses, damages, liabilities, costs and expenses arising directly or indirectly from, or relating directly or indirectly to: (i) any failure by Owner to comply with the terms of this Agreement; (ii) the construction, maintenance, alteration or operation of the Project; (iii) any negligence or willful misconduct by Owner or any of their employees, agents, contractors, licensees, invitees or tenants on the Project or the Property.

7.8 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party. No waiver of any default or breach hereunder shall be implied from any omission to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by the City to or of any act by the Owner requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The exercise of any right, power, or remedy shall in no event constitute a cure or a waiver of any default under this Agreement, nor shall it invalidate any act done pursuant to notice of default, or prejudice the City in the exercise of any right, power, or remedy hereunder.

7.9 Enforcement; Waiver. The City may take whatever action at law or in equity as may be necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the Owner under this Agreement. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of such right or power, but any such right or power may be exercised from time to time and as often as City may deem expedient. In order to entitle the City to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be herein expressly required or required by law to be given.

7.10 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.

7.11 Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the party prevailing in any such action shall be entitled to recover against the party not prevailing all reasonable attorneys' fees and costs incurred in such action (including, without limitation, all reasonable legal fees incurred in any appeal or in any action to enforce any resulting judgment).

7.12 Binding Upon Successors; Assignment by City. This Agreement, and the exhibits attached hereto, shall run with the land and be binding upon and inure to the benefit of the successors and assigns of each of the parties, and successors in interest to the Project or any portion thereof or interest therein. Any reference in this Agreement to Owner shall be deemed to apply to any successor or assign or successor-in-interest of such party who has acquired any portion of or interest in the Project. Without limiting the

foregoing, City may assign this Agreement to the Area Housing Authority of the County of Ventura or any other housing authority created by City or in which City is a member.

7.13 Binding Effect; Successors and Assigns. Owner covenants and agrees for itself, and its successors and assigns and every successor in interest to any portion of or interest in the Project that it and its successors, assigns and successors in interest shall comply with all of the terms, provisions, easements, conditions, covenants, restrictions, liens, and servitudes set forth in this Agreement. This Agreement is intended to bind the Project and Property “run with the land”.

7.14 Transfers. Owner shall provide the City with at least thirty (30) days’ prior written notice of any sale or transfer of the Project or the Property or any portion thereof. The Affordable Units shall at all times remain owned by a single entity. Written notice shall be given to the City of any transfer, but no consent of the City shall be required for any transfer of Affordable Units to an entity of which Danco Homes or any affiliate thereof, that directly or indirectly, owns and controls, or partially owns but controls the entity to which the transfer will be made, provided that the City is given a copy of the Assignment and Assumption Agreement and organizational documents that prove the entity is such an affiliate of Danco Homes and has such ownership and control.

7.15 Time of the Essence. In all matters under this Agreement, time is of the essence.

7.16 Complete Understanding of the Parties. The Project Approvals and this Agreement constitute the entire understanding and agreement of the parties with respect to the matters described herein and therein.

7.17 Construction and Interpretation of Agreement. The parties hereto acknowledge and agree that this Agreement has been prepared jointly by the parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has reviewed this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret and agree to the particular language of the provisions of this Agreement. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, notwithstanding Civil Code Section 1654, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

7.18 Controlling Law; Venue. This Agreement shall be deemed to be entered into in California and shall be controlled and interpreted by the internal laws of California, without regard to conflict of law provisions, except to the extent federal law applies. Venue for any action brought under this Agreement will be in the Superior Court for the County of Ventura, California or in the United States District Court for the Central District of California. Owner hereby accepts for itself and in respect to its property, generally and unconditionally, the non-exclusive jurisdiction of the foregoing courts. Owner irrevocably consents to the service of process in any action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to Owner at its address for notices

pursuant to this Agreement. Nothing contained herein shall affect the right of the City to serve process in any other manner permitted by law.

7.19 Hazardous Materials.

7.19.1 Definitions. The following special definitions shall apply for the purposes of this Section:

(a) "Hazardous Materials" shall mean:

(1) any "hazardous substance" as defined in Section 101(14) of CERCLA (42 U.S.C. Section 9601(14)) or Section 25281(d) or 25316 of the California Health and Safety Code at such time;

(2) any "hazardous water," "infectious waste" or "hazardous material" as defined in Section 25117, 25117.5 or 25501(j) of the California Health and Safety Code at such time;

(3) any other waste, substance or material designated or regulated in any way as "toxic" or "hazardous" in the RCRA (42 U.S.C. Section 6901 et seq.), CERCLA Federal Water Pollution Control Act (33 U.S.C. Section 1521 et seq.), Safe Drinking Water Act (42 U.S.C. Section 3000 (f) et seq.), Clean Air Act (42 U.S.C. Section 7401 et seq.), California Health and Safety Code (Section 25100 et seq., Section 3900 et seq.), or California Water Code (Section 1300 et seq.) at such time; and

(4) Any additional wastes, substances or material which at such time are classified, considered or regulated as hazardous or toxic under any other present or future environmental or other similar laws relating to the Project or the Property.

(b) "Hazardous Materials Laws" means all federal, state, and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials, in, on or under the Project, the Property of any portion thereof.

7.19.2 Certain Hazardous Materials Covenants and Agreements. The Owner hereby agrees that:

(a) Neither shall knowingly permit the Project, the Property 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 Project or the Property. For the purposes of this Section only, the term "Hazardous Materials" shall not include: (1) construction materials, gardening materials, household products, office supply products, or janitorial supply products customarily used in the construction, ownership, operation, maintenance, or management of residential developments or associated buildings and grounds, or typically used in residential activities, in a manner typical of other residential developments which are comparable to the Project; or (2) certain substances which may

contain chemicals listed by the State of California pursuant to Health and Safety Code Section 25249.8 et seq., which substances are commonly used by a significant portion of the population living within the region of the Project, including (without limitation) alcoholic beverages, aspirin, tobacco products, and saccharine.

(b) Each shall keep and maintain its interest in Project and the Property and each portion thereof in compliance with, and shall not cause or permit its interest in the Project, the Property or any portion thereof to be in violation of, any Hazardous Materials Laws.

(c) Upon receiving actual knowledge of the same, the Owner or shall immediately advise the City in writing of: (1) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against the Owner or the Project or the Property pursuant to any applicable Hazardous Materials Laws; (2) any and all claims made or threatened by any third party against the Owner or the Project or the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in the foregoing clause (1) and this clause (2) are hereinafter referred to as "Hazardous Materials Claims"); (3) the presence of any Hazardous Materials in, on or under the Project or the Property; or (4) the Owner'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, Section 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 or the Property under any Hazardous Materials Laws.

