

RESOLUTION NO. 16183

A RESOLUTION OF THE CITY COUNCIL OF REDWOOD CITY (1) APPROVING AN APPROPRIATION AMENDMENT TO INCREASE THE AFFORDABLE HOUSING IMPACT FEE FUND EXPENDITURE BUDGET BY \$20,000 USING AVAILABLE FUND BALANCE; AND (2) APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A \$20,000 LOAN AGREEMENT AND ALL RELATED DOCUMENTS WITH SI 78, LLC, OR A LIMITED PARTNERSHIP OR SPECIAL PURPOSE ENTITY CONTROLLED OR MANAGED BY SI 78, LLC AND TO TAKE ALL ACTIONS NECESSARY TO COMPLETE THIS TRANSACTION

WHEREAS, on May 20, 2019, the City Council approved the Architectural Permit, Planned Development Permit, Use Permit, Vesting Tentative Map, two State Density Bonus Law concessions and an Affordable Housing Plan for the Broadway Plaza mixed-use project (Project) through Resolution No. 15769; and

WHEREAS, the “Broadway Block” of the Project includes the proposed construction of 398 market-rate residential units, 120 affordable residential units, 420,000 square feet of office space, 11,000 square feet of retail space, 10,000 square feet of childcare space, public and private open space, and shared underground parking; and

WHEREAS, the Project is subject to the City’s Affordable Housing Ordinance (Ordinance), and to comply with the Ordinance requirements for both the residential and non-residential components of the Project, the Project is providing 119 affordable units, consisting of twelve (12) units for extremely low-income households, twelve (12) units for very low-income households, and ninety-five (95) units for low-income households within Parcel 2 Affordable Development; and

WHEREAS, the developer of the Project has submitted a loan request to the City to help the Affordable Development to qualify for the California Welfare Tax Exemption, to help support the effective management and operation of the Affordable Development; and

WHEREAS, the City Council’s approval is required for the City Manager to execute the Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Promissory Note, Deed of Trust, and any ancillary documents related to the loan for the Affordable Development (Loan), which are expected to be executed prior to the issuance of the certificate of occupancy for the Affordable Development; and

WHEREAS, appropriation amendments to the Fiscal Year 2023-2024 Budget are required for the Loan; and

WHEREAS, staff has presented written documentation below which sets forth in particularity the change in the expenditures budget.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF REDWOOD CITY AS FOLLOWS:

1. The amount of \$20,000 from the Affordable Housing Impact Fee Fund (299) is hereby appropriated for fiscal year 2023-2024.
2. This City Council does hereby establish the appropriation revision for Fiscal Year 2023-2024.
3. The City Manager is authorized to execute a \$20,000 Loan Agreement and all related documents, including a Regulatory Agreement and Declaration of Restrictive Covenants, Deed of Trust, and Promissory Note, with SI 78, LLC, or a limited partnership or special purpose entity controlled or managed by SI 78, LLC, attached hereto as Exhibit A, subject to any minor, clarifying and conforming changes approved by the City Attorney, and to take all actions necessary to complete this transaction, including execution of any other necessary documents.
4. This resolution shall be effective immediately upon adoption.

EXHIBIT A

LOAN AGREEMENT

BETWEEN

CITY OF REDWOOD CITY

AND

_____, LP

Dated as of _____, 20__

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Exhibit F:	Insurance Requirements

LOAN AGREEMENT
(Broadway Plaza)

This Loan Agreement (the “Agreement”) is entered into as of _____, 2023 (the “Effective Date”), by and between the City of Redwood City, a California charter city (the “City”), and _____, LP, a California limited partnership (the “Developer”), with reference to the following facts, understandings and intentions of the parties:

RECITALS

A. These Recitals refer to and utilize certain capitalized terms that are defined in Article 1 of this Agreement. The Parties intend to refer to those definitions in connection with the use of capitalized terms in these Recitals.

B. The Developer owns that certain 1.08 acre airspace subdivision encompassing the one-hundred nineteen (119) Affordable Units and one unrestricted manager’s unit (together, “Building Three”) located at the corner of Bay Road and Chestnut Street, as further described in the attached Exhibit A and incorporated herein by this reference (the “Property”) on which the Developer intends to construct the Improvements.

C. Sobrato Organization, LLC or its affiliate (“Sobrato”) submitted a project application in July 2016 and deemed complete in September 2018. The City Council of Redwood City adopted Resolution No. 15769 approving an architectural permit, planned development permit, use permit, vesting tentative map, state density bonus law concessions, and an affordable housing plan for the Broadway Plaza Project. The “Broadway Plaza Project” will be a mixed use development that includes 398 market rate rental units, 119 Affordable Units, and one unrestricted manager's unit plus 420,000 square feet of office space, 11,000 square feet of retail space, 10,000 square feet of childcare facilities, a 1.6-acre public open space, and the relocation of the existing CVS to a new 15,000 square foot building across Woodside Road.

D. Subject to the terms and conditions of this Agreement, the City will make the Loan to the Developer which will be funded with City Housing Impact Fee Funds.

E. The City has determined that the Developer has the necessary expertise, skill and ability to carry out the commitments set forth in this Agreement and that this Agreement is in the City’s best interests and will result in increasing the supply of low and moderate income housing available at affordable housing cost in the City.

F. The desires to provide the Developer with the Loan to provide to fund a Capitalized Operating Reserve for the Project consistent with this Agreement and the Regulatory Agreement, including (without limitation) the occupancy and affordability restrictions. The amount of the Loan provided pursuant to this Agreement does not exceed the amount of City's assistance necessary to make the Developer's construction and operation of the Project, as restricted by this Agreement, financially feasible.

G. Pursuant to the California Environmental Quality Act and its implementing guidelines, the City (in its capacity as “lead agency”), adopted Resolution No. 15768 adopting CEQA findings of fact, a statement of overriding considerations, and mitigation monitoring and reporting program and certifying the Final Environmental Impact Report for the Broadway Plaza Project at 1401 Broadway and 2201 Bay Road. The City, as a responsible agency, considered the environmental effects of the Project as shown in the Environmental Impact Report, and determined that no further CEQA analysis is required pursuant to 14 C.C.R. § 15162.

THEREFORE, the City and the Developer agree as follows:

ARTICLE 1.
DEFINITIONS AND EXHIBITS

Section 1.1 Definitions.

In addition to the terms defined elsewhere in this Agreement, the following definitions shall apply throughout this Agreement.

(a) “Affordable Housing Ordinance” means that certain Ordinance 1130-375 adopted in June of 2018 and set forth in Article 29 of the Redwood City Zoning Code which requires that residential development projects consisting of twenty (20) or more dwelling units include on-site affordable units.

(b) “Affordable Housing Restrictive Covenants” has the meaning set forth in Section 3.4(c) below.

(c) “Affordable Units” means the one hundred nineteen (119) units (excluding the manager’s unit) restricted under the Regulatory Agreement.

(d) “Agreement” means this Loan Agreement, including the attached exhibits and all subsequent operating memoranda and amendments to this Agreement.

(e) “CalHFA” means the California Housing Finance Agency.

(f) “CEQA” means the California Environmental Quality Act, California Public Resources Code §21000- §21177, as amended.

(g) “Certificate of Occupancy” means the final certificate of occupancy issued by the City, or comparable City sign-off on the completion of construction and occupancy of the Improvements.

(h) “Certified Access Specialist” means a certified access specialist registered with the State of California Department General Services Division of State Architect and who has met the requirements of Government Code Section 4459.5.

(i) “City” means the City of Redwood City, a California charter city and its successor and assigns.

(j) “City Council” means the City Council of the City.

(k) “City Documents” shall mean, collectively, this Agreement, the Promissory Note, the Deed of Trust, the Regulatory Agreement, and all other documents required to be executed by the Developer in connection with the transaction contemplated by this Agreement.

(l) “City Event of Default” has the meaning set forth in Section 7.2(a).

(m) “Close of Escrow” means the date of recording of the Deed and the recordation of the Deed of Trust, the Regulatory Agreement, and the Notice of Affordability Covenants.

(n) “Conventional Loans” means a construction loan and/or permanent loans from private lending institutions and public lenders, as applicable.

(o) “County” means the County of San Mateo, California, a political subdivision.

(p) “Deed of Trust” means the deed of trust that will encumber the Developer's fee interest in the Property to secure repayment of the Promissory Note, substantially in the form attached hereto as Exhibit E.

(q) “Developer” means _____, LP, a California limited partnership and its successors and assigns as permitted by this Agreement.

(r) “Developer Event of Default” has the meaning set forth in Section 7.3(a).

(s) “Schedule of Performance of Performance” means the summary schedule of actions to be taken by the Parties pursuant to this Agreement to achieve the requirements hereunder, subject to the provisions of Section 9.3 of this Agreement. The Schedule of Performance is attached to this Agreement as Exhibit B.

(t) “Effective Date” means the date this Agreement is entered into by the Parties as first written above.

(u) “Fiscal Year” shall mean the Developer's fiscal year which ends on December 31, except as the Developer otherwise notifies the City in writing.

(v) “Hazardous Materials” means:

(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 as amended from time to time;

(2) any “hazardous waste,” “infectious waste” or “hazardous material” as defined in Section 25117, 25117.5 or 25501(j) of the California Health and Safety Code as amended from time to 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 (42 U.S.C. Section 9601 et seq.), Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), Safe Drinking Water Act (42 U.S.C. Section 300(f) et seq.), Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), Clean Air Act (42 U.S.C. Section 7401 et seq.), California Health and Safety Code (Section 25100 et seq., Section 39000 et seq.), or California Water Code (Section 13000 et seq.) as amended from time to time; and

(4) any additional wastes, substances or materials 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.

(5) The term “Hazardous Materials” shall not include: (i) construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction, maintenance, rehabilitation, or management of commercial properties, buildings and grounds, or typically used in household activities, or (ii) certain substances which may contain chemicals listed by the State of California pursuant to California Health & 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 Improvements, including, but not limited to, alcoholic beverages, aspirin, tobacco products, nutrasweet and saccharine, so long as such materials and substances are stored, used and disposed of in compliance with all applicable Hazardous Materials Laws.

(w) “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.

(x) “Improvements” means the hundred nineteen (119) affordable housing units (excluding one manager's unit) to be constructed by the Developer together with all common areas, amenities, plans, entitlements, appurtenances, improvement easements, buildings and fixtures, and landscaping associated with the Property.

(y) “Investor Limited Partner” means a reputable equity investor, reasonably acceptable to the City, committed to purchasing a membership interest in the Developer.

(z) “Loan” shall mean the loan in an amount not to exceed Twenty Thousand Dollars (\$20,000) made from the City to the Developer pursuant to the terms of this Agreement.

(aa) “Management Agent” means a management agent retained by the Developer and approved by the City in accordance with the provisions of Sections 2.7 and 5.6 to manage the Project.

(bb) “Management Plan” shall have the meaning specified in Section 2.7.

- (cc) “Official Records” means the official land records of the County.
- (dd) “Operating Memorandum” has the meaning given in Section 9.17(a) below.
- (ee) “Parties” means the City and the Developer and the term Party shall refer to each of them individually.
- (ff) “Partnership” means _____, LP, a California limited partnership, which will own the Project and is herein also referred to as the Developer.
- (gg) “Permanent Financing” means the sources of permanent financing of the Project.
- (hh) “Project” means the Property and the Improvements.
- (ii) “Promissory Note” means the promissory note that will evidence the Developer's obligation to repay the Loan as set forth in this Agreement, substantially in the form attached hereto as Exhibit D.
- (jj) “Property” has the meaning set forth in Recital B.
- (kk) “Regulatory Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants that will be recorded in the Official Records against the Developer's fee interest of the Property upon the Close of Escrow and will restrict the development of the Property to affordable housing, substantially in the form attached hereto as Exhibit C.
- (ll) “Security Financing Interest” has the meaning set forth in Section 9.1.
- (mm) “Senior Lien” has the meaning set forth in Section 3.4.
- (nn) “Sponsor” means the general partner of the Partnership.
- (oo) “Term” means the term of this Agreement, which commences as of the Effective Date this Agreement and, unless terminated earlier or extended by the Parties pursuant to this Agreement, ends fifty-years (55) years from the date the Certificate of Occupancy is issued (the date the Regulatory Agreement is recorded against the Property).
- (pp) “Title Company” means the _____ [Insert Title Company Name] Title Company, located at [Insert title address].
- (qq) “Title Report” means that certain title report dated [Insert date], Order Number _____ [Insert Order No.], issued by the Title Company for the Property.
- (rr) “Transfer” has the meaning set forth in Section 6.1.
- (ss) “Unit” means one of the units to be constructed on the Property.

Section 1.2 Exhibits.

The following exhibits are attached to and incorporated in the Agreement:

- Exhibit A: Legal Description of the Property
- Exhibit B: Schedule of Performance
- Exhibit C: Form of Regulatory Agreement
- Exhibit D: Form of Promissory Note
- Exhibit E: Form of Deed of Trust
- Exhibit F: Insurance Requirements

ARTICLE 2. PRECLOSING REQUIREMENTS

Section 2.1 Conditions Precedent to Making Loan.

The requirements set forth in this Article 2 are conditions precedent to the City's obligation to make the Loan. The City shall have no obligation to disburse any of the Loan unless the Developer has satisfied the conditions precedent set forth in this Article 2 in the manner set forth below and within the timeframe set forth in the Schedule of Performance. Developer may request extensions to the time periods and dates set forth in the Schedule of Performance and the City may grant such requests in its sole and absolute discretion. In no event shall the City be obligated to provide such extensions.

Section 2.2 INTENTIONALLY OMITTED.

Section 2.3 INTENTIONALLY OMITTED.

Section 2.4 INTENTIONALLY OMITTED.

Section 2.5 INTENTIONALLY OMITTED.

Section 2.6 INTENTIONALLY OMITTED.

Section 2.7 Management Plan and Procedures.

(a) The Developer shall comply with the Management Responsibilities set forth in Article 5 of the Regulatory Agreement, incorporated herein by this reference.

Section 2.8 INTENTIONALLY OMITTED.

Section 2.9 INTENTIONALLY OMITTED.

Section 2.10 Insurance.

No later than the date set forth in the Schedule of Performance and for the entire Term, the Developer shall furnish to the City evidence of the insurance coverage meeting the requirements set forth in Exhibit F, attached hereto and incorporated herein by this reference.

Section 2.11 Resident Selection Plan.

The Developer and the City hereby agree to meet and confer to formulate a resident selection plan (the “Tenant Selection Plan”), which among other things, must address marketing and outreach to local community organizations and compliance with the City's Local Preference policy. If and to the extent the parties cannot agree on a mutually acceptable Tenant Selection Plan within sixty (60) days from the Effective Date, the City at its sole and absolute discretion may terminate this Agreement, and thereafter neither party shall have any rights against or liability to the other under this Agreement.

Section 2.12 Condition of Title.

Upon the Required Funding Date, the Developer shall have insurable fee interest to the Property which shall be free and clear of all liens, encumbrances, clouds and conditions, rights of occupancy or possession, except:

- (a) applicable building and zoning laws and regulations;
- (b) the provisions of this Agreement;
- (c) the provisions of the Regulatory Agreement;
- (d) the Deed of Trust;
- (e) any lien for current taxes and assessments or taxes and assessments accruing subsequent to recordation of the Regulatory Agreement;
- (f) the liens of any loan financing the development, acquisition or operation of the Project (“Senior Liens”); and
- (g) exceptions _____ [Insert list of approved exceptions] as listed in the Title Report.

ARTICLE 3.
LOAN PROVISIONS

Section 3.1 Loan Amount.

Subject to the terms and conditions set forth in the City Documents, the City hereby agrees to make a loan to the Developer of up to Twenty Thousand Dollars (\$20,000). The Developer's obligation to pay the Loan shall be evidenced by the Promissory Note.

Section 3.2 Interest.

Simple interest at three percent (3%) per annum shall accrue on the principal amount of the Loan except in a Developer Event of Default, whereupon and during the continuation of which interest shall accrue from and after the date of the Promissory Note until paid at the rate of ten percent (10%) compounded annually, or the highest rate permitted by law.

Section 3.3 Use of Loan.

The Loan shall be used solely to fund a Capitalized Operating Reserve as described in Section 3.6 below. The Developer may not use any proceeds of the Loan for any other purpose without the prior written consent of the City.

Section 3.4 Security; Subordination of Regulatory Agreement.

(a) Notwithstanding anything to the contrary in this Deed of Trust, Trustor, without the consent of but subject to the prior written notice to Beneficiary, may encumber the Property with any mortgage, deed of trust or lien made in connection with any financing or refinancing secured by the Property; provided that Trustor extends the term of the Regulatory Agreement to be co-terminus with the term of such financing or refinancing and provided that the resulting loan-to-value ratio of all financing secured by the Property does not exceed ninety percent (90%) at the time of the closing of such financing or refinancing, hereinafter "Senior Liens": The Beneficiary agrees that the lien of this Deed of Trust shall be subordinate to any Senior Liens, provided however, that the Beneficiary agrees to execute and acknowledge any commercially reasonable subordination agreement, estoppel certificate and any other reasonable documentation required by the lender of any indebtedness secured by a Senior Lien within thirty (30) days of written request therefor. For the purposes of the foregoing the "loan-to-value ratio" requirement described above shall be satisfied if Trustor provides Beneficiary or its consultant with an MAI appraisal relied upon by the holder of the Senior Lien evidencing that the total financing secured by the Property (including any refinancing amount) does not exceed ninety percent (90%) of market valuation. For the purposes of the foregoing "loan-to-value ratio" and "debt service coverage ratio" shall be calculated in accordance with Freddie Mac and Fannie Mae lending standards, or commercially reasonably equivalent standards, in effect at the time such financing is obtained. The requirement of this Section 3.4 shall survive the repayment of the Loan and the termination of this Loan Agreement.

(b) The parties agree and acknowledge that the Developer is constructing the Improvements to satisfy land use restrictions for the Broadway Plaza Project and to ensure the continuing satisfaction of the requirements under the Affordable Housing Ordinance, set forth in Article 29 of the Redwood City Zoning Code (the "Ordinance") and that the parties have entered into an Affordable Housing Restrictive Covenants Agreement, which has been recorded against the Property to preserve the affordable units required under the land use restrictions. The parties agree and acknowledge that in no event shall the City subordinate the Affordable Housing Restrictive Covenants Agreement, it being acknowledged by the parties that the Affordable Housing Restrictive Covenants Agreement contains land use restrictions which are required to be recorded in first lien priority.

Section 3.5 Repayment Schedule.

The Loan shall be repaid as follows:

(a) Term. The Loan shall have a term that expires on the date fifty-five (55) years from the issuance of a Certificate of Occupancy (the date on which the Regulatory Agreement is recorded against the Property).

(b) Payments. At the expiration of the Term of the Loan, the Developer shall make repayment of the Loan plus accrued interest. Payments made shall be credited first against accrued interest and then against outstanding principal.

(c) Payment in Full. Subject to the provisions of subsection (d) below, all principal and interest, if any, on the Loan shall, at the option of the City, be due and payable upon the earliest of: (1) a Transfer other than a Transfer permitted or approved by the City as provided in Article 6 below; (2) the occurrence of an uncured Developer Event of Default for which the City exercises its right to cause the Loan indebtedness to become immediately due and payable; or (3) the expiration of the Term specified in (a) above.

(d) Prepayment. The Developer shall have the right to prepay all or any portion of the Loan at any time without penalty or fee. However, this Agreement and the Regulatory Agreement shall remain in effect for their entire respective terms, regardless of any prepayment or timely payment of the Loan.

Section 3.6 Conditions Precedent to Disbursement of Loan.

(a) Developer shall create a special “Capitalized Operating Subsidy Reserve” and to be maintained as a segregated interest-bearing account held by the Developer for the Term of this Agreement, subject to subsections (b) and (c) below. The Capitalized Operating Subsidy Reserve shall be capitalized in the amount of the City Loan. Any interest earned on funds in the Capitalized Operating Subsidy Reserve shall be added to and become part of the Capitalized Operating Subsidy Reserve.

(b) The Capitalized Operating Subsidy Reserve shall be used to pay monthly operating costs for units occupied by income qualifying households, during the Term. The Developer shall be allowed to make monthly withdrawals from the Capitalized Operating Subsidy Reserve in the amount that may be approved by the City in writing. The Developer shall replenish the Capitalized Operating Subsidy Reserve within six (6) months from a date of an approved withdrawal.

(c) The disbursements made pursuant to this Section may not exceed the amount of the Loan. The City shall disburse the Loan in a single installment but shall have no obligation to make any disbursements or to take any other action under the Loan Documents unless the following conditions precedent are satisfied:

(1) There exists no Developer Event of Default nor any act, failure, omission or condition that would constitute a Developer Event of Default under this Agreement;

(2) The Developer shall have executed and delivered to the Promissory Note, the Deed of Trust, the Regulatory Agreement, and any other documents and instruments

required to be executed and delivered, all in a form and substance reasonably satisfactory to the City;

(3) The Deed of Trust and the Regulatory Agreement, shall have been recorded in the Official Records against the Developer's interest in the Property as a lien subject only to the exceptions authorized by the City;

(4) The City has received copies of all "Senior Liens.";

(5) The Developer has received and delivered to the City a copy of a final Certificate of Occupancy for the Project;

(6) The City has received from Developer and approved a form of tenant lease;

(7) The City has received from Developer and approved the Management Plan;

(8) The City has received from Developer and approved a copy of the Resident Services Plan for the provision of service to tenants;

(9) The City has received from Developer current evidence of the insurance coverage meeting the requirements of Exhibit F;

(10) A title insurer reasonably acceptable to the City is unconditionally and irrevocably committed to issuing an ALTA 2006 LP-10 Lender's Policy of insurance insuring the lien priority of the Deed of Trust in the amount of the Loan subject only to Senior Liens as prior to the lien of the Deed of Trust and such exceptions and exclusions as may be reasonably acceptable to the City and containing such endorsements as the City may reasonably require; and

(11) The City has received a written draw request from the Developer, including certification that the condition set forth in Section 3.6(b) continues to be satisfied, and setting forth the proposed uses of funds consistent with the Financing Plan as required under Section 2.4, the amount of funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred.

Section 3.7 Assumption.

The Promissory Note shall not be assumable by successors and assigns of the Developer without the prior written consent of the City, which consent shall be granted or denied in the City's sole discretion, subject to the terms of Section 6.5 when applicable.

Section 3.8 Non-Recourse.

(a) Following recordation of the Deed of Trust, and except as provided below, the Developer shall not have any direct or indirect personal liability for payment of the principal of, or interest on, the Loan or the performance of the covenants of the Developer under the Deed of Trust. The sole recourse of the City with respect to the principal of, or interest on, the Promissory Note and defaults by the Developer in the performance of its covenants under the Deed of Trust shall be to the property described in the Deed of Trust; provided, however, that nothing contained in the foregoing limitation of liability shall: (1) limit or impair the enforcement against all such security for the Promissory Note of all the rights and remedies of the City thereunder; or (2) be deemed in any way to impair the right of the City to assert the unpaid principal amount of the Promissory Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

(b) The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Promissory Note and the performance of the Developer's obligations under the Deed of Trust, except as hereafter set forth; nothing contained herein is intended to relieve the Developer of its waiver of liability in Section 3.6 and the Developer's indemnification obligations under this Agreement, or liability for: (1) fraud or willful misrepresentation; (2) the failure to pay taxes, assessments or other charges which may create liens on the Developer's interest in the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (3) the fair market value of any personal property or fixtures removed or disposed of by the Developer other than in accordance with the Deed of Trust; and (4) the misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Project.

ARTICLE 4.
INTENTIONALLY OMITTED

ARTICLE 5.
ONGOING DEVELOPER OBLIGATIONS

Section 5.1 Applicability.

The conditions and obligations set forth in this Article 5 shall apply throughout the Term, unless a different period of applicability is specified for a particular condition or obligation.

Section 5.2 Use.

(a) The Developer hereby agrees that, for the entire Term, the Project will be used only for residential use consistent with Resolution No. 15769, pursuant to which the City approved an Affordable Housing Plan for Broadway Plaza dated March 15, 2019, as modified by

an amendment to the Affordable Housing Plan approved by the Community Developer Director on April 7, 2023, and the Regulatory Agreement.

(b) The Regulatory Agreement shall require that a portion of the Units shall be affordable to and occupied by Extremely Low, Very Low and Low Income Households as further specified in the Regulatory Agreement.

Section 5.3 Maintenance.

(a) The Developer agrees, for the entire Term of this Agreement, to maintain the Improvements, in accordance with the management and maintenance requirements set forth in Section 5.1 of the Regulatory Agreement.

(b) In the event that the Developer breaches any of the covenants contained in this section and such default continues for a period of seven (7) days after written notice from the City with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from the City with respect to landscaping and building improvements, then the City, in addition to whatever other remedy it may have at law or in equity, shall have the right to enter upon the Property and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, the City shall be permitted (but is not required) to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the City and/or costs of such cure, including a ten percent (10%) administrative charge, which amount shall be promptly paid by the Developer to the City upon demand.

Section 5.4 Taxes and Assessments.

The Developer shall pay all real and personal property taxes, assessments and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property or the Developer's fee interest in the Property; provided, however, that the Developer shall have the right to contest in good faith any such taxes, assessments, or charges. In the event the Developer exercises its right to contest any tax, assessment, or charge against it, the Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

Section 5.5 Hazardous Materials.

(a) Covenants.

(1) No Hazardous Materials Activities. The Developer hereby represents and warrants to the City that, at all times from and after the Close of Escrow, the Developer shall not cause or permit the Property, or the Improvements thereon to be used as a site

for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any Hazardous Materials.

(2) Hazardous Materials Laws. The Developer hereby represents and warrants to the City that, at all times from and after the Close of Escrow, the Developer shall comply and cause the Property, and the Improvements thereon to comply with Hazardous Materials Laws, including without limitation, those relating to soil and groundwater conditions.

(3) Notices. The Developer hereby represents and warrants to the City that, at all times from and after the Close of Escrow, the Developer shall immediately notify the City in writing of: (i) the discovery of any Hazardous Materials on or under the Property; (ii) any knowledge by the Developer that the Property does not comply with any Hazardous Materials Laws; (iii) any claims or actions pending or threatened against the Developer, the Property, or the Improvements by any governmental entity or agency or any other person or entity relating to Hazardous Materials or pursuant to any Hazardous Materials Laws (collectively “Hazardous Materials Claims”); and (iv) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property, that could cause the Property, or any part thereof to be designated as “border zone property” under the provisions of California Health and Safety Code Sections 25220, et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Project under any Hazardous Materials Laws. The City shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorney's fees in connection therewith paid by the Developer.