7.19.3 Indemnity. Owner hereby agrees to indemnify, protect, hold harmless and defend (by counsel reasonably approved by the City) the City, and its City Council members, officers, employees, contractors, agents and attorneys 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 attorneys' fees and expenses (collectively, a "Loss"), arising directly or indirectly, in whole or in part, out of (1) the failure of the Owner, as applicable, or any other person or entity occupying or present on their respective interest in the Project or Property, 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 or the Property; (2) the presence in, on or under its interest in the Project or the Property of any Hazardous Materials or any releases or discharges of any Hazardous Materials into, on, under or from its interest in the Project or the Property; or (3) any activity carried on or undertaken on its interest in the Project or the Property during its ownership thereof, whether by the Owner or any employees, agents, contractors or subcontractors, or any third persons at any time occupying or present on the Project or the Property, 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 or the Property. The

foregoing indemnity shall further apply to any residual contamination on or under the Project or the Property, 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 on, under, or from the Project or the Property, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws. However, the foregoing indemnity shall not extend to the portion of any Loss arising from the gross negligence, fraud or willful misconduct of the City or anyone for whose actions the City is legally liable. This Section shall survive termination of this Agreement.

7.19.4 No Limitation. Owner hereby acknowledge and agree that their duties, obligations and liabilities under this Agreement are in no way limited or otherwise affected by any information the City may have concerning the Project or the Property and/or the presence within the Project or the Property of any Hazardous Materials, whether the City obtained such information from Owner or from its own investigations.

7.20 Insurance Requirements.

7.20.1 Required Coverage. Owner shall maintain and keep in force, at their sole cost and expense, the following insurance for their respective interests in the Project, provided, however, that a Contractor's liability policy may be used during construction provided it complies with all terms and conditions of this Section:

(a) Comprehensive general liability insurance with limits not less than two million dollars (\$2,000,000) for each occurrence, combined single limit for bodily injury and property damage, including coverages for contractual liability, personal injury, broad form property damage, products and completed operations. Beginning on the fifth anniversary date of the recordation of this Agreement, and thereafter every five (5) years, the policy limits shall be increased by ten percent (10%) of the then-current limit.

(b) Comprehensive automobile liability insurance with limits not less than \$2,000,000 for each occurrence, combined single limit for bodily injury and property damage, including coverages for owned, non-owned and hired vehicles. Beginning on the fifth anniversary date of the recordation of this Agreement, and thereafter every five (5) years, the policy limits shall be increased by ten percent (10%) of the then-current limit.

(c) Worker's compensation insurance, fidelity bonds and/or such other insurance coverage which is ordinarily and customarily maintained on like kind and sized apartment projects within the City.

(d) A policy or policies of insurance against loss or damage to the Project resulting from fire, windstorm, hail, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage casualty insurance policies. In addition, if Owner carries coverage voluntarily for additional causes (such as earthquake, riot, civil commotion or other), such coverage shall be treated in all respects as the policy or policies required to be kept under this paragraph (d) for so long as it continues to

voluntarily carry such coverage. All insurance hereunder, except earthquake insurance, shall be maintained in an amount not less than one hundred percent (100%) of the Full Insurable Value of the Project as defined below (such value to include amounts spent for construction of the Project, architectural and engineering fees, and inspection and supervision). "Full Insurable Value of the Project" shall mean the actual replacement cost excluding the cost of excavation, foundation and footings below the ground level of the Project. To ascertain the amount of coverage required, Owner shall cause the Full Insurable Value to be determined from time to time, but in no event less often than once each five (5) years, by appraisal by the insurer or by any appraiser mutually acceptable to City and Owner; except that no such appraisals shall be required if the policy is written on a "replacement cost" basis.

7.20.2 General Requirements. The insurance required by this Section shall be provided under an occurrence form, and Owner shall maintain such coverage continuously so long as this Agreement is in force. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be one and one-half times the occurrence limits specified above. All policies shall be with an insurance carrier licensed and admitted to do business in California and rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a "Best's Rating" of "A" and a "Financial Size Category" of at least "VII" or if such ratings are not then in effect, the equivalent thereof.

7.20.3 Additional Insured. The City shall be named as an additional insured on the general liability insurance covering the Project and the Property with an endorsement form as approved by the City Manager or his/her designee. Comprehensive general liability policies shall also be endorsed to name as additional insureds the City, and its City Council members, officers, agents and employees. All policies shall be endorsed to provide thirty (30) days prior written notice of cancellation, reduction in coverage, or intent not to renew to the address established for notices to the City pursuant to Section 7.1 of this Agreement.

7.20.4 Certificates of Insurance. Upon the City's request at any time during the Term of this Agreement, Owner shall provide certificates of insurance, in form and with insurers reasonably acceptable to the City, evidencing compliance with the requirements of this Section, and shall provide complete copies of such insurance policies, including a separate endorsement approved by the City Manager or his/her designee, as indicated in Section 7.20.3, naming the City as an additional insured.

7.21 Burden and Benefit. City and Owner hereby declare their understanding and intent of the burden of the covenants set forth herein touching and concerning the Project and the Property.

7.22 Amendments. Changes and modifications to this Agreement shall be made only upon the written mutual consent of the Parties. However, no changes shall be made

to this Agreement which would adversely affect any bonds issued under this Project without the written consent of all appropriate parties with respect to any bond issuance.

7.23 No Third Party Beneficiaries. This Agreement shall not benefit or be enforceable by any person, or firm, or corporation, public or private, except the City and Owner and their respective successors and assigns.

7.24 Counterparts. This Agreement may be executed in counterparts, which together will be one agreement.

7.25 Assessment Districts; Covenant and Waivers. Owner agrees to cast affirmative ballots for the increase of any assessment for existing assessment districts for the maintenance of parking and median landscaping, street lighting and parks conferring special benefits, and for the formation of any new assessment district for such purposes, in order to supplement then-existing assessments upon properties within the Project. Owner hereby waives any right they or either of them may have to contest or protest such assessments or any assessment increases. In the event that any such assessment district has insufficient funds for its purposes, then Owner shall pay the funds that the assessment district requires to the assessment district within five (5) business days after written demand from the assessment district from time to time.

ARTICLE 8 INCORPORATION OF CERTAIN DEVELOPMENT AGREEMENT PROVISIONS

The term of the Development Agreement is for seven (7) years, while the term of this Agreement is much longer (as described in the definition of “Term” in Section 1.1 above). The following provisions of the Development Agreement are hereby incorporated herein to clarify that they survive the expiration of the Development Agreement (but, except for Sections 8.1, 8.4 and 8.7, such provisions will not survive any earlier termination of the Development Agreement due to a default by the “Developer” thereunder) and continue until the expiration (or earlier termination) of this Agreement, it being understood that all of the rights and benefits of Owner under the following (except for obligations thereunder arising prior to termination and Sections 8.1, 8.4 and 8.7) shall terminate upon any early termination of the Development Agreement due to a default by Owner thereunder.

8.1 No Other Separate Conveyance of Affordable Units. Owner and its successors in interest shall not convey any unit or any portion of the Project separately, but shall only convey them the entire Project concurrently and to the same purchaser, and then only to a purchaser reasonably approved in writing by City (which will consider the reputation and experience of the purchaser in owning and operating affordable rental units).

8.2 Development of the Property. The following provisions shall govern the subdivision, development and use of the Property.

8.2.1 Permitted Uses. The permitted and conditionally permitted uses of the Property shall be limited to those that are allowed by the Project Approvals and the Development Agreement.