(4) Remedial Action. Without the City's prior written consent, which shall not be unreasonably withheld, the Developer shall not take any remedial action in response to the presence of any Hazardous Materials on, under, or about the Project (other than in emergency situations or as required by governmental agencies having jurisdiction), nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Materials Claims.

(b) Indemnity. Without limiting the generality of the indemnification set forth in Section 9.6 below, the Developer hereby agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the City) the Indemnified Parties from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, reasonable attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of: (1) the failure of the Developer or any other person or entity 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 on or after the date of conveyance of the Property to the Developer; (2) the presence in, on or under the Project of any Hazardous Materials or any releases or discharges of any Hazardous Materials into, on, under or from the Project to the extent it arises on or after the date of conveyance of the Property to the Developer; or (3) any activity carried on or undertaken on or off the Project, subsequent to the conveyance of the Property to the Developer, and whether

by the Developer or any successor in title or any employees, agents, contractors or subcontractors of the Developer or any successor in title, or any third persons at any time occupying or present on the Project, in connection with the handling, treatment, removal, storage, decontamination, cleanup, transport or disposal of any Hazardous Materials at any time located or present on or under the Project. The foregoing indemnity shall further apply to any residual contamination on or under the Project, or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws. The provisions of this subsection shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect. The foregoing indemnity shall not apply to any claims, losses, damages, liabilities, fines, penalties, or charges that are caused by the sole negligence or willful misconduct of the Indemnified Parties; or for claims, losses, damages, liabilities, fines, penalties, or charges that are commenced after foreclosure or deed in lieu of foreclosure unless the action arises out of activities of the Developer or the Indemnified Parties occurring prior to the foreclosure or deed in lieu of foreclosure. The indemnification provisions of this Agreement shall survive such termination and remain in full force and effect.

(c) No Limitation. The Developer hereby acknowledges and agrees that the Developer's duties, obligations and liabilities under this Agreement, including, without limitation, under subsection (b) above, are in no way limited or otherwise affected by any information the City may have concerning the Project and/or the presence within the Project of any Hazardous Materials, whether the City obtained such information from the Developer or from its own investigations.

Section 5.6 Management Agent; Periodic Reports.

The Developer agrees, for the entire Term of this Agreement, the Project shall at all times be managed by an experienced Management Agent reasonably acceptable to the City as set forth in Section 5.2 of the Regulatory Agreement.

Section 5.7 Approval of Management Plan Modifications.

Pursuant to Section 2.7, the City is to review and approve the written Management Plan for the Project pursuant to the Schedule of Performance. Each year thereafter, within sixty (60) days of the end of the Developer's Fiscal Year, the Developer shall submit to the City any proposed changes to the Management Plan. The City shall approve or disapprove the proposed changes to the Management Plan in writing within fifteen (15) calendar days following the City's receipt of the request to amend the Management Plan, which approval shall not be unreasonably denied. If the change to the Management Plan is disapproved by the City, the City shall deliver a written notice to the Developer setting forth, in reasonable detail, the reasons for such disapproval. The Developer shall have fifteen (15) calendar days following the receipt of such notice to submit a revised Management Plan modification in any way necessary to ensure that such policies comply with the provisions of this Agreement. The City's approval of the amendments to the Management Plan shall not be unreasonably withheld.

Section 5.8 Notice of Litigation.

The Developer shall promptly notify the City in writing of any litigation materially affecting Developer, the Developer's ability to perform its obligations under this Agreement, or the Property and of any claims or disputes that involve a material risk of such litigation.

Section 5.9 Financial Accounting and Audits.

(a) The Developer shall keep and maintain at the Project, or elsewhere with the City's written consent, full, complete and appropriate books, record and accounts relating to the Project. Books, records and accounts relating to the Developer's compliance with the terms, provisions, covenants and conditions of this Agreement shall be kept and maintained in accordance with generally accepted accounting principles consistently applied. All such books, records, and accounts shall be open to and available for inspection by the City, its auditors or other authorized representatives at reasonable intervals during normal business hours on reasonable prior notice to the Developer. Copies of all tax returns and other reports that the Developer may be required to furnish any governmental agency shall at all reasonable times be open for inspection by the City at the place that the books, records and accounts of the Developer are kept. The Developer shall preserve records for a period of not less than five (5) years after such statement is rendered, and for any period during which there is an audit undertaken pursuant to subsection (c) below then pending.

(b) The City or any designated agent or employee of the City at any time shall be entitled to audit the books, records, and accounts pertaining to the records related to the development or operation of the Project or the Developer's compliance with the City Documents. Such audit shall be conducted during normal business hours, upon at least 48 hours prior written notice, at the principal place of business of the Developer and other places where records are kept. Immediately after the completion of an audit, the City shall deliver a copy of the results of such audit to the Developer.

Section 5.10 Equal Opportunity.

During the operation of the Improvements, the Developer, and its successors, assigns and subcontractors shall not discriminate against any employee or applicant for employment or tenant or applicant for tenancy in connection with the operation of the Improvements on the basis of race, color, creed, religion, age, sex, sexual orientation, marital status, familial status, national origin, ancestry, or disability. Each of the following activities shall be conducted in a non-discriminatory manner: hiring; upgrading; demotion and transfers; recruitment and recruitment advertising; layoff and termination; rate of pay and other forms of compensation; and selection for training including apprenticeship.

Section 5.11 Information.

The Developer shall provide any information reasonably requested by the City in connection with the Project.

Section 5.12 Records.

(a) The Developer shall maintain complete, accurate, and current records pertaining to the Project for a period of five (5) years after the creation of such records, and shall permit any duly authorized representative of the City to inspect and copy records upon reasonable notice to the Developer. Such records shall include all invoices, receipts, and other documents related to expenditures from the Loan funds. Records must be kept accurate and current.

(b) The City shall notify the Developer of any records it deems insufficient. The Developer shall have thirty (30) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the City in such notice, or if a period longer than thirty (30) days is reasonably necessary to correct the deficiency, then the Developer shall begin to correct the deficiency within thirty (30) days and complete the correction of the deficiency as soon as reasonably possible.

Section 5.13 Prevailing Wages.

(a) The City is funding a Capitalized Operating Reserve for the Project and not any portion of construction of the Project. If, however, required by applicable law, the Developer shall pay and shall cause the contractor and subcontractors to pay prevailing wages in the construction of the Project as those wages are determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices as required by California Labor Code Sections 1777.5 et seq., and the implementing regulations of the Department of Industrial Relations (the “DIR”). If required by applicable law, Developer shall and shall cause the contractor and subcontractors to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and implementing regulations of the DIR. If required by applicable law, Developer shall and shall cause the contractor and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to California Labor Code Section 1720 et seq., and apprentices have been employed are required by California Labor Code Section 1777.5 et seq. Copies of the currently applicable per diem prevailing wages are available from DIR. If required by applicable law, during the construction of the Project, Developer shall or shall cause the contractor to post at the Property the applicable prevailing rates of per diem wages. Developer shall cause its respective contractors and subcontractors to be registered as set forth in Labor Code Section 1725.5. If required by applicable law, the Developer shall cause its respective contractors and subcontractors to do all the following: (1) all calls for bids, bidding materials and the construction contract documents for the Project must specify that (i) no contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the Project unless registered with the DIR pursuant to Labor Code Section 1725.5; and (ii) the Project is subject to compliance monitoring and enforcement by the DIR; (2) The Developer is required to provide the City all information required by Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within two (2) days of the award of the contract (<https://www.dir.ca.gov/pwc100ext/>); (3) The Developer shall cause its respective contractors to post job site notices, as prescribed by regulation by the DIR; and (4) The Developer shall cause its respective contractors to furnish payroll records required by Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner.

(b) The Developer shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the City) the City, its council members, officers, agents and employees (together, the “Indemnified Parties”) against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Developer, its contractor and subcontractors), if required by applicable law, to pay prevailing wages as determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices pursuant to California Labor Code Section 1777.5 et seq., and implementing regulations of the DIR or to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., to meet the conditions of Section 1771.4 of the Labor Code as set forth above and the implementing regulations of the DIR in connection with the construction of the Project or any other work undertaken or in connection with the Property. This Section shall survive the repayment of the Loan, the reconveyance of the Deed of Trust and the expiration of the Loan Term.

ARTICLE 6. ASSIGNMENT AND TRANSFERS

Section 6.1 Definitions.

As used in this Article, the term “Transfer” means:

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

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

(c) Any merger, consolidation, sale or lease of all or substantially all of the assets of the Developer; or

(d) The leasing of part or all of the Property or the Improvements thereon; provided, however, that leasing of the Units included within the Improvements to tenant occupants in accordance with the Regulatory Agreement shall not be deemed a Transfer for purposes of this Article.

Section 6.2 Purpose of Restrictions on Transfer.

(a) This Agreement is entered into solely for the purpose of the operation and use of the Project in accordance with the terms hereof. The Developer recognizes that the qualifications and identity of the Developer are of particular concern to the City, in view of:

(1) The importance of the development of the Improvements to the general welfare of the community;

(2) The public aid that has been made available by law and by the government for the purpose of making such development possible;

(3) The reliance by the City upon the unique qualifications and ability of the Developer to serve as the catalyst for development of the Property and upon the continuing interest which the Developer will have in the Property to assure the quality of the use, operation and maintenance deemed critical by the City in the development of the Property;

(4) The fact that a change in ownership or control of the owner of the Property, or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in ownership or with respect to the identity of the parties in control of the Developer or the degree thereof is for practical purposes a transfer or disposition of the Property;

(5) The fact that the Property is not to be used for speculation, but only for development and operation by the Developer in accordance with the Agreement; and

(6) The importance to the City and the community of the standards of use, operation and maintenance of the Property.

(b) The Developer further recognizes that it is because of such qualifications and identity that the City is entering into this Agreement with the Developer and that Transfers are permitted only as provided in this Agreement.

Section 6.3 Prohibited Transfers.

(a) The limitations on Transfers set forth in this Section shall apply throughout the Term. Except as expressly permitted in this Agreement, the Developer represents and agrees that the Developer has not made or created, and will not make or create or suffer to be made or created, any Transfer, either voluntarily or by operation of law without the prior written approval of the City.

(b) Any Transfer made in contravention of this Section shall be void and shall be deemed to be a default under this Agreement whether or not the Developer knew of or participated in such Transfer.

Section 6.4 Permitted Transfers.

Notwithstanding the provisions of Section 6.3, the following Transfers shall be permitted and are hereby approved by the City.

(a) Any Senior Lien as provided in Section 3.4 of this Agreement.

(b) Any Transfer of direct or indirect ownership interests in Borrower (including transfers of the managing general partner interest in Borrower) provided that SI3 LLC retains decision-making control of the co-general partner of Borrower.

(c) Any Transfer directly resulting from the foreclosure of a Security Financing Interest or the granting of a deed in lieu of foreclosure of a Security Financing Interest or as otherwise permitted under Article 7.

(d) The leasing of residential units within the Project in accordance with the Regulatory Agreement.

(e) The granting of easements, licenses or permits to facilitate the development of the Property or in connection with operation of the Project (including without limitation, for purposes of internet, cable, utility, or solar power).

(f) The removal, or withdrawal in lieu of removal, of Borrower's general partner for cause pursuant to the Partnership Agreement shall not require the City's consent or constitute a default under this Agreement.

(g) The City also hereby approves future Transfers of the limited partner interest provided that: (1) such Transfers do not affect the timing and amount of the limited partner capital contributions provided for in the Partnership Agreement approved by the City; and (2) in such Transfers, a wholly owned affiliate of one or more of the general partners retains a membership or partnership interest and serves as a managing member or managing general partner of the successor limited partner.

(h) The City also hereby approves Transfer of the Property from the Developer to the Sponsor or a nonprofit affiliate of the Sponsor, and an assumption of the Loan by such transferee, provided that: (1) the transferee expressly assumes the obligations of the Developer under the City Documents, utilizing a form of assignment and assumption agreement in a form approved by the City; and (2) all funds maintained in the Operating Reserve and the Replacement Reserve are transferred to the transferee with the Project and continue to be reserved solely to pay operating costs or replacement costs of the Project.

Section 6.5 Effectuation of Certain Permitted Transfers.

(a) No Transfer of this Agreement permitted pursuant to Section 6.4 shall be effective unless, at the time of the Transfer, the person or entity to which such Transfer is made, by an instrument in writing prepared by the City and in form recordable among the land records, shall expressly assume the obligations of the Developer under this Agreement and agree to be subject to the conditions and restrictions to which the Developer is subject arising during this Agreement, to the fullest extent that such obligations are applicable to the particular portion of or interest in the Project conveyed in such Transfer. Anything to the contrary notwithstanding, the holder of a Security Financing Interest whose interest shall have been acquired by, through or under a Security Financing Interest or shall have been derived immediately from any holder thereof shall not be required to give to City such written assumption until such holder or other person is in possession of the Property or entitled to possession thereof pursuant to enforcement of the Security Financing Interest.

(b) In the absence of specific written agreement by the City, no such Transfer, assignment or approval by the City shall be deemed to relieve the Developer or any other party from any obligations under this Agreement.

Section 6.6 Other Transfers with City Consent.

The City may, in its sole discretion, approve in writing other Transfers as requested by the Developer. In connection with such request, there shall be submitted to the City for review all instruments and other legal documents proposed to effect any such Transfer. If a requested Transfer is approved by the City such approval shall be indicated to the Developer in writing. Such approval shall be granted or denied by the City within sixty (60) days of receipt by the City of Developer's request for approval of a Transfer. Upon such approval, if granted, the transferee, by an instrument in writing prepared by the City and in form recordable among the land records, shall expressly assume the obligations of the Developer under this Agreement and agree to be subject to the conditions and restrictions to which the Developer is subject arising during this Agreement, to the fullest extent that such obligations are applicable to the particular portion of or interest in the Project conveyed in such Transfer.

ARTICLE 7.
DEFAULT AND REMEDIES

Section 7.1 General Applicability.

The provisions of this Article shall govern the parties' remedies for breach or failure of this Agreement.

Section 7.2 Fault of City.

(a) The following events each constitute a "City Event of Default" and a basis for the Developer to take action against the City:

(1) The City breaches any material provision of this Agreement (including failure to timely respond to performance time frames set forth in this Agreement).

(b) Upon the happening of any of the above-described events, the Developer shall first notify the City in writing of its purported breach or failure, giving the City forty-five (45) days from receipt of such notice to cure or, if cure cannot be accomplished within forty-five (45) days, to commence to cure such breach, failure, or act. In the event the City does not then so cure within said forty-five (45) days, or if the breach or failure is of such a nature that it cannot be cured within forty-five (45) days, the City fails to commence to cure within such forty-five (45) days and thereafter diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days, then the Developer shall be afforded all of its rights at law or in equity, by taking all or any of the following remedies: (1) terminating in writing this Agreement (provided, however, that the indemnification provisions of this Agreement shall survive such termination and remain in full force and effect); and (2) prosecuting an action for damages or specific performance.

Section 7.3 Fault of Developer.

(a) The following events each constitute a “Developer Event of Default” and a basis for the City to take action against the Developer:

(1) The Developer fails to exercise good faith and diligent efforts to satisfy, within the time set forth in the Schedule of Performance of the conditions precedent to the City's obligation to make the Loan to the Developer;

(2) The Developer fails to comply with any obligation or requirement set forth in Article 5;

(3) A Transfer occurs, either voluntarily or involuntarily, in violation of Article 6;

(4) Any representation or warranty contained in this Agreement or in any application, financial statement, certificate or report submitted to the City in connection with this Agreement proves to have been incorrect in any material and adverse respect when made;

(5) An event of default occurs under the Deed of Trust, the Promissory Note, or the Regulatory Agreement, subject to all applicable notice and cure periods;

(6) A court having jurisdiction shall have made or entered any decree or order: (i) adjudging the Developer or its Sponsor to be bankrupt or insolvent; (ii) approving as properly filed a petition seeking reorganization of the Developer or its Sponsor, or seeking any arrangement for the Developer or its Sponsor, under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction; (iii) appointing a receiver, trustee, liquidator, or assignee of the Developer or its Sponsor, in bankruptcy or insolvency or for any of their properties; or (iv) directing the winding up or liquidation of the Developer or its Sponsor, if any such decree or order described in clauses (i) to (iv), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days unless a lesser time period is permitted for cure under any other mortgage on the Property, in which event such lesser time period will apply under this subsection (i) as well; or the Developer or its Sponsor, shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive;

(7) The Developer shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of 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 under any other mortgage on the Property, in which event such lesser time period shall apply under this subsection (10) as well) or prior to sooner sale pursuant to such sequestration, attachment, or execution;

(8) The Developer or its Sponsor shall have been dissolved or shall have voluntarily suspended their business; or

(9) There shall occur any default declared by any lender under any loan document related to any loans, secured by a deed of trust on the Project after the expiration of all applicable cure periods; or

(10) The Developer breaches any other material provision of this Agreement or any material provision in any of the other City Documents which remains uncured after expiration of any applicable cure periods.

Section 7.4 Remedies

(a) Upon the happening of any of the above-described events in Section 7.4, the City shall first notify the Developer in writing of its purported breach, failure or act above described, giving the Developer in writing forty-five (45) days from receipt of such notice to cure, or, if cure cannot be accomplished within said forty-five (45) days, to commence to cure such breach, failure, or act. In the event the Developer fails to cure within said forty-five (45) days, or if such breach is of a nature that it cannot be cured within forty-five (45) days, Developer fails to commence to cure within said forty-five (45) days and diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days unless a longer time is approved by the City in writing, then the City shall be afforded all of its rights at law or in equity by taking any or all of the following remedies:

(1) Prosecuting an action for damages or specific performance; and

(2) Any of the remedies specified in Section 7.6 through Section 7.10.

(b) Notwithstanding the notice and cure periods set forth above, with respect to a Developer Event of Default described in subsection 7.3(a) (6) or (7) above, the City may initiate enforcement action, without the provision of any notice, or the passage of any cure period.

Section 7.5 INTENTIONALLY OMITTED.

Section 7.6 Acceleration of Note.

Following occurrence and continuance of an uncured Developer Event of Default, the City shall have the right to cause all indebtedness of the Developer to the City under this Agreement and the Promissory Note, together with any accrued interest thereon, to become immediately due and payable. The Developer waives all right to presentment, demand, protest or notice of protest or dishonor. The City may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the City as a creditor and secured party under the law including the Uniform Commercial Code, including foreclosure under the Deed of Trust or exercise of its rights under the Assignment Agreement. The Developer shall be liable to pay the City on demand all expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the City in connection with the collection of the Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Loan.

Section 7.7 Right to Cure at Developer's Expense.

The City shall have the right to cure any monetary default by the Developer under a loan in connection with the Project. However, if the Developer is in good faith contesting a claim of default under a loan and the City's interest under this Agreement is not imminently threatened by such default, in the City's sole judgment, the City shall not have the right to cure such default. The Developer agrees to reimburse the City for any funds advanced by the City to cure a monetary default by Developer upon demand therefore, together with interest thereon at the lesser of the rate of ten percent (10%) per annum or the maximum rate permitted by law from the date of expenditure until the date of reimbursement.

Section 7.8 Rights of Mortgagees.

Any rights of the City under this Article shall not defeat, limit or render invalid any Security Financing Interest permitted by this Agreement or any rights provided for in this Agreement for the protection of holders of Security Financing Interests.

Section 7.9 Remedies Cumulative.

No right, power, or remedy given by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given by the terms of any such instrument, or by any statute or otherwise. Neither the failure nor any delay to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 7.10 Waiver of Terms and Conditions.

No waiver of any default or breach by the Developer hereunder shall be implied from any omission by the City 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 Developer 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, or the Regulatory 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 or under this Agreement, unless in the exercise of any such right, power, or remedy all obligations of the Developer to City are paid and discharged in full.

ARTICLE 8.
SECURITY FINANCING AND RIGHTS OF HOLDERS

Section 8.1 No Encumbrances Except for Development Purposes.

Notwithstanding any other provision of this Agreement, the Senior Liens are permitted to be placed upon the Developer's fee interest in the Property,. each referred to as a "Security Financing Interest." The words "mortgage" and "deed of trust" as used in this Agreement include all other appropriate modes of financing real estate construction and land development.

Section 8.2 Holder Not Obligated to Construct.

The holder of any Security Financing Interest authorized by this Agreement is not obligated to construct or complete any improvements or to guarantee such construction or completion. However, nothing in this Agreement shall be deemed to permit or authorize any such holder to devote the Property or any portion thereof to any uses, or to construct any improvements thereon, other than those uses of improvements provided for or authorized by this Agreement or the Regulatory Agreement.

Section 8.3 Notice of Default and Right to Cure.

Whenever the City pursuant to its rights set forth in Article 7 of this Agreement delivers any notice or demand to the Developer with respect to the operation of the Improvements, the City shall at the same time deliver to each holder of record of any Security Financing Interest creating a lien upon the Developer's fee interest in the Property or any portion thereof, and the Investor Limited Partner, a copy of such notice or demand. Each such holder shall (insofar as the rights of the City are concerned) have the right, but not the obligation, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default or breach affecting the Property which is subject to the lien of the Security Financing Interest held by such holder and to add the cost thereof to the security interest debt and the lien on its security interest. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the operation of the Improvements without first having expressly assumed in writing the Developer's obligations to the City relating to such Improvements under this Agreement.

Section 8.4 Right of City to Satisfy Other Liens.

After the Close of Escrow, and after the Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on the Property or any portion thereof, the City shall have the right to satisfy any such lien or encumbrances; provided, however, that nothing in this Agreement shall require the Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount therein and so long as such delay in payment shall not subject the Property or any portion thereof to forfeiture or sale.

Section 8.5 Holder to be Notified.

The provisions of this Article shall be incorporated into the relevant deed of trust or mortgage evidencing each Security Financing Interest to the extent deemed necessary by, and in form and substance reasonably satisfactory to the City, or shall be acknowledged by the holder of a Security Financing Interest prior to its coming into any security right or interest in the Property.

ARTICLE 9.
GENERAL PROVISIONS

Section 9.1 Notices, Demands and Communications.

Formal notices, demands, and communications between the City and the Developer shall be sufficiently given if and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested or delivered personally, to the principal office of the City and the Developer as follows:

City:

City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063
Attention: City Manager

with copy to:

City of Redwood City
Office of the City Attorney
1017 Middlefield Road
Redwood City, CA 94063
Attention: City Attorney

and:

Goldfarb & Lipman LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
Attn: Rafael Yaquian

and (2) if intended for Trustor shall be addressed to:

c/o The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA 94041
Attn: Peter Tsai, Vice President
Real Estate Development

with copy to:

Cox, Castle & Nicholson LLP
50 California Street, Suite 3200

San Francisco, CA 94111
Attn: Christian Dubois

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section.

Section 9.2 Non-Liability of Public Officials, Employees and Agents.

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

Section 9.3 Force Majeure.

In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of god; acts of the public enemy; epidemics; pandemics, quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation (including suits filed by third parties concerning or arising out of this Agreement); weather or soils conditions which, in the opinion of the Developer's contractor, will necessitate delays; inability to secure necessary labor, materials or tools; acts of the other party; acts or failure to act of any public or governmental agency or entity (other than the acts or failure to act of the City shall not be events of Force Majeure with respect to the City's obligations); or any other causes (other than Developer's inability to obtain financing for the Improvements) beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any cause may be requested by either party within ten (10) days from the date the party seeking the extension first discovered the cause for the extension and will be considered by the other party at their reasonable discretion, and shall be approved or disapproved by the party receiving the request within thirty (30) days from the date of receipt of the notice from the party seeking the extension. Times of performance under this Agreement may also be extended in writing by the City and the Developer. In no event shall the cumulative delays exceed one hundred eighty (180) days, unless otherwise agreed to by the Parties in writing.

Section 9.4 Inspection of Books and Records.

Upon request, the Developer shall permit the City to inspect at reasonable times and on a confidential basis those books, records and all other documents of the Developer necessary to determine the Developer's compliance with the terms of this Agreement. The Developer also has the right at all reasonable times to inspect the books, records and all other documentation of the City pertaining to its obligations under this Agreement.

Section 9.5 Title of Parts and Sections.

Any titles of the articles, sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any part of its provision.

Section 9.6 General Indemnification.

To the full extent permitted by law, Developer shall indemnify, defend at its own expense, and hold the City and the Indemnitees harmless against any and all claims, suits, actions, losses, and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, including but not limited to the execution and enforcement of this Agreement, marketing and operation of the Project, except to the extent such claim arises from the grossly negligent or willful misconduct of the City or Indemnitees. Each Party shall notify the other Party immediately in writing of any claim or damage related to activities performed under this Agreement. The Parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, provided that nothing shall require either Party to disclose any documents, records or communications that are protected under the attorney-client privilege or attorney work product privilege. The provisions of this Section shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

Section 9.7 Applicable Law.

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

Section 9.8 No Brokers.

Each party represents to the other that it has not had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee except as agreed to in writing by the City and the Developer. If any broker or finder makes a claim for a commission or finder's fee based upon a contact, dealings, or communications, the party through whom the broker or finder makes this claim shall indemnify, defend with counsel of the indemnified party's choice, and hold the indemnified party harmless from all expense, loss, damage and claims, including the indemnified party's attorneys' fees, if necessary, arising out of the broker's or finder's claim. The provisions of this Section shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

Section 9.9 Severability.

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

Section 9.10 Legal Actions, Venue.

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 venue for such action shall be the Superior Court of the County of San Mateo. 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 attorney's fees and costs incurred in such action.

Section 9.11 Binding Upon Successors.

(a) This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties hereto except that there shall be no Transfer of any interest by any of the parties hereto except pursuant to the terms of this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

(b) The covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property. However, on the termination of this Agreement, such covenants and restrictions shall expire. Each and every contract, deed, or other instrument hereafter executed covering or conveying the Property shall be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed, or other instrument, unless the City expressly releases the Property from the requirements of this Agreement.

Section 9.12 Parties Not Co-Venturers.

Nothing in this Agreement is intended to or does establish the Parties as partners, co-venturers, or principal and agent with one another.

Section 9.13 Time of the Essence.

In all matters under this Agreement, the parties agree that time is of the essence.

Section 9.14 Action by the City.

Except as may be otherwise specifically provided in this Agreement or another City Document, whenever any approval, notice, direction, finding, consent, request, waiver, or other action by the City is required or permitted under this Agreement or another City Document, such action may be given, made, or taken by the City Manager, or by any person who shall have been designated in writing to the Developer by the City Manager, without further approval by the City Council. Any such action shall be in writing.