8.2.2 Development Standards. All design and development standards, including but not limited to density or intensity of use and maximum height and size of buildings, that shall be applicable to the Property are set forth in the Project Approvals and the Development Agreement.

8.2.3 Building Standards. All construction on the Property shall adhere to all City building codes in effect at the time the plan check or permit is approved per Title 15 of the Moorpark Municipal Code and to any federal or state building requirements that are then in effect (collectively "the Building Codes").

8.2.4 Reservations and Dedications. All reservations and dedications of land for public purposes that are applicable to the Property are set forth in the Project Approvals and the Development Agreement.

8.3 Densities Allowed for Development. Owner agrees that densities vested and incentives and concessions received in the Project Approvals include all densities available as density bonuses and all incentives and concessions to which Developer is entitled under the Moorpark Municipal Code, Government Code Sections 65915 through 65917.5 or both Owner shall not be entitled to further density bonuses or incentives or concessions and further agrees that its execution of and compliance with this Agreement is in consideration for the density bonus obtained through the Project Approvals that is greater than would otherwise be available. Residential Planned Development Permit No. 2012-02, including the special conditions that incorporate and include all of the requirements set forth in this Agreement are part of the Project conditions of approval and not merely contractual in nature.

8.4 Assessment Districts. Prior to issuance of a Zoning Clearance for the first building permit or the approval of any final map for the Project: (a) Owner shall pay the City a single Five Thousand Dollar (\$5,000) Assessment District Formation Fee; and (b) either two Assessment Districts (one fully funded and a second "back-up" district) or one Assessment District containing two zones (one zone to be fully funded and the other to be a back up zone), as determined by the City at the City's discretion, shall be formed that includes the Property. The first District out of the two Districts or the first zone of the one District, whichever is applicable, shall be for the purposes of funding future costs for the maintenance landscaping and irrigation of the landscaped area above the retaining wall along the southern perimeter of the Property and the maintenance of the storm water quality basin and drainage improvements, including basin landscaping and irrigation. The second District or second zone of the District, whichever is applicable, shall be for the maintenance of parkway landscaping on Casey Road and Walnut Canyon Road and Project slopes adjacent to the Walnut Canyon School, the maintenance of the storm water basin access drive and the emergency access drive. It shall be the intent of the City to approve the required assessment each year, but to only levy that portion of the assessment necessary to recover any past City costs or any anticipated City costs for the

that fiscal year. The City shall administer the annual renewal of the Assessment District or Districts, and any costs related to such administration shall be charged to the fund established for such Assessment District revenues and expenses. Owner agrees to cast affirmative ballots for the establishment of both Assessment Districts, or both zones of the one District, as applicable, and for annual increases in the assessments thereunder, for the purposes specified in this subsection. Owner hereby waives any right they may have to contest or protest any such assessments or assessment increases. In the event that any such Assessment District has insufficient funds for its purposes, then Owner shall pay the funds required to the Assessment District within five (5) business days after written demand from the Assessment District from time to time. Owner also agrees to add this language to any Regulatory Agreement as part of the sale of any bonds issued by the City for the Project.

8.5 Fee Protest Waiver. Owner agrees that any fees and payments pursuant to the Development Agreement, this Agreement and for RPD 2012-02 shall be made without reservation, and Developer expressly waives the right to payment of any such fees under protest pursuant to California Government Code Section 66020 and statutes amendatory or supplementary thereto.

8.6 Required Tenant and Guest Parking. Owner agrees to provide a total of at least 2.00 parking spaces per unit on site. Two parking spaces shall be designated and reserved for each of the 2-bedroom and 3-bedroom units, and one space shall be designated and reserved for each of the 1-bedroom units, with the remainder of the spaces available for guest parking. At least one of the parking spaces designated and reserved for each of the units shall be in a garage or covered carport. There shall be no extra charges for required parking for any units (whether or not they are Affordable Units). Owner shall only be required to provide ninety-four (94) guest parking spaces.

8.7 City Ability to Modify. Owner acknowledges the City's ability to modify the development standards and to change the General Plan designation and zoning of the Property upon the termination or expiration of the Development Agreement (if the Project has not been built), and Developer hereby waives any rights they might otherwise have to seek judicial review of such City actions to change the development standards, General Plan designation and zoning to those development standards and density of permitted development to that in existence prior to the approval of General Plan Amendment No. 2004-05 ("GPA 2004-05") and Zone Change No. 2004-04 ("ZC 2004-04").

8.8 Indemnity. Owner will defend, indemnify and hold City harmless from and against any and all claims, liabilities, losses, damages, costs and expenses arising from any activity by Owner or the contractors of either of them, except to the extent caused by the negligence or willful misconduct of the City.

8.9 Storm Water/Flood Detention Basin. City agrees that Owner may use the storm water/flood detention basin located on the City Property and depicted on Exhibit No. 5 for storm water/retention purposes for the Project, and City shall execute and deliver a revocable license agreement to Owner to that effect.

WHEREFORE, the parties have executed this Agreement as of the date first-
above written.

CITY:

CITY OF MOORPARK

By: _____

Print Name: _____

Title: _____

OWNER:

MOORPARK CASEY ROAD LP,
a California limited partnership

By: Moorpark Casey Road LLC,
a California limited liability company,
its Administrative General Partner

By: Danco Communities,
a California corporation,
its Manager

By: _____
Daniel Johnson
President

By: Community Revitalization and
Development Corporation, a
California nonprofit public benefit
corporation, its Managing General
Partner

By: _____
David Rutledge
President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Ventura)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Ventura)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT NO. 1
TO AFFORDABLE HOUSING AGREEMENT

LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL "A" AS SHOWN ON LOT LINE OF ADJUSTMENT NO. 2014-1, AS EVIDENCED BY DOCUMENT RECORDED AUGUST 31, 2016 AS INSTRUMENT NO. 20160831-00125261-0 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCEL 2B OF IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 2005-04 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, RECORDED JULY 21, 2005 AS DOCUMENT NO. 20050721-0178764 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF LOT "T", TRACT NO. "L", RANCHO SIMI, AS PER MAP FILED IN BOOK 5, PAGE 5 OF MISCELLANEOUS RECORDS (MAPS) IN THE OFFICE OF SAID COUNTY RECORDER AND A PORTION OF LOT 4, TRACT NO. 3 AS PER MAP ENTITLED "MAP OF M.L. WICKS SUBDIVISION OF PART OF TRACT U AND ADDITION TO MOORPARK, IN THE RANCHO SIMI, VENTURA COUNTY, CALIFORNIA" IN SAID CITY, COUNTY AND STATE AS SHOWN ON MAP FILED IN BOOK 5, PAGE 37 OF SAID MISCELLANEOUS RECORDS (MAPS).