Section 9.15 Representations and Warranties.

(a) The Developer hereby represents and warrants to the City as follows:

(1) Organization. The Developer is a duly organized, validly existing California limited partnership and is in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(2) Authority of Developer. The Developer has full power and authority to execute and deliver this Agreement, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(3) Authority of Persons Executing Documents. This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Developer, and all actions required under the Developer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(4) Valid Binding Agreements. This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of the Developer enforceable against it in accordance with their respective terms.

(5) No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on the Developer, or any provision of the organizational documents of the Developer, or will conflict with or constitute a breach of or a default under any agreement to which the Developer is a party, or will result in the creation or imposition of any lien upon any assets or property of the Developer, other than liens established pursuant hereto.

(6) Compliance with Laws; Consents and Approvals. The construction of the Improvements will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(7) Pending Proceedings. The Developer is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of the Developer, threatened against or affecting the Developer, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to the Developer, materially affect the Developer's ability to develop the Improvements.

(8) Title to Property. Developer holds good and marketable fee title to the Property and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than those liens approved by the City, liens for

current real property taxes and assessments not yet due and payable, and liens in favor of the City or approved in writing by the City.

(9) Financial Statements. The financial statements of the Developer and other financial data and information furnished by the Developer to the City fairly present the information contained therein. As of the date of this Agreement, there has not been any adverse, material change in the financial condition of the Developer from that shown by such financial statements and other data and information.

(10) Sufficient Funds. The Developer holds sufficient funds or binding commitments for sufficient funds to obtain the fee interest in the Property and complete the operation the Improvements in accordance with this Agreement.

(b) The City hereby represents and warrants to the Developer as follows:

(1) Authority. City is a California charter city, which has been authorized to transact business pursuant to action of the City and pursuant to the applicable sections of Community Redevelopment Law and the Dissolution Statutes. To the best of the City's knowledge, the City has full right, power and lawful authority to make the Loan as provided herein and the execution, performance and delivery of this Agreement by City has been fully authorized by all requisite actions.

(2) FIRPTA. City is not a "foreign person" as defined by FIRPTA or any similar state statute, or is exempt from the provisions of FIRPTA and any similar state statute.

Section 9.16 Entry by the City.

The Developer shall permit the City, through its officers, agents, or employees, at all reasonable times, and upon forty-eight hours' prior written notice, to enter into the Project: (a) to inspect the ongoing operation and management of the Project to determine that the same is in conformance with the requirements of this Agreement. The Developer acknowledges that the City is under no obligation to supervise, inspect, or inform the Developer of the progress of construction, or operations and the Developer shall not rely upon the City, therefore. The Developer shall rely entirely upon its own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers.

Section 9.17 Operating Memoranda; Implementation Agreements.

(a) The parties acknowledge that the provisions of this Agreement require a close degree of cooperation and that new information and future events may demonstrate that changes are appropriate with respect to the details of performance of the parties under this Agreement. The parties desire, therefore, to retain a certain degree of flexibility with respect to the details of performance for those items covered in general terms under this Agreement. If and when, from time to time, the parties find that refinements or adjustments are desirable, such refinements or adjustments shall be accomplished through operating memoranda or implementation agreements approved by the parties which, after execution shall be attached to this

Agreement as addenda and become a part hereof, each an “Operating Memorandum”. This Agreement describes some, but not all, of the circumstances in which the preparation and execution of operating memoranda or implementation agreements may be appropriate.

(b) Operating memoranda or implementation agreements may be executed on the City's behalf by the City Manager, or the City Manager's designee. In the event a particular subject requires notice or hearing, such notice or hearing shall be appropriately given. Any significant modification to the terms of performance under this Agreement shall be processed as an amendment of this Agreement in accordance with this Section and must be approved by the City Council.

Section 9.18 Amendments.

The parties can amend this Agreement only by means of a writing executed by the Developer and the City.

Section 9.19 Multiple Originals; Counterparts.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in any number of counterpart, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. If all Parties agree, electronic signatures are permitted and may be used in place of original signatures on this Agreement. Delivery of an executed counterpart of a signature page to this Agreement by using an acceptable form of technology to generate and save the signature shall be as effective as delivery of a manually executed counterpart of this Agreement. Each Party intends to be bound by the signatures on the electronic document, is aware that the other Parties will rely on the electronic signatures, and hereby waives any defenses to the enforcement of the terms of this Agreement based on the use of an electronic signature. After all Parties agree to the use of electronic signatures, all Parties must sign the document electronically. The effectiveness of any such documents and signatures shall be determined by the City Clerk in consultation with the City Attorney, the City Manager, and applicable laws, including the City Electronic Signature Policy, and shall have the same force and effect as manually signed originals and shall be binding on the parties.

Section 9.20 Complete Understanding of the Parties.

This Agreement constitutes the entire understanding and agreement of the parties. All prior discussions, understandings and written agreements are superseded by this Agreement. The Developer and the Developer's counsel have read and reviewed this Agreement and agree that any rule of construction (including, but not limited to Civil Code Section 1654, as may be amended from time to time) to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the City and the Developer have executed this Agreement in triplicate on or as of the date first above written.

DEVELOPER:

_____, LP, a California limited partnership

By: SI 78, LLC, a California
limited liability company, its Managing General Partner

By: Sobrato Interests 3, a California limited partnership,
its Sole Member

By: Sobrato Development Companies, LLC, a
California limited liability

By: _____
John Michael Sobrato, Manager

CITY:

CITY OF REDWOOD CITY, a California charter city

By:

Melissa Stevenson Diaz, City Manager

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that certain real property situate in the City of Redwood City, County of San Mateo, State of California, being Parcel 2 as shown on that certain Parcel Map No. 2019-009 filed for record on _____, 202__ in Volume ___ of Maps, at Pages _____, San Mateo County Records.

Legal Description prepared by Kier & Wright Civil Engineers and Surveyors, Inc.

EXHIBIT B

SCHEDULE OF PERFORMANCE

This Schedule of Performance summarizes the schedule for various activities under the Loan Agreement to which this exhibit is attached. The description of items in this Schedule of Performance is meant to be descriptive only, and shall not be deemed to modify in any way the provisions of the Agreement to which such items relate. Section references herein to the Agreement are intended merely as an aid in relating this Schedule of Performance to other provisions of the Agreement and shall not be deemed to have any substantive effect. Times for performance are subject to Force Majeure, as further provided in Section 9.3 of the Agreement.

Whenever this Schedule of Performance requires the submission of plans or other documents at a specific time, such plans or other documents, as submitted, shall be complete and adequate for review by the City or other applicable governmental entity within the time set forth herein. Prior to the time set forth for each particular submission, the Developer shall consult with City staff informally as necessary concerning such submission in order to assure that such submission will be complete and in a proper form within the time for submission set forth herein.

Milestone	Date
The Developer shall furnish to the City evidence of the insurance coverage meeting the requirements set forth in <u>Exhibit F</u> [§2.10]	Five (5) business days prior to the commencement of construction.
The Developer shall submit for the City's review and approval the written Management Plan for the Project [§5.7]	Initial written Management Plan shall be submitted no later than [insert date]. Each year thereafter, within sixty (60) days of the end of the Developer's Fiscal Year.
Loan Regulatory Agreement recorded in the Official Records. [§1.1(kk) and §5.5]	No later than the date the issuance of a Certificate of Occupancy has been issued.
Loan Repaid [§3.5]	The date fifty-five (55) years from the issuance of a Certificate of Occupancy

EXHIBIT C

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063
Attention: City Clerk

NO FEE FOR RECORDING PURSUANT
TO GOVERNMENT CODE
SECTIONS 6103 AND 27383

APN: _____ **[TBD]**

(Space above for Recorder's Use)

This Regulatory Agreement is recorded at the request and for the benefit of the City of Redwood City and is exempt from the payment of a recording fee pursuant to Government Code Sections 27383.

**REGULATORY AGREEMENT AND DECLARATION
OF RESTRICTIVE COVENANTS
(City Loan- [Insert Affordable Development Name])**

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made and entered into as of _____, 20__, by and between the City of Redwood City, a California charter city (the "City"), and [LIMITED PARTNERSHIP TBD], LP, a California limited partnership, and permitted successor and assigns approved by the City (the "Owner" or "Affordable Developer") (together, the "Parties").

RECITALS

A. These Recitals refer to and utilize certain capitalized terms which are defined in Article 1 of this Agreement. The Parties intend to refer to those definitions in connection with the use of capitalized terms in these Recitals.

B. Sobrato Organization, LLC, ("Sobrato") submitted a project application in July 2016 and deemed complete in September 2018. The City Council of Redwood City adopted Resolution No. 15769 approving an architectural permit, planned development permit, use permit, vesting tentative map, state density bonus law concessions, and an affordable housing plan for the Broadway Plaza Project. The Broadway Plaza Project will be a mixed use development that includes 398 market rate rental units, 119 Affordable Units, and one unrestricted manager's unit, plus 420,000 square feet of office space, 11,000 square feet of retail space, 10,000 square feet of childcare facilities, a 1.6-acre public open space, and the relocation

of the existing CVS to a new 15,000 square foot building across Woodside Road. SI XX, LLC, a California limited liability company (the "Developer") will collaborate with the Affordable Developer, by transferring a 1.08 acre airspace subdivision encompassing the one-hundred nineteen (119) Affordable Units and one unrestricted manager's unit (together, "Building Three") located at the corner of Bay Road and Chestnut Street as described in Exhibit A, attached hereto and incorporated herein by this reference (the "Affordable Site") and by providing capital to Affordable Developer for the construction of the Affordable Units, all in accordance with separate documentation between Developer and Affordable Developer.

C. Pursuant to a Loan Agreement by and between the City and the Affordable Developer of even date herewith (the "Loan Agreement"), the City is lending the Affordable Developer Twenty Thousand Dollars (\$20,000) (the "City Loan").

D. The City has agreed to make the City Loan on the Condition that the Affordable Developer maintain and operate the Development in accordance with restrictions set forth in this Agreement and in the related documents evidencing the City Loan.

E. The Public Housing Election Implementation Law (Health & Safety Code Sections 37000-37002) operates to exclude this Affordable Project from the application of Article XXXIV of the California Constitution ("Article 34"). Consequently, the requirement imposed under this Agreement are exempt from Article 34 election requirements because the City is only restricting 119 units (excluding the unrestricted manager unit), roughly 23% of the total 518 residential units that are part of the Broadway Plaza Project.

F. The City is requiring the Owner to enter into this Agreement, which shall be recorded against the Affordable Project to ensure that the Affordable Project will be used for the purpose approved by the City and that the Affordable Units will be maintained and operated in accordance with the City's conditions and restrictions concerning affordability, operation and maintenance.

THEREFORE, City and the Owner hereby agree as follows.

ARTICLE 1 DEFINITIONS

Section 1.1 Definitions. When used in this Agreement, the following terms shall have the respective meanings assigned to them in this Article 1.

- (a) "Actual Household Size" means the actual number of persons in the applicable household.
- (b) "Affordable Developer" has the meaning set forth in the preamble to this Agreement above.
- (c) "Affordable Housing Monitoring Fee" has the meaning set forth in Section 3.6 below.

(d) "Affordable Housing Restrictive Covenants Agreement" means that certain Affordable Housing Restrictive Covenants Agreement recorded against the Property to satisfy the requirements of the City's Affordable Housing Ordinance, Ordinance 1130-375 as set forth in Article 29 of the Redwood City Zoning Code and to satisfy Density Bonus Law, as set forth in Government Code Section 65915, et. seq.

(e) "Affordable Project" means the Affordable Site and Building Three.

(f) "Affordable Rent" means the total monthly Rent for an Affordable Unit not exceeding either (as applicable) the rents specified by Section 50053 of the California Health and Safety Code and California Code of Regulations Title 25, or thirty percent (30%) of the imputed income limitation applicable to such unit pursuant to Section 42(g)(2)(C) of the Internal Revenue Code (as determined by CTCAC) for the appropriate Household Income level. As allowed under Government Code Section 65915(c)(1)(B)(ii), the Rent for at least twenty percent (20%) of the Affordable Units shall be set at Rents not exceeding the rents specified by Section 50053 of the California Health and Safety Code for the appropriate Household Income level and the Rent for the remaining Affordable Units shall be set at an amount consistent with the maximum rent levels for the appropriate Household Income levels as determined by the CTCAC.

(g) "Affordable Site" has the meaning set forth in Recital B above.

(h) "Affordable Units" means the one-hundred nineteen (119) units (excluding the unrestricted manager's unit) restricted under this Agreement as a condition of the City Loan.

(i) "Agreement" has the meaning set for in the preamble to this Agreement above.

(j) "Area Median Income" or "AMI" means the median gross yearly income adjusted for Actual Household Size (to qualify residents) or Assumed Household Size (to calculate rents), as applicable, in San Mateo County, either as applicable (i) as published from time to time by the State of California Department of Housing and Community Development; or (ii) as determined by the Secretary of the Treasury of the United States for purposes of Section 42 of the Internal Revenue Code. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the City shall provide the Owner with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by the State.

(k) "Assumed Household Size" shall have the meaning set forth in Section 2.2(f). The definition is utilized to calculate affordable rent and is not intended to be a limit on the number of persons occupying a unit

(l) "Building Three" has the meaning set forth in Recital B above.

(m) "City" has the meaning set forth in the preamble to this Agreement above.

(n) "City Loan" has the meaning set forth in Recital C, above.

(o) "Completion Date" means the date a final certificate of occupancy, or equivalent document is issued by the City to certify the Development may be legally Occupied.

(p) "CTCAC" means the California Tax Credit Allocation Committee.

(q) "Developer" has the meaning set forth in Recital B above.

(r) "Extremely Low-Income Household" means a household with an annual Household Income no greater than the maximum income for extremely low income households, as published annually by the City for each household size, based on either United States Department of Housing and Urban Development (HUD) income limits for San Mateo County or the California Department of Housing and Community Development (HCD) income limits for San Mateo County, as applicable.

(s) "Extremely Low-Income Rent" means the Affordable Rent permitted to be charged for an Extremely Low-Income Unit, and as provided to the Owner annually by the City or as published by CTCAC for 30% AMI households, as applicable.

(t) "Extremely Low-Income Units" means Affordable Units required to be occupied by Extremely Low-Income Households.

(u) "HCD" means the California Department of Housing and Community Development.

(v) "Household Income" means the total anticipated annual income of all persons in a household, as calculated in accordance with 25 California Code of Regulations Section 6914 or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income. In the event that no such program exists, the City shall provide the Owner with a reasonably similar method of calculation of adjusted income as provided in said Section 6914. For Affordable Units that are subject to Affordable Rents as provided by CTCAC, the Household Income shall be set at an amount consistent with the household income levels as determined by the CTCAC.

(w) "Investor Limited Partner" means (if applicable), the tax credit limited partner or partners, and their respective successors and assigns, admitted to the Owner's partnership in connection with the issuance of low income housing tax credits to the Affordable Project.

(x) "Low-Income Household" means a household with an annual Household Income no greater than the maximum income for low-income households, as published annually by the City for each household size, based on either United States Department of Housing and Urban Development (HUD) income limits for San Mateo County or the California Department of Housing and Community Development (HCD) income limits for San Mateo County, as applicable.

(y) "Low-Income Rent" means the Affordable Rent permitted to be charged for a Low-Income Unit, and as provided to the Owner annually by the City or as published by CTCAC for 80% AMI households, as applicable.

(z) "Low-Income Units" means Affordable Units required to be occupied by Low-Income Households.

(aa) "Management Agent" has the meaning set forth in Section 5.2 below.

(bb) "Management Plan" has the meaning set forth in Section 5.1 below.

(cc) "Owner" has the meaning set forth in the preamble to this Agreement above.

(dd) "Rent" means the total of monthly payments by the Resident for the following:

(1) use and occupancy of the Affordable Unit and land and associated facilities;

(2) any separately charged fees or service charges assessed by Owner which are required of all Residents, including parking, other than security deposits;

(3) the cost of an adequate level of service for utilities paid by the Resident, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel (estimated using utility allowance calculations), but not cable or telephone service; and

(4) any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than Owner and paid by the Resident.

(ee) "Resident" means a household occupying an Affordable Unit.

(ff) "Resident Selection Criteria" means the process by which the Owner determines a household's eligibility to reside in an Affordable Unit, as approved by the City.

(gg) "Term" which commences as of the date of this Agreement and, unless terminated earlier or extended by the Parties pursuant to this Agreement, ends fifty-five (55) years from the date that the Certificate of Completion is issued for the Property.

(hh) "Very Low-Income Household" means a household with an annual Household Income no greater than the maximum income for very low income households, as published annually by the City for each household size, based on either United States Department of Housing and Urban Development (HUD) income limits for San Mateo County or the California Department of Housing and Community Development (HCD) income limits for San Mateo County, as applicable.

(ii) "Very Low-Income Rent" means the Affordable Rent permitted to be charged for a Very Low-Income Unit, and as provided to the Owner annually by the City or as published by CTCAC for 50% AMI households, as applicable.

(jj) "Very Low-Income Units" means Affordable Units required to be occupied by Very Low-Income Households.

ARTICLE 2
AFFORDABILITY AND OCCUPANCY COVENANTS

Section 2.1 Occupancy Requirements for Affordable Units.

(a) Extremely Low-Income Units. Twelve (12) of the Affordable Units shall be rented to and occupied by or, if vacant, available for occupancy by Extremely Low-Income Households.

(b) Very Low-Income Units. Twelve (12) of the Affordable Units shall be rented to and occupied by or, if vacant, available for occupancy by Very Low-Income Households.

(c) Low-Income Units. Ninety-Five (95) of the Affordable Units shall be rented to and occupied by or, if vacant, available for occupancy by Low-Income Households.

(d) Manager's Unit. One (1) unit in Building Three shall be available for designation as the manager's unit and shall not be restricted as an Affordable Unit.

(e) Principal Residence. Any household that occupies an Affordable Unit must occupy that unit as its principal residence.

(f) Approval of Residents. The Owner shall complete the required income certification in connection with an Affordable Unit in accordance with the Resident Selection Criteria.

(g) Senior City Restrictions. The provisions to enforce the Owner's obligations under the Affordable Housing Restrictive Covenants Agreement shall at all times remain senior to the restrictions herein. The Owner shall receive credit for units required under the Affordable Housing Restrictive Covenants Agreement for all units provided under this Agreement.

Section 2.2 Allowable Rent.

(a) Affordable Rent. Rent for the Affordable Units shall not exceed the Affordable Rent applicable to Extremely Low-Income Units, Very Low Income Units, and Low Income Units as set forth below, subject to Affordable Rent as determined by CTCAC and in no circumstance may more than 80% of the Affordable Units be subject to Affordable Rent as determined by CTCAC. To the extent the Affordable Rent allowed hereunder conflict with rents set forth in Section 50053 of the California Health and Safety Code, the rents allowed here under

shall prevail.

(b) Extremely Low-Income Rent. Subject to Section 2.3 below, the Rent charged to Residents of the Extremely Low-Income Units shall not exceed the Extremely Low-Income Rent.

(c) Very Low-Income Rent. Subject to Section 2.3 below, the Rent charged to Residents of the Very Low-Income Units shall not exceed the Very Low-Income Rent.

(d) Low Income Rent. Subject to Section 2.3 below, the Rent charged to Residents of the Low-Income Units shall not exceed the Low-Income Rent.

(e) No Additional Fees. The Owner shall not charge any fee, other than the Affordable Rent, to any Resident for any housing or other services provided by the Owner.

(f) Initial and Subsequent Rents. No later than November 1 of each calendar year, the City shall provide the Owner with a schedule of permissible maximum Extremely Low Income Rents, Very Low Income Rents and Low Income Rents for the succeeding year. Under no circumstance may Owner raise rents above the permissible maximum rents as allowed under the annual rent schedule provided by the City and/or CTCAC, as applicable.

(g) Assumed Household Size. In calculating the allowable Rent for the Affordable Units, the following "Assumed Household Sizes" shall be utilized pursuant to the terms of Health and Safety Code Section 50052.5(h), except as set forth below:

<u>Number of Bedrooms</u>	<u>Assumed Household Size</u>
Studio	1
One	2
Two	3
Three	4

For up to 80% of the Affordable Units in the Affordable Project that are charged Affordable Rents as determined by CTCAC, the following Assumed Household Size may (at Owner's election) be used:

<u>Number of Bedrooms</u>	<u>Assumed Household Size</u>
Studio	1
One	1.5
Two	3
Three	4.5

(h) In the event of a foreclosure of the approved senior loan prior to loan payoff or in the event of a material reduction or loss of the Section 8 subsidy, if applicable, then the City, the Developer, or the entity acquiring the Development at foreclosure shall apportion the affordability targeting as required under this subsection 2.1(h). After a foreclosure of the construction loan or deed in lieu of foreclosure or loss of Section 8 subsidy, will require the Developer or the Developer's successor in interest to provide the following: (i) Twelve (12)

Very Low Income Units; and (ii) One Hundred Seven (107) Low Income Units. Notwithstanding anything to the contrary herein, the City shall not impose any other restrictions on any other Units at the Development post foreclosure or in the event of a material reduction or loss of the Section 8 subsidy other than as required under this subsection 2.1(i) and the parties agree to meet and confer with the entity acquiring the Development to determine a mutually acceptable transition plan approved by the City showing how the Rent increase will be phased-in, and which Units will be subject to the increase, and, if applicable, be consistent with remedial measures set forth in California Code of Regulations Title 4, Division 17, Chapter 1, Section 10337(a)(3) or successor regulation applicable to California's Federal and State Low Income Housing Tax Credit Program.

Section 2.3 Increased Income of Residents.

(a) Extremely Low-Income Household to Very Low- or Low-Income Household. If, upon recertification of a Household's Income, the Owner determines that a former Extremely Low-Income Household's Income has increased and exceeds the qualifying income for an Extremely Low-Income Household but does not exceed the qualifying limit for a Very Low-Income Household or Low-Income Household, then, upon expiration of the Resident's lease term:

(1) Such Resident's unit may be considered a Very Low-Income Unit or Low-Income Unit, as applicable;

(2) Such Resident's Rent may be increased to a Very Low-Income Rent or a Low-Income Rent, as applicable, upon sixty (60) days written notice to the Resident; and

(3) The Owner shall rent the next available Very Low-Income or Low-Income Unit, as applicable, of comparable size to an Extremely Low-Income Household at an Extremely Low-Income Rent.

(b) Very Low-Income Household to Low-Income Household. If, upon recertification of a Household's Income, the Owner determines that a former Very Low-Income Household's Income has increased and exceeds the qualifying income for a Very Low-Income Household but does not exceed the qualifying limit for a Low-Income Household, then, upon expiration of the Resident's lease term:

(1) Such Resident's unit may be considered a Low-Income Unit;

(2) Such Resident's Rent may be increased to a Low-Income Rent, upon sixty (60) days written notice to the Resident; and

(3) The Owner shall rent the next available Low-Income Unit of comparable size to a Very Low-Income Household at a Very Low-Income Rent.

(c) Non-Qualifying Household. If, upon recertification of a Household's Income, the Owner determines that a former Extremely Low-Income Household, Very Low-

Income Household or Low-Income Household has a Household Income exceeding the maximum qualifying income for a Low-Income Household, such Resident shall be permitted to continue occupying the unit and upon expiration of the Resident's lease and upon sixty (60) days written notice, the Resident may continue to reside in the unit and the Rent may be increased to the lesser of one-twelfth (1/12th) of thirty percent (30%) of actual adjusted income of the Resident, or fair market rent. Affordable Developer shall rent the next available Unit to an Extremely Low Income Household, a Very Low Income Household or a Low Income Household as applicable to comply with the requirements of Section 2.1 above, at a Rent not exceeding the maximum Rent specified in Section 2.2. The parties hereto agree that, notwithstanding any increase in a Resident's income, such Resident may only be evicted from their unit for cause consistent with the requirements set forth in Section 1946.2 of the California Civil Code.

(d) Termination of Occupancy. Upon termination of occupancy of a unit by a Resident, such Affordable Unit shall be deemed to be continuously occupied by a household of the same income level (e.g., Extremely Low-Income Household, Very Low-Income Household or Low-Income Household) as the last income level for which the vacating Resident qualified, until such Affordable Unit is reoccupied, at which time the income character of the Affordable Unit (e.g., Extremely Low-Income Unit, Very Low-Income Unit or Low-Income Unit) shall be redetermined. In any event, Owner shall maintain the occupancy requirements set forth in Section 2.1 above subject to adjustment periods that may result from compliance with this Section 2.3.

Section 2.4 Marketing and Rental of Units.

(a) The Owner shall market the Affordable Units to eligible households at Rents required by Section 2.2, in compliance with the marketing and management plan approved in advance by the City pursuant to Section 5.1 and consistent with this Agreement and the Affordable Housing Ordinance. Owner shall accept as Residents, on the same basis as all other prospective Residents, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor.

(b) To the extent permitted by applicable law including fair housing laws, and unless prohibited by the regulations of the HCD or HUD or other applicable law, the Developer shall grant a preference in rental of the Affordable Units to otherwise qualified households: (1) eligible households displaced by any activity (including the exercise of police powers and code enforcement) of the City or as provided in Health and Safety Code Section 33411.3 or by public projects implemented by the City; and (2) to eligible households that live (or have ever lived), work or have been offered work in the City of Redwood City. The preferences set forth in the immediately preceding sentence are required by law.

Section 2.5 Condominium Conversion. The Owner shall not convert any of the Affordable Units to condominium or cooperative ownership or sell condominium or cooperative conversion rights to the Affordable Project.

Section 2.6 Units Available to the Disabled. Owner shall construct and maintain the Affordable Project to comply with all applicable federal and state disabled persons accessibility requirements including the Federal Fair Housing Act, Section 504 of the Rehabilitation Act of

1973, Title II and/or Title III of the Americans with Disabilities Act of 1990, and Title 24 of the California Code of Regulations.

Section 2.7 Lease Provisions. The Affordable Developer shall include in leases for all Inclusionary Units provisions which authorize the Affordable Developer to immediately terminate the tenancy of any household one or more of whose members misrepresented any fact material to the household's qualification as an Extremely Low Income Household, a Very Low Income Household or Low Income Household, as applicable. Each lease or rental agreement shall also provide that the household is subject to annual certification in accordance with Section 3.1 below, and that, if the household's income increases above the applicable limits for an Extremely Low Income Household, a Very Low Income Household or Low Income Household, as applicable, such household's Rent may be subject to increase.