TOGETHER WITH THAT PORTION OF PARCEL 1A OF IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 2005-03 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, RECORDED MAY 3, 2005 AS DOCUMENT NO. 20050503-0108315 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF LOT "T", TRACT NO. "L", RANCHO SIMI AS PER MAP FILED IN BOOK 5 PAGE 5 OF MISCELLANEOUS RECORDS (MAPS) IN THE OFFICE OF SAID COUNTY RECORDER, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT IN EAST LINE OF PARCEL 1A OF SAID LOT LINE ADJUSTMENT NO. 2005-03, DISTANT THEREON NORTH 292.97 FEET FROM THE SOUTHEASTERLY CORNER THEREOF;

1ST THENCE, DEPARTING SAID EAST LINE SOUTH 89°38'32" WEST 752.05 FEET;

2ND THENCE, SOUTH 27°20'34" WEST 36.75 FEET;

3RD THENCE, SOUTH 89°03'54" WEST 293.78 FEET TO A POINT IN THE WEST LINE OF SAID PARCEL 1A.

EXCEPT AS TO A PORTION OF SAID LAND ALL OIL, GAS OR OTHER HYDROCARBON SUBSTANCES, BUT WITHOUT THE RIGHT TO ENTER UPON THE SURFACE OR SUBSURFACE THEREOF WITHIN 500 FEET, MEASURED VERTICALLY FROM THE PRESENT SURFACE AS RESERVED BY MERI V. BURKHOLDER, BY DEED RECORDED IN BOOK 1592, PAGE 487 OF OFFICIAL RECORDS.

ALSO EXCEPT 50% OF A PORTION OF SAID LAND ALL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, AS RESERVED BY WALLY F. MCFELT, IN THE DEED RECORDED MARCH 28, 1942 IN BOOK 653, PAGE 659 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED 25% IN AND TO A POINT ON SAID LAND THE TOTAL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, WITHOUT HOWEVER, THE RIGHT OF SURFACE OR SUBSURFACE ENTRY UPON SAID LAND WITHIN 500 FEET OF THE PRESENT SURFACE MEASURED VERTICALLY THEREFROM, AS RESERVED BY RILEY SPENCE AND DORA E. SPENCER, IN DEED RECORDED IN BOOK 1587, PAGE 274 OF OFFICIAL RECORDS.

PARCEL 2:

PARCEL "B" AS SHOWN ON LOT LINE OF ADJUSTMENT NO. 2014-1, AS EVIDENCED BY DOCUMENT RECORDED AUGUST 31, 2016 AS INSTRUMENT NO. 20160831-00125261-0 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCEL 1A OF IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 2005-03 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, RECORDED MAY 3, 2005 AS DOCUMENT NO. 20050503-0108315 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF LOT "T", TRACT NO. "L", RANCHO SIMI AS PER MAP FILED IN BOOK 5 PAGE 5 OF MISCELLANEOUS RECORDS (MAPS) IN THE OFFICE OF SAID COUNTY RECORDER.

EXCEPT THEREFROM THAT PORTION CONVEYED TO THE CITY OF MOORPARK BY DEED APRIL 30, 2009 AS INSTRUMENT NO. 20090430-00069389 OF OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPT THEREFROM THAT PORTION LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT IN EAST LINE OF PARCEL 1A OF SAID LOT LINE ADJUSTMENT NO. 2005-03, DISTANT THEREON NORTH 292.97 FEET FROM THE SOUTHEASTERLY CORNER THEREOF;

1ST THENCE, DEPARTING SAID EAST LINE SOUTH 89°38'32" WEST 752.05 FEET;

2ND THENCE, SOUTH 27°20'34" WEST 36.75 FEET;

3RD THENCE, SOUTH 89°03'54" WEST 293.78 FEET TO A POINT IN THE WEST LINE OF SAID PARCEL 1A.

ALSO EXCEPT AS TO A PORTION OF SAID LAND ALL OIL, GAS OR OTHER HYDROCARBON SUBSTANCES, BUT WITHOUT THE RIGHT TO ENTER UPON THE SURFACE OR SUBSURFACE THEREOF, WITHIN 500 FEET, MEASURED VERTICALLY FROM THE PRESENT SURFACE AS RESERVED BY MERI V. BURKHOLDER, BY DEED RECORDED IN BOOK 1592, PAGE 487 OF OFFICIAL RECORDS.

ALSO EXCEPT 50% OF A PORTION OF SAID LAND ALL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, AS RESERVED BY WALLY F. MCFFELT, IN THE DEED RECORDED MARCH 28, 1942 IN BOOK 653, PAGE 659 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED 25% IN AND TO A POINT ON SAID LAND THE TOTAL OIL AND MINERAL RIGHTS IN AND UNDER SAID LAND, WITHOUT HOWEVER, THE RIGHT OF SURFACE ENTRY UPON SAID LAND WITHIN 500 FEET OF THE PRESENT SURFACE MEASURED VERTICALLY THEREFROM, AS RESERVED BY RILEY SPENCE AND DORA E. SPENCER, IN DEED RECORDED IN BOOK 1587, PAGE 274 OF OFFICIAL RECORDS.

APN: 511-0-020-26 5 AND 511-0-020-275

**EXHIBIT NO. 2
TO AFFORDABLE HOUSING AGREEMENT**

TYPE OF UNIT, NUMBER OF UNITS,
HOUSEHOLD SIZE ADJUSTMENT AND UTILITY ALLOWANCE

| Low Income 51% and Above | | | Utility Allowance |
|---------------------------------|-----------------|---------------------------|--------------------------|
| Type of Unit | Number of Units | Household Size Adjustment | |
| 1-br | 56 | 2 persons | TBD Annually* |
| 2-br | 47 | 3 persons | TBD Annually* |
| 3-br | 26 | 4 persons | TBD Annually* |
| Total | 129 | | |

| Very Low Income 31%-50% | | | |
|--------------------------------|-----------------|---------------------------|---------------|
| Type of Unit | Number of Units | Household Size Adjustment | |
| 1-br | 16 | 2 persons | TBD Annually* |
| 2-br | 14 | 3 persons | TBD Annually* |
| 3-br | 18 | 4 persons | TBD Annually* |
| Total | 48 | | |

| Extremely Low Income 30% and Below | | | |
|---|-----------------|---------------------------|---------------|
| Type of Unit | Number of Units | Household Size Adjustment | |
| 1-br | 8 | 2 persons | TBD Annually* |
| 2-br | 7 | 3 persons | TBD Annually* |
| 3-br | 6 | 4 persons | TBD Annually* |
| Total | 21 | | |

Total Units 198

The above Adjustment for Household Size is intended to provide a single rental rate applicable to eligible tenants for each type of unit, and, therefore, is applied regardless of actual household size. The Affordable Housing Owner may not charge additional rent based on a larger actual household size.

*Utility allowances are determined annually using the U.S. Department of Housing and Urban Development "Allowances for Tenant Furnished Utilities and other Services" using the apartment/walk-up unit type, Locality "Area Housing Authority of the County of Ventura, CA".

The units restricted by this Affordable Housing Agreement, and subject to the California Health and Safety Code (and related California Code of Regulations) definitions, rent limits/calculations, and income levels are as follows:

All Extremely Low Income Units (i.e. 21 units); all Very Low Income Units (i.e, 48 units) and twenty-nine (29) of the Low Income Units (consisting of 9 one-bedroom units; 10 two-bedroom units; and 10 three bedroom units), for a total of 98 units.