Section 2.8 Resident Protections. For the entire Term the Affordable Units shall be subject to the Tenant Protection Act of 2019, Civil Code Section 1946.2 et. Seq. ("Just Cause for Eviction"). Nothing in this section shall abrogate the protections afforded to survivors of violence consistent with the California Code of Civil Procedure Section 1161.3, as amended, and the Violence Against Women Act, Public Law 102-322, as amended, to the extent applicable. Notwithstanding the limitations of California Code of Civil Procedure Section 1161.3, as amended, act or acts constituting domestic violence or sexual assault or stalking against the Resident or a member of Resident's household cannot form the substantial basis of a Just Cause for Eviction to terminate the tenancy of the victim of such acts. A member of a Resident household may raise such facts as an affirmative defense to an action terminating the tenancy. For a termination to qualify as a Just Cause for Eviction, the Developer shall demonstrate any of the circumstances with respect to a termination of tenancy in Civil Code Section 1946.2(b).

ARTICLE 3 INCOME CERTIFICATION AND REPORTING

Section 3.1 Income Certification. The Owner will obtain, and complete, as a condition to initial occupancy and maintain on file annually thereafter, income certifications from each Resident renting any of the Affordable Units. The Owner shall make a good faith effort to verify that the income provided by all applicants or Residents (for all adults age eighteen (18) or older) in an income certification is accurate by taking two or more of the following steps as a part of the verification process: (a) obtain a minimum of the three (3) most current pay stubs; (b) obtain an income tax return for the most recent tax year; (c) conduct a credit agency check or similar search; (d) obtain the three (3) most current savings and checking account bank statements; (e) obtain an income verification form from the applicant's current employer; (f) obtain 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 such agencies; or (g) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of Resident income certifications shall be available to the City upon request.

Section 3.2 Reporting and Audits. The Owner shall submit to the City, not later than the sixtieth (60th) day after the close of each calendar year, a compliance report, in a form approved by the City, summarizing the income information of each Resident and occupancy status of each Affordable Unit. In addition, the City or any designated agent or employee of the City at any time shall be entitled to audit all Owner's books, records (including tenant files), and accounts pertaining solely to the Affordable Units. Such audit shall be conducted during normal business hours, upon at least two (2) business days prior written notice, at the principal place of business of Owner and other places where records are kept.

Section 3.3 Additional Information. Within fifteen (15) days after receipt of a written request, Owner shall provide any additional information reasonably requested by the City relating solely to the Affordable Units. The City shall have the right to examine and make copies of all books, records or other documents of Owner which pertain to the Affordable Units. The City shall notify Owner of any records it deems insufficient. Owner shall have thirty (30) days after the receipt of such a notice to correct any deficiency in the records specified by the City in such notice, or if a period longer than thirty (30) days is reasonably necessary to correct the deficiency, then the Owner shall begin to correct the deficiency within thirty (30) days and correct the deficiency as soon as possible.

Section 3.4 Records. Owner shall maintain complete, accurate and current records, books and accounts pertaining to Affordable Project, and shall permit any duly authorized representative of the City to inspect records, including but not limited to records pertaining to income and household size of Residents of Affordable Units. All Resident lists, applications and waiting lists relating to the Affordable Units shall at all times be kept separate and identifiable from any other business of Owner and shall be maintained as required by the City, in a reasonable condition for proper audit and subject to examination during business hours, upon at least two (2) business days prior written notice, by representatives of the City. Owner shall retain copies of all materials obtained or produced with respect to occupancy of the Affordable Units for a period of at least five (5) years. The City shall notify Owner of any records it deems insufficient. Owner shall have thirty (30) days after the receipt of such a notice to correct any deficiency in the records specified by the City in such notice, or if a period longer than thirty (30) days is reasonably necessary to correct the deficiency, then Owner shall begin to begin to correct the deficiency within thirty (30) day and correct the deficiency as soon as reasonably possible.

Section 3.5 On-site Inspection. The City shall have the right to perform an on-site inspection of Affordable Project at least one (1) time per year upon forty-eight hours (48) prior written notice and subject to the rights of Residents under their respective leases during reasonable business hours. Owner agrees to cooperate in such inspection.

Section 3.6 Monitoring Fee. Owner shall be obligated to pay to City an annual affordable housing monitoring fee in the amount set forth in the City's master fee schedule for each Affordable Unit (the "Affordable Housing Monitoring Fee"). This fee is payable at initial lease-up of each Affordable Unit, upon each annual review, and upon re-occupancy of any Affordable Unit. The City will not charge an annual Affordable Housing Monitoring Fee in the same year that the City charges a fee in connection with the initial lease-up. If the City determines, in the exercise of its reasonable discretion, that Affordable Project requires

additional technical assistance or compliance monitoring in an amount in excess of the typical time required for comparable projects, the City shall give the Owner, the Investor Limited Partner, and all Senior Lenders a detailed explanation of the deficiencies and Owner shall have ten (10) days to address the issues identifies. If the City determines that the issues have not been adequately addressed, Owner shall pay City for such additional costs at the rate of \$190 per hour, or such other amount approved in the City's master fee schedule approved by the City from time to time. All compliance monitoring and technical assistance fees shall be payable to City within fifteen (15) days following City's written request for payment, and City shall have the right to file a lien against the Affordable Site if such fees are not paid within thirty (30) days of such written request. If in any year Owner demonstrates to the City's satisfaction there is insufficient Affordable Project cash flow available to pay the Affordable Housing Monitoring Fee, the City will permit the fee to be deferred. Any deferred amounts shall accrue and shall be payable from future Affordable Project cash flow and until such deferred amounts are paid, Owner shall submit to the City annually an Affordable Project cash flow statement.

ARTICLE 4 OPERATION OF THE AFFORDABLE PROJECT

Section 4.1 Residential Use. Affordable Project shall be operated only for residential use in conformance with the affordability restrictions set forth in this Agreement and the Affordable Housing Restrictive Covenants Agreement. No part of Affordable Project shall be operated as transient housing in which the term of occupancy is less than thirty (30) days. No part of the Development may be operated as an emergency shelter (including shelter for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories).

Section 4.2 Taxes and Assessments. The Owner shall pay all real and personal property taxes, assessments and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Affordable Project; provided, however, that Owner shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event Owner exercises its right to contest any tax, assessment, or charge against it, Owner, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest. Nothing herein shall prohibit Owner from applying for and obtaining the welfare tax exemption pursuant to Section 214(g) of the California Revenue and Taxation Code.

Section 4.3 Notice of Litigation. Owner shall promptly notify the City in writing of any litigation materially affecting Owner or Affordable Project and of any claims or disputes that involve a material risk of such litigation.

Section 4.4 Insurance Requirements. For the entire Term, the Owner and its successors and assigns acquiring title to the Affordable Site shall obtain, at their expense, comprehensive general liability insurance for Affordable Project, naming the City as an

additional named insured with aggregate limits of not less than Five Million Dollars (\$5,000,000), for bodily injury and death and property damage, including coverages for contractual liability and products and completed operations, purchased by Owner or its successors or assigns from an insurance company duly licensed to engage in the business of issuing such insurance in the State, with a current Best's Key Rating A-VII or better such insurance to be evidenced by an endorsement which so provides and delivered to the City prior to the issuance of any building permit for any portion Building Three.

Section 4.5 Section 8 Certificate Holders. The Owner will accept as residents, on the same basis as all other prospective residents, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective residents, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Affordable Project which have the effect of precluding occupancy of units by such prospective Residents.

Section 4.6 Compliance with Loan Documents and Program Requirements. Developer shall comply and at all times be in full conformity with: (1) all requirements of the Loan Agreement; (2) all requirements of the Deed of Trust; (3) all requirements of the Loan Documents; and (4) any other regulatory requirements imposed on the Development. Developer acknowledges that the Developer has agreed to restrict the Affordable Units, in accordance with this Agreement, in consideration for the financial assistance provided by the City.

ARTICLE 5 AFFORDABLE SITE MANAGEMENT AND MAINTENANCE

Section 5.1 Management Responsibilities.

(a) The Owner is responsible for all management functions with respect to the Affordable Project, including without limitation the marketing of Affordable Units, selection of residents, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no responsibility over management of the Affordable Project. The Owner shall retain a professional property management company, approved by the City in its reasonable discretion, to perform its management duties hereunder. A resident manager shall also be required. The Owner shall submit to the City for approval an initial proposed "Management Plan" no later than six (6) months after the commencement of construction of the Affordable Project, which Management Plan shall include, but not be limited to, details on how Owner plans to market the Affordable Units to prospective applicants in accordance with fair housing law, including efforts to affirmatively further fair housing as defined in Government Code 8899.50, and this Agreement, Owner's tenant selection criteria and how Owner plans to certify the eligibility of applicants. The Management Plan shall also describe the management policies, identify the management team and address how the Owner and the Management Agent plan to manage and maintain the Affordable Project. The Management Plan shall include the proposed management agreement and the form of rental agreement that the Owner proposes to enter into with Residents. The City shall approve or

disapprove (with written explanation for disapproval) of the proposed Management Plan by notifying the Owner in writing within sixty (60) days of the date of submission to the City. Owner shall abide by the approved Management Plan in marketing, managing, and maintaining the Affordable Project throughout the term of this Agreement and shall submit proposed modifications to the City for review and approval (not to be unreasonably withheld, conditioned or delayed).

(b) In addition to the foregoing, the Management Plan shall address the following:

(1) The actions to be taken by the Owner to affirmatively market units in compliance with fair housing laws and in compliance with City's policies and procedures. The Owner will market the units in languages other than English as required under the City's Language Access Plan, as such may be amended from time to time. Prior to or concurrently with the recordation of this Agreement, the City shall provide Owner with a copy of the City's Language Access Plan and any updates there to. The Owner, at a minimum, shall provide marketing in Spanish;

(2) Criteria for determining tenant eligibility, including certification of Household Income and size, and establishing reasonable occupancy standards (which shall not exceed standards established by state and federal fair housing laws and state housing and building codes) and procedures for screening prospective tenants, including obtaining credit reports, unlawful detainer reports, landlord references and criminal background investigations;

(3) A requirement that eligible tenants be selected based on order of application, lottery, or other reasonable method approved by the City;

(4) A requirement that ineligible applicants be notified of the reason for their ineligibility;

(5) Specific procedures through which applicants deemed to be ineligible may appeal this determination;

(6) A requirement that eligible applicants be notified of eligibility and be provided an estimate regarding when a unit may be available;

(7) Maintaining a waiting list of eligible applicants;

(8) Specific procedures for obtaining documentation regarding prospective tenants' incomes, as necessary, to certify that such income does not exceed income limits;

(9) Specific procedures for certification and recertification of household incomes and procedures for handling over-income Residents;

(10) A requirement that a written rental agreement be executed with each eligible household selected to occupy an Affordable Unit;

(11) A detailed listing of reasonable rules of conduct and occupancy which shall be in writing, shall be consistent with federal and state law, and shall be provided to each Resident upon occupancy;

(12) A parking management plan which details, among other things, how parking spaces will be assigned, how guest parking will be handled and how parking will be managed to encourage Residents to use their assigned parking spaces;

(13) Procedures for maintenance and management of the Affordable Project;

(14) Procedures for dealing with Resident and neighborhood issues or concerns; and

(15) Such other requirements and criteria/procedures as the City may determine appropriate.

(c) Safety Conditions. The Owner acknowledges that the City places a prime importance on the security of City assisted projects and the safety of the residents and surrounding community. The City shall have the right to enter on the Affordable Project if it becomes aware of or is notified of any conditions that pose a danger to the peace, health, welfare or safety of the Residents and/or the surrounding community, and to perform or cause to be performed such acts as are necessary to correct the condition. The Owner agrees to implement and maintain throughout the Term the following security measures in the Affordable Project:

(1) to the extent feasible employ crime prevention measures in the operation of the Affordable Project including but not limited to maintaining adequate lighting in parking areas and pathways; and

(2) provide added security including dead-bolt locks for every entry door, and where entry doors are damaged, replace them with solid-core doors.

Section 5.2 Management Agent; Periodic Reports.

(a) The Affordable Units shall at all times be managed by an experienced management agent, with demonstrated ability to operate residential facilities like the Affordable Project in a first class, decent, safe, and sanitary manner. The Owner shall for the entire Term of this Agreement ensure that the management agent of the Affordable Project has demonstrated experience and ability in operating and managing similar mixed-income housing projects in the State of California and not less than two (2) years' experience with resident income certification procedures outlined in Article 3 or similar experience ("Management Agent"). Notwithstanding anything to the contrary herein, if the management agent does not meet the qualifications specified above or the City and Owner agree that the management of the Affordable Units must be transferred to another entity pursuant to Section 5.4(a) below, then the Owner shall contract

with a new management agent or subcontract with a management agent that: (a) is a California entity whose primary business purpose is the construction, operation and management of affordable multifamily housing, or an affiliate thereof; (b) has not less than two (2) years' experience in owning, operating and managing affordable housing projects in the eleven county San Francisco bay area; and (c) the proposed management agent has no record of defaults, maintenance problems, housing or building code violations, or substantiated fair housing complaints at properties it owns or operates. The Parties agree and acknowledge that the City will have the right to disapprove a proposed management agent that has a record of defaults, maintenance problems, housing or building code violations, and/or substantiated fair housing complaints at properties it owns or operates.