**EXHIBIT NO. 3
TO AFFORDABLE HOUSING AGREEMENT**

FORM OF CERTIFICATIONS OF TENANT ELIGIBILITY

New Certification _____ / Recertification _____ Unit Number _____

INCOME COMPUTATION AND CERTIFICATION

NOTE TO APARTMENT OWNER: This form is designed to assist you in computing Annual Income

Re: **(NAME and ADDRESS of Apartment Building)**

To: _____

I/We the undersigned state that I/we have read and answered fully, frankly and personally each of the following questions for all persons who are to occupy the unit being applied for in the above apartment project. Listed below are the names of all persons who intend to reside in the unit:

| 1. Name of Members Of the Household | 2. Relationship to Head of Household | 3. Age | 4. Social Security Number | 5. Place of Employment |
|--|---|-----------|---------------------------------|------------------------------|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

Income Computation

6. The total anticipated income, calculated in accordance with this paragraph 6, of all persons (except children under 18 years) listed above for the 12-month period beginning the earlier of the date that I/we plan to move into a unit or sign a lease for a unit is \$_____.¹

If this form is being completed in accordance with recertification of an Extremely Low Income Tenant's or Very Low Income Tenant's or a Low Income Tenant's occupancy of an Extremely Low Income Unit or a Very Low Income Unit or a Low Income Unit, respectively, this form must be completed based upon the current income of the occupants.

Included in the total anticipated income listed above are:

- (a) the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services;
- (b) the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (c) interest and dividends and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (6)(b) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate.
- (d) the full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including any lump sum amount except deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;
- (e) payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay;
- (f) welfare assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
 - (1) the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (2) the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage;
- (g) periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(h) all regular pay, special pay and allowances of a member of the Armed Forces except the special pay to a family member serving in the Armed Forces except the special pay to a family member serving in the Armed Forces who is exposed to hostile fire; and

Excluded from such anticipated income are:

(a) income from employment of children (including foster children) under the age of 18 years;

(b) payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(c) lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers' compensation), capital gains and settlement for personal or property losses except payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;

(d) amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(e) income of a live-in aide, as defined by 24 CFR §5.403;

(f) the full amount of student financial assistance paid directly to the student or to the educational institution;

(g) the special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(h) (1) amounts received under training programs funded by the Department of Housing and Urban Development;

(2) amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(3) amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(4) amounts received under a resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Public Housing Issuer or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time;

(5) incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.

- (i) temporary, nonrecurring or sporadic income (including gifts);
- (j) reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- (k) earnings in excess of \$480 for each full-term student 18 years old or older (excluding the head of household and spouse);
- (l) adoption assistance payments in excess of \$480 per adopted child; and
- (m) deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;
- (n) amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
- (o) amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
- (p) amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR §5.609(c) apply.

7. Do the persons whose income or contributions are included in item 6 above:

(a) have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles and interests in Indian trust land)

_____ Yes _____ No; or

(b) have they disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value?

_____ Yes _____ No

(c) If the answer to (a) or (b) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than \$5,000?

_____ Yes _____ No

(d) If the answer to (c) above is yes, state:

(1) the combined total value of all such assets: \$ _____

(2) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy in the unit that you propose to rent: \$ _____, and

(3) the amount of such income, if any, that was included in item 6 above: \$ _____

8. Are all of the individuals who propose to reside in the unit full-time students*?

_____ Yes _____ No

*A full-time student is an individual enrolled as a full-time student during each of 5 calendar months during the calendar year in which occupancy of the unit begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or is an individual pursuing a full-time course of institutional or farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof.

(a) If the answer to 8(a) is yes, is at least 2 of the proposed occupants of the unit a husband and wife entitled to file a joint federal income tax return?

_____ Yes _____ No

9. Neither myself nor any other occupant of the unit I/we propose to rent is the owner of the rental housing project in which the unit is located (hereinafter the "Owner"), has any family relationship to the Owner; or owns directly or indirectly any interest in the Owner. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member, ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or Trustee held by the individual or a family member; and ownership, direct or indirect, by a partner of the individual.

10. This certificate is made with the knowledge that it will be relied upon by the Owner to determine maximum income for eligibility to occupy the unit; and I/we declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable and that the statement of total anticipated income contained in paragraph 6 is reasonable and based upon such investigation as the undersigned deemed necessary.

11. I/We will assist the Owner in obtaining any information or documents required to verify the statements made herein, including either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding calendar year.

12. I/We acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Owner to lease the unit and will entitle the Owner to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

I/We declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____, 20_____ (year) in the City of Moorpark, California

Applicant Applicant

Applicant Applicant

[Signature of all persons (except children under the age of 18 years) listed in number 2 above required]

FOR COMPLETION BY OWNER ONLY:

1. Calculation of eligible income:

a. Enter amount entered for entire household in 6 above: \$ _____

b. (1) If the amount entered in 7(c) above is yes, enter the total amount entered in 7(d)(2), subtract from that figure the amount entered in 7(d)(3) and enter the remaining balance (\$ _____);

(2) Multiply the amount entered in 7(d)(1) times the current passbook savings rate as determined by HUD to determine what the total annual earnings on the amount in 7(d)(1) would be if invested in passbook savings (\$ _____), subtract from that figure the amount entered in 7(d)(3) and enter the remaining balance (\$ _____);

(3) Enter at right the greater of the amount calculated under (1) or (2) above: \$ _____

c. TOTAL ELIGIBLE INCOME (line 1.a plus line 1.b(3)): \$ _____

2. The amount entered in 1.c:

_____ Qualifies the applicant(s) as a Very-Low Income Tenant(s).

_____ Qualifies the applicant(s) as an Extremely Low Income Tenant(s).

3. Number of apartment unit assigned: _____ Bedroom size: _____
Rent: \$ _____

4. This apartment unit (**was/was not**) last occupied for a period of 31 or more consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit qualified them as a Lower-Income Tenant(s).

5. Method used to verify applicant(s) income:

_____ Employer income verification.

_____ Copies of tax returns.

_____ Other(_____)

6. Is occupant a City of Moorpark resident on the waiting list who was given priority?
Yes: _____ No: _____

Manager

Date

INCOME CALCULATION WORKSHEET

Include all household income for all persons over 18 years of age. Written verification of all income must be included.

| Applicant | Gross Wages & Salaries* (YTD as of: _____) | Net Income from 1040 (self employed) | 1099 Income | Public Assistance | Social Security | Pension | Unemployment disability or workers compensation pay | Military Pay | Alimony and/or Child Support | Family Supp. (regular gift from person not living in unit) |
|-----------|--|--------------------------------------|-------------|-------------------|-----------------|---------|---|--------------|------------------------------|--|
| 1 | | | | | | | | | | |
| 2 | | | | | | | | | | |
| 3 | | | | | | | | | | |
| 4 | | | | | | | | | | |

(A) TOTAL INCOME \$ _____

*Includes overtime pay, commissions, fees, tips, and bonuses. Does not include amounts received as reimbursements of medical costs or insurance payments.

ASSET CALCULATION

All income earned on assets in excess of \$5,000 must be included as household income. Written verification must be included. If written verification is not available for savings, the current passbook savings rate as determined by HUD may be used.

| | |
|--|---------------------------------------|
| Real Property* \$ _____ | Savings \$ _____ |
| Stocks \$ _____ | Bonds \$ _____ |
| Other** \$ _____ | |

(B) TOTAL ASSET INCOME \$ _____

*Includes rental income or equity if not rented only. Equity is the difference between the market value of the property and the total dollar amount of any loans secured by the property.

**Does not include the personal property i.e., furniture or automobiles.

TOTAL HOUSEHOLD INCOME (A + B) \$ _____

INCOME VERIFICATION
(FOR EMPLOYED PERSONS)

The undersigned employee has applied for a rental unit located in a project financed under the Multifamily Revenue Bond Program for persons of low and very low income. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

EMPLOYER

| | |
|--|--|
| Annual Wages (Gross) _____ Overtime _____ Bonuses _____ Commissions _____ Current Base Pay _____ | Other Income _____ Avg. Total Hours Worked Weekly _____ Total Current Income _____ Year-to-Date Income _____ |
|--|--|

Pay Period: Weekly | Bi-weekly | Monthly | Other _____

Do you anticipate an increase in the base pay over the next 12 months? Yes No
 If so, please indicate the amount of anticipated increase \$_____ per _____ start date: _____

NOTE TO EMPLOYER: This form is an estimate of anticipated earnings solely for the purpose of determining income status. This form does not constitute a promise by the employer to the employee of guaranteed wages, bonuses or raises.

I hereby certify that the statements above are true and complete to the best of my knowledge.

Date Employer

Signature Title

Employer's Address Employer's Phone Number

APPLICANT

I hereby grant you permission to disclose my income to _____ in order that they may determine my income eligibility for rental of an apartment located in their project which has been financed under the Multifamily Revenue Bond Program.

Date

Print Name (Resident)

Signature (Resident)

Please send to: _____
(Management Co. _____
or Owner) _____

INCOME VERIFICATION
(for self-employed persons)

I hereby attach copies of my individual federal and state income tax returns for the immediately preceding calendar year and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

Signature

Date

**INCOME VERIFICATION
(for Social Security recipients)**

TO: SOCIAL SECURITY ADMINISTRATION

Ladies and Gentlemen:

I have applied for a rental unit located in a project financed under the _____ Multifamily Housing Program for persons of very low income: Every income statement of a prospective tenant must be stringently verified. In connection with my application for a rental unit, I hereby authorize the Department of Social Services to release to _____ the specific information requested below:

Date: _____

Signature: _____

Social Security No.: _____

Name (Print): _____

Address(Print) _____

Monthly Benefits Began/Will Begin:

Social Security Benefit Amount:
\$ _____

Other Benefit(s): _____ Amount: \$ _____

Medicare Deductions: \$ _____

Are benefits expected to change? [] Yes [] No

If yes, please state date and amount:

Date: _____ of change

Amount \$ _____

If recipient is not receiving full benefit amount; please indicate reason and date recipient will start receiving full benefit amount:

Reason:

Date of Resumption: _____

Amount: _____

Date: _____

Signature: _____

Title: _____

Please send form to:

INCOME VERIFICATION
(for Department Social Services recipients)

TO: CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Ladies and Gentlemen:

I am receiving assistance through your office. I have applied for a rental unit located in project financed under the _____ Multifamily Housing Program for persons of very low income. Every income statement of a prospective tenant must be stringently verified. In connection with my application for a rental unit, I hereby authorize the Department of Social Services to release to _____ the specific information requested below:

Date: _____

Signature: _____

Caseload Number: _____

Name (Print): _____

Case Number: _____

Case Worker: _____

1. Number of persons included in budget: _____

2. Total monthly budget \$ _____

(a) Amount of grant \$ _____

(b) Date aid last began: _____

(c) Other income and source: _____

(d) Is other income included in total budget? Yes No

3. Please specify type of aid: (AFDC, FR, Food Stamps, ANB, MediCal, Etc.): _____

4. If recipient is not receiving full grant, please indicate reason:

[] Overpayment due to client's failure to report other income

[] Computation error

[_____]
Other: _____

Date when full grant will resume: _____

Date: _____

Case Worker's Signature: _____

Telephone: _____

District Office: _____

Your very early response will be appreciated.

Please return form to:

DECLARATION OF NO INCOME

As managing agents for _____
(Name of Development)

assisted by the Low Income Housing Program, we are required to verify all income. To comply with this requirement, we ask your cooperation in supplying the information requested in the Certification below. This information will be held in strict confidence and used only for the purpose of establishing eligibility.

Name of Management Company

By:

Name and Title

CERTIFICATION

I, _____, do hereby certify that I do NOT receive income from ANY source. I understand sources of income include, but are not limited to the following:

| | | |
|-----------------------|--------------------|--------------------|
| Employment | Study | Pensions |
| Unemployment | Self Employment | General Assistance |
| Compensation | AFDC | Disability |
| Social Security | SSI | Union Benefits |
| Workers Compensation | Retirement Funds | Family Support |
| Child Support | Alimony | Annuities |
| Education Grants/Work | Income from Assets | |

I understand that should I become gainfully employed or begin receiving income from any source, I must report the information to the manager immediately.

I certify that the foregoing information is true, complete and correct. Inquiries may be made to verify statements herein. I also understand that false statements or omissions are grounds for disqualification and/or prosecution under the full extent of California law.

Signature

Date

Witness Signature

Date

Support Verification

Source's Mailing Address: _____

Phone #: _____

Fax #: _____

Recipient: _____

Federal law requires that we verify the annual income of all persons applying for admissions to or living in a community that offers affordable housing. This community operates under the guidelines of Section 42 of the Internal Revenue Code. To comply with these requirements, we ask your cooperation in supplying the information requested below regarding the above referenced individuals. This information will be used only for determination of eligibility and/or rent computation. You will notice a release of information is authorized by the applicant/tenant's signature below.

Your assistance in completing this form accurately and timely is greatly appreciated!

Applicant/Tenant Release Statement

Applicant/Tenant Name: _____

I hereby authorize the release of the following information in order to determine my eligibility for the Bond Program. Please complete the form in full and return it to the MANAGEMENT COMPANY at your earliest convenience.

Signature: _____

Social Security #: _____

Please complete the following. If the monies are based on a percentage of the payor's income, please indicate the average amount per period.

| Type of Benefit | Amount | Frequency |
|---------------------------------------|--------|-----------------------------------|
| [] Child Support | _____ | () weekly () monthly () yearly |
| [] Family Support | _____ | () weekly () monthly () yearly |
| [] Alimony | _____ | () weekly () monthly () yearly |
| [] Other _____ (Please list type) | _____ | () weekly () monthly () yearly |

Are monies paid to offset an AFDC grant? [] Yes [] No

Do you anticipate any changes in the next 12 months? [] Yes [] No

Comments: _____

Signature of Source: _____

SSN#: _____

Date Completed Form: _____

**EXHIBIT NO. 4
TO AFFORDABLE HOUSING AGREEMENT**

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE
FOR THE [MONTH/QUARTER] ENDING _____

The undersigned, _____, as the authorized representative of _____ (the "Owner"), has read and is thoroughly familiar with the provisions of the Affordable Housing Agreement by and between Danco Communités ("Developer") and the City of the City of Moorpark (the "City"), dated as of _____, 20__.

As of the date of this Certificate, the following numbers of completed residential Units in the Project (i) are occupied, or (ii) are currently vacant and being held available for such occupancy and have been so held continuously since the date an Extremely Low Income Tenant or Very Low Income Tenant vacated such Unit, as indicated:

Occupied by Extremely Low Income Tenants:

Number of Units: _____

Occupied by Very Low Income Tenants:

Number of Units: _____

Occupied by Low Income Tenants:

Number of Units: _____

Held vacant for occupancy continuously since last occupied by Extremely Low Income Tenants and Very Low Income Tenants and Low Income Tenants.

Vacant Units

Number: _____

Occupied Units

Number: _____

Extremely Low Income Tenants and Very Low Income Tenants and Low Income Tenants who commenced occupancy of Units during the preceding [month/quarter]:

Extremely Low Income:

Units Nos.: _____

Very Low Income:
Units Nos.: _____

Low Income:
Units Nos.: _____

Attached is a separate sheet (the "Bond Program Report") listing, among other items, the following information for each apartment Unit in the Project: the number of each apartment Unit, the occupants of each Unit, the rental paid for each Unit and the size and number of bedrooms of each Unit. It also indicates which Units are occupied by Extremely Low Income Tenants, Low Income Tenants and Very Low Income Tenants and which Units became Extremely Low Income Units, Low Income Units and Very Low Income Units during the preceding [month/quarter]. The information contained thereon is true and accurate.

The undersigned hereby certifies that (1) a review of the activities of the Owner during such [month/quarter] and of Owner's performance under the Affordable Housing Agreement among Owner and the City, has been made under the supervision of the undersigned; and (2) to the best of the knowledge of the undersigned, based on the review described in clause (1) hereof, the Owner is not in default under any of the terms and provisions of the above documents [or describe the nature of any default in detail and set forth the measures being taken to remedy such default: _____

_____.]

EXHIBIT NO. 5
TO AFFORDABLE HOUSING AGREEMENT

LOCATION OF STORM/WATER DETENTION BASIN ON CITY PROPERTY

(Attached.)

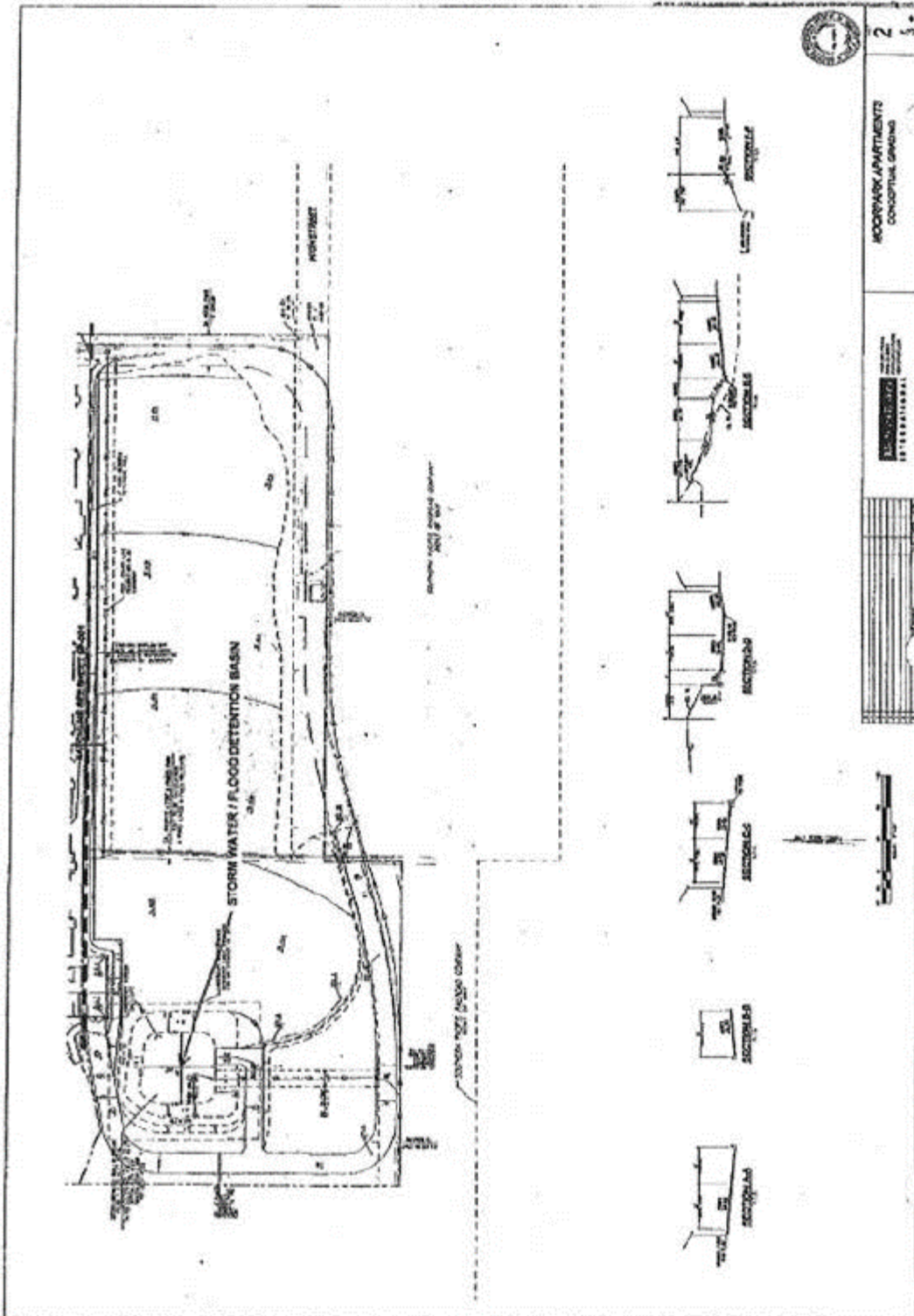


EXHIBIT "C"

TO SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

DANCO SCHEDULE OF PERFORMANCE (DEADLINES)

(Exhibit F of First Amendment)

Design Phase: Complete on or before December 31, 2021

Tax-Exempt Bond and Tax Credit Applications: March 16, 2022

Tax-Exempt Bond and Tax Credit Allocations: June 15, 2022

Plan Check/Building Permits: December 31, 2022

Date property must be acquired by Affordable Housing Owner: December 31, 2022

Evidence to City of all debt/equity funds for all Project costs (with comprehensive Project budget): 30 days prior to the scheduled close of escrow

Assignment to Affordable Housing Owner and Close Tax Credit and Bond Financing: December 31, 2022

Grading: To commence within 30 days after acquisition of property by Affordable Housing Owner or affiliate

Construction: 24 months from commencement of grading

Lease-Up: approximately 3 months following construction completion.

EXHIBIT "D"

TO SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

FORM OF OFFSITE IMPROVEMENT PERFORMANCE AND PAYMENT BONDS
(Exhibit K of First Amendment)

(Attached.)

BOND NO. _____

INITIAL PREMIUM:
SUBJECT TO RENEWAL

PERFORMANCE BOND

WHEREAS, the City of Moorpark ("CITY") has executed an agreement with Essex Moorpark Owner, L.P. (hereinafter "PRINCIPAL"), requiring PRINCIPAL to: (i) perform certain work consisting of, but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the relocation of electrical transmission lines (hereinafter the "Work") and (ii) paying the City \$400,000 in connection with that Work ("Payment");

WHEREAS, the Work and Payment to be performed or made by PRINCIPAL is more particularly set forth in that certain Second Amendment to the Development Agreement dated _____2022, (hereinafter the "Agreement"); and

WHEREAS, the Agreement is hereby referred to and incorporated herein by this reference; and

WHEREAS, PRINCIPAL or its contractor is required by the Agreement to provide a good and sufficient bond for performance of the Agreement, and to guarantee and warranty the Work constructed thereunder and the Payment.

NOW, THEREFORE, we the undersigned, Essex Moorpark Owner, L.P., as PRINCIPAL and _____, a corporation organized and existing under the laws of the State of _____ and duly authorized to transact business under the laws of the State of California, as SURETY, are held and firmly bound unto the CITY in the sum of _____ (\$_____), said sum being not less than one hundred percent (100%) of the total cost of the Work and Payment as set forth in the Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if PRINCIPAL and its contractors, or their heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, agreements, guarantees, and warranties in the Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless CITY, its officers, employees, and agents, as stipulated in the Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the contract, the above obligation shall hold good for a period of one (1) year(s) after the acceptance of the work by CITY, during which time if PRINCIPAL shall fail to make full, complete, and satisfactory repair and replacements and totally protect the CITY from loss or damage

made evident during the period of one (1) year(s) from the date of completion of the work, and resulting from or caused by defective materials or faulty workmanship, the above obligation in penal sum thereof shall remain in full force and effect. The obligation of SURETY hereunder shall continue so long as any obligation of PRINCIPAL remains.

Whenever PRINCIPAL shall be, and is declared by the CITY to be, in default under the contract, the CITY having performed the CITY's obligations thereunder, the SURETY shall promptly remedy the default in a manner mutually agreeable to both CITY and SURETY:

1. SURETY's takeover of the performance obligations to complete the contract by entering into an agreement with a completion contractor with terms and conditions consistent with the original contract between CITY and PRINCIPAL; or

2. SURETY shall obtain a bid or bids for completing the contract in accordance with its terms and conditions, and upon determination by SURETY of the lowest responsive and responsible bidder, prepare a contract between such bidder and the CITY (to the CITY's satisfaction), and make available as work progresses sufficient funds to pay the cost of completion less the balance of the contract price, but not exceeding, including other costs and damages for which SURETY may be liable hereunder, the Penal Sum.

The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to PRINCIPAL by the CITY under the contract and any modifications thereto, less the amount previously properly paid by the CITY to the PRINCIPAL.

SURETY expressly agrees that the CITY may reject any contractor or subcontractor, which may be proposed by SURETY in fulfillment of its obligations in the event of default by PRINCIPAL. SURETY shall not utilize PRINCIPAL in completing the contract nor shall SURETY accept a bid from PRINCIPAL for completion of the work if the CITY, when declaring the PRINCIPAL in default, notifies SURETY of the CITY's objection to PRINCIPAL's further participation in the completion of the work.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the CITY named herein or the successors or assigns of the CITY.

The prevailing party on any dispute (whether legal, equitable, or otherwise) regarding the interpretation, enforcement, and respective rights and obligations under this Performance Bond shall be entitled to recovery of reasonable attorneys' fees and costs (including but not limited to consultant's and/or expert fees and costs).

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by CITY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The said SURETY, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this _____ day on _____, 20____.

PRINCIPAL

By: _____
President

SURETY

By: _____
Attorney-in-Fact

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Ventura)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature_____

(Seal)

CERTIFICATE AS TO CORPORATE PRINCIPAL

_____, certify that I am the Secretary of the corporation named as principal in the attached bond, that _____ who signed the said bond on behalf of the principal was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing Board.

(Corporate Seal)

Signature: _____

Date: _____

NOTE: A copy of the power of attorney to local representatives of the bonding company may be attached hereto.

BOND NO.
INITIAL PREMIUM: _____
SUBJECT TO RENEWAL

LABOR & MATERIAL BOND

WHEREAS, the City of Moorpark (“CITY”) has executed an agreement with Essex Moorpark Owner, L.P. (hereinafter “PRINCIPAL”), requiring PRINCIPAL to: (i) perform certain work consisting of, but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the relocation of electrical transmission lines (hereinafter the “Work”) and (ii) paying the CITY \$400,000 in connection with that Work (“Payment”);

WHEREAS, the Work and Payment to be performed or made by PRINCIPAL is more particularly set forth in that certain Second Amendment to the Development Agreement dated _____, 2022 (hereinafter the “**Agreement**”); and

WHEREAS, PRINCIPAL or its contractor is required to furnish a bond in connection with the Agreement providing that if _____ or any of his or its contractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the provisions of Title 3 (Commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, with respect to such work or labor, that the SURETY on this bond will pay the same together with a reasonable attorney’s fee in case suit is brought on the bond.

NOW, THEREFORE, we the undersigned, _____ as _____ PRINCIPAL and _____, a corporation organized and existing under the laws of the State of _____ and duly authorized to transact business under the laws of the State of California, as SURETY, are held and firmly bound unto the CITY and to any and all material men, persons, companies or corporations furnishing materials, provisions, and other supplies used in, upon, for or about the performance of the said Work, and all persons, companies or corporations renting or hiring teams, or implements or machinery, for or contributing to said Work to be done, and all persons performing work or labor upon the same and all persons supplying both work and materials as aforesaid, the sum of (\$ _____), said sum being not less than 100% of the total amount payable by _____ under the terms of the Agreement, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if _____ or its contractors, or their heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Work contracted to be done, or for work or labor thereon of any kind, or fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees

of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said SURETY will pay the same in or to an amount not exceeding the sum specified herein.

Upon expiration of the time within which the California labor Commissioner may serve a civil wage and penalty assessment against the PRINCIPAL, any of its subcontractors, or both the PRINCIPAL and its subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management company may commence an action against the PRINCIPAL, any of its subcontractors, or both the PRINCIPAL and its subcontractors pursuant to Labor Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

In case legal action is required to enforce the provisions of this bond, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to court costs, necessary disbursements and other consequential damages. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations entitled to make claims under Sections 8024, 8400, 8402, 8404, 8430, 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

The said SURETY, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this _____ day on _____, 20____.

PRINCIPAL

By: _____
President

SURETY

By: _____
Attorney-in-Fact

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Riverside)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature_____

(Seal)

CERTIFICATE AS TO CORPORATE PRINCIPAL

_____, certify that I am the Secretary of the corporation named as principal in the attached bond, that _____ who signed the said bond on behalf of the principal was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing Board.

(Corporate Seal)

Signature: _____

Date: _____

NOTE: A copy of the power of attorney to local representatives of the bonding company may be attached hereto.