(b) The initial management agent for the Affordable Units shall be identified by the Owner at least ninety (90) days before the Owner commences leasing activities for the Affordable Units. For any change in the Affordable Units Management Agent, the Owner shall submit for the City's reasonable approval the identity of any proposed Affordable Units Management Agent who meets the criteria in subsection (a) above. The Owner shall also submit such additional information about the background, experience and financial condition of any proposed Affordable Units Management Agent as is reasonably necessary for the City to determine whether the proposed Affordable Units Management Agent meets the standard for a qualified management agent set forth above. If the proposed Affordable Units Management Agent meets the standard for a qualified management agent set forth above, the City shall approve the proposed Affordable Units Management Agent by notifying the Owner in writing.

Section 5.3 Performance Review. In addition to the reporting requirements under Section 3.2 above, the City reserves the right to conduct an annual (or more frequently, if deemed reasonably necessary by the City) review of the management practices and financial status of the Affordable Units. The purpose of each periodic review will be to enable the City to determine if the Affordable Units are being operated and managed in accordance with the requirements and standards of this Agreement. The Owner shall cooperate with the City in such reviews.

Section 5.4 Replacement of Management Agent.

(a) If, as a result of a periodic review, the City determines in its reasonable judgment that the Affordable Units are not being operated and managed in accordance with any of the requirements and standards of this Agreement, the City shall deliver notice to the Owner and the Investor Limited Partner identifying the deficiencies of the management agent with regards to the management of the Affordable Units. Within thirty (30) days of receipt by the Owner of such written notice, City staff and the Owner shall meet in good faith to consider methods for improving the financial and operating status of Affordable Project. The City shall have the right to review and inspect documents related to the management and operation of Affordable Project. The then acting Management Agent will have a period of thirty (30) days to address the deficiencies identified by the City. If, after initial meeting or after the sixty (60) day cure period runs (commencing from the date of the deficiency notice), the City staff recommends in writing to the Owner for the replacement of the Management Agent, the Owner shall identify a replacement Management Agent.

(b) Any contract for the operation or management of Affordable Project, entered into by the Owner shall provide that the contract can be terminated or modified as set forth above. Failure to remove the Management Agent in accordance with the provisions of this Section shall constitute default under this Agreement, and the City may enforce this provision through legal proceedings as specified in Section 6.7, below.

Section 5.5 Affordable Site Maintenance.

(a) The Owner agrees, for the entire Term of this Agreement, to maintain all interior and exterior improvements, including landscaping, for Affordable Project in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions:

(1) Landscaping. The Owner agrees to have landscape maintenance performed at least every other week, including replacement of dead or diseased plants with comparable plants. The Owner agrees to adequately water the landscaping for Affordable Project in compliance with City and water district policies.

(2) Outdoor Common Areas. No outdoor common areas for Affordable Project shall be left unmaintained, including: (A) Broken or discarded furniture, appliances and other, household equipment stored in deck areas for a period exceeding one (1) week; (B) Packing boxes, lumber, trash, dirt and other debris in areas visible from neighboring properties; and (C) Vehicles parked or stored in other than approved parking areas.

(3) Building. Affordable Project may not be left in an unmaintained condition so that any of the following exist: (A) Violations of state law, uniform codes, or City ordinances; (B) Conditions that constitute an unsightly appearance that detracts from the aesthetics or value of Affordable Project or constitutes a private or public nuisance; (C) Broken windows; (D) Graffiti (must be removed within seventy-two (72) hours from when discovered or such reasonable period of time as is required to remove the same); and (E) Conditions constituting hazards and/or inviting trespassers, or malicious mischief.

(4) Sidewalks. The Owner shall maintain, repair, and replace as necessary all sidewalks adjacent to Affordable Project.

(b) The City places prime importance on quality maintenance to ensure that all affordable housing projects within the City are not allowed to deteriorate due to below-average maintenance. Normal wear and tear of Affordable Project will be acceptable to the City assuming the Owner agrees to provide all necessary improvements to assure Affordable Project is maintained in good condition. The Owner shall make all repairs and replacements necessary to keep Affordable Project in good condition and repair.

(c) In the event that the Owner breaches any of the covenants contained in this Section and such default continues for a period of seven (7) days after written notice from the City with respect to graffiti, debris, waste material, and general maintenance or thirty (30)

days after written notice from the City with respect to landscaping and building improvements, then the City, in addition to whatever other remedy it may have at law or in equity, shall have the right to enter upon Affordable Project (excluding the commercial space leased to third parties) and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, the City shall be permitted (but are not required) to enter upon Affordable Project and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on Affordable Project, and to attach a lien on Affordable Project, or to assess Affordable Project, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the City and/or costs of such cure, including a ten percent (10%) administrative charge, which amount shall be promptly paid by the Owner to the City upon demand.

ARTICLE 6 MISCELLANEOUS

Section 6.1 Lease Provisions.

In leasing the Affordable Units, Owner shall use a form of resident lease approved by the City, which shall comply with all requirements of this Agreement and shall, among other matters:

(a) Provide for termination of the lease and consent by the Resident to immediate eviction for failure to provide any information required under this Agreement or reasonably requested by Owner to establish or recertify the Resident's qualification for occupancy in Building Three in accordance with the standards set forth in this Agreement.

(b) Be for an initial term of not less than one (1) year, unless by mutual agreement between the Resident and Owner (and only if allowed by all financing sources) and provide for no increase in Rent during such year. After the initial year of tenancy, the lease may be month-to-month by mutual agreement of Owner and the Resident; however, Rent may not be raised more often than once a year. Owner will provide each Resident with at least sixty (60) days written notice of any increase in Rent applicable to such Resident, and with such further notice as may be required by Section 2.3 above.

(c) Require the Resident to occupy the Affordable Units as the Resident's principal place of residence.

(d) Provide for immediate termination of the tenancy of any Resident household where one or more of whose members misrepresented any fact material to the household's qualification as an Extremely Low-Income Household, Very Low-Income Household or Low-Income Household, as applicable.

Section 6.2 Lease Termination. Any termination of a lease of an Affordable Unit (other than for a default by the Resident) or refusal to renew must be preceded by not less than sixty (60) days written notice to the Resident by Owner specifying the grounds for the action and

such notice must be given in conformance with California Civil Code Section 1946.1(b). Any termination of a lease for a default of the Resident shall be in accordance with applicable law.

Section 6.3 Nondiscrimination.

(a) All the Affordable Units shall be available for occupancy on a continuous basis to members of the general public who are income eligible. Owner shall not give preference to any particular class or group of persons in renting the Affordable Units, except to the extent that the Affordable Units are required to be leased to income eligible households pursuant to this Agreement. There shall be no discrimination against, or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), ancestry, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Affordable Unit; nor shall the Owner or any person claiming under or through the Owner, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of any Affordable Unit or in connection with the employment of persons for the construction, operation and management of any Affordable Unit.

(b) Disabled Persons Occupancy. The Affordable Project shall be constructed and operated at all times in compliance with the provisions of: (1) the Unruh Act; (2) the California Fair Employment and Housing Act; (3) Section 504 of the Rehabilitation Act of 1973; (4) the United States Fair Housing Act, as amended; and (5) any other applicable law or regulation (including the Americans With Disabilities Act). The Owner agrees to indemnify, protect, hold harmless and defend (with counsel reasonably satisfactory to the City) the City, and its council members, officers, employees, agents and assigns from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of the Owner's failure to comply with applicable legal requirements related to housing for persons with disabilities. The provisions of this subsection shall survive expiration of the Term or other termination of this Agreement and shall remain in full force and effect.

Section 6.4 Term. The provisions of this Agreement shall apply to the Affordable Site for the entire Term. This Agreement shall bind any successor, heir or assign of Owner, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released by City.

Section 6.5 Indemnification.

(a) To the full extent permitted by law, Owner shall indemnify, defend at its own expense, and hold the City and its elected officials, officers, employees and agents in their official capacity (collectively "Indemnitees") harmless against any and all claims, suits, actions, losses, and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, including but not limited to the execution and enforcement of this Agreement, marketing and operation of the Affordable Project, except to the extent such claim arises from the grossly negligent or willful misconduct of the City or Indemnitees. Each Party shall notify the other Party immediately in writing of any claim or damage related to activities performed under this Agreement. The Parties

shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, provided that nothing shall require either Party to disclose any documents, records or communications that are protected under the attorney-client privilege or attorney work product privilege.

(b) The provisions of this Section shall survive the expiration of the Term and any release of part or all of the Property from the burdens of this Agreement, but only as to claims arising from events occurring during the Term of this Agreement.

Section 6.6 Notice of Expiration of Term. Prior to the expiration of the Term, the Owner shall provide notices to all Residents (and other required parties) meeting the requirements of California Government Code Section 65863.10. The Owner shall file a copy of the above-described notice with the City Manager's Office.

Section 6.7 Covenants to Run with the Land. The City and the Owner hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land and shall bind all successors in title to the Affordable Site. Each and every contract, deed or other instrument hereafter executed covering or conveying the Affordable Site or any portion thereof, shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the City expressly releases such conveyed portion of the Affordable Site from the requirements of this Agreement. All references herein to "Owner" shall refer to the successors-in-title to the Affordable Site. Upon transfer of fee title to the Affordable Site, so long as there is no default at the time of transfer, the transferring Owner shall have no liability or responsibility for any obligations under this Agreement arising from and after the date of such transfer.

Section 6.8 Enforcement. If the Owner fails to perform any obligation under this Agreement, and fails to cure the default within thirty (30) days after the City has notified Owner in writing of the default or, if the default cannot be cured within thirty (30) days, failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within ninety (90) days or such longer period as may be approved by the City in writing, the City shall have the right to enforce this Agreement by any or all of the following actions, or any other remedy provided by law:

(a) Calling the Loan. The City may declare a default under the Promissory Note, accelerate the indebtedness evidenced by the Promissory Note, and proceed with foreclosure under the Deed of Trust.

(b) Action to Compel Performance or for Damages. The City may bring an action at law or in equity to compel Owner's performance of its obligations under this Agreement, and/or for damages.

(c) Remedies Under the Affordable Housing Ordinance. The City may initiate appropriate legal actions or procedures to revoke, deny or suspend any permit or development approval for Building Three, in accordance with the requirements of the City's

Municipal and Zoning Code, it being understood that nothing herein is intended to limit the City's rights to exercise its police powers.

The City hereby agrees to accept a cure of any default made or tendered hereunder by Investor Limited Partner on the same terms and conditions as if such cure was made or tendered by the Owner.

Section 6.9 Attorneys' Fees and Costs. In any action brought to enforce this Agreement, the prevailing party shall be entitled to all costs and expenses of suit, including reasonable attorneys' fees. This section shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

Section 6.10 Recording. The City and the Owner shall cause this Agreement, and all amendments and supplements to it, to be recorded against the Affordable Project in the Official Records of the County of San Mateo prior to any liens, deeds of trust or other instruments securing any monetary obligation of the Owner or recorded against the Affordable Project. This Agreement shall not be subordinated to any liens, deeds of trust or other instruments recorded against the Affordable Project and shall survive and remain effective as against any transferee acquiring the Affordable Project as a result of any foreclosure or deed in lieu of foreclosure.

Section 6.11 Governing Law and Venue. This Agreement shall be governed by the laws of the State of California. Venue for any action brought by either of the Parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Mateo. The Parties waive all provisions of law providing for a change of venue in any proceeding to any other county

Section 6.12 No Third Party Beneficiaries. There shall be no third party beneficiaries to this Agreement.

6.12 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 6.13 Waiver of Requirements. No waiver of the requirements of this Agreement shall occur unless expressly waived by the City in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of the Owner or to pursue any remedy permitted under this Agreement or applicable law. Any extension of time granted to the Owner to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by the Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

Section 6.14 Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded against the Affordable Site in the real property records of County of San Mateo.

Section 6.15 Notices. Any notice requirement set forth herein shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the party to receive such notice at the address set forth below:

TO THE CITY:

City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063
Attn: City Manager

and:

Goldfarb and Lipman
1300 Clay Street, Floor 11
Oakland, CA 94612
Attn: Rafael Yaquian

TO THE OWNER:

[Partnership TBD]
c/o The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA 94041
Attn: Peter Tsai, Vice President
Real Estate Development

With copy to:

Cox, Castle & Nicholson LLP
50 California Street, Suite 3200
San Francisco, CA 94111
Attn: Christian Dubois

Either party may change the address(es) to which notices are to be sent by notifying the other party of the new address(es), in the manner set forth above.

A copy of all notices delivered to Owner hereunder shall be delivered simultaneously to the Investor Limited Partner, if applicable, at an address to be provided to the City by Developer.

Section 6.16 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement shall not in any way be affected or impaired thereby.

Section 6.17 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, and may be signed in any number of counterpart, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

Section 6.18 No Claims. Nothing contained in this Agreement shall create or justify any claim against the City by any person that 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 Affordable Site or the construction of Building Three.

Section 6.19 Titles of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 6.20 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and no modification hereof shall be binding unless reduced to writing and signed by the Parties hereto.

Section 6.21 Hold Harmless. Owner will indemnify and hold harmless (without limit as to amount) City, its council members, officers, employees and agents in their official capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the Affordable Project or the Owner's performance or non-performance under this Agreement, and shall protect and defend Indemnitees, and any of them with respect thereto, except to the extent caused by the gross negligence or willful misconduct of the Indemnitees, as applicable. The provisions of this Section shall survive expiration or other termination of this Agreement or any release of part or all of the Affordable Site from the burdens of this Agreement, and the provisions of this Section shall remain in full force and effect.

Section 6.22 Subordination. The restrictions imposed under this Agreement may not be subordinated. The City has no intent or obligation to subordinate this Agreement to any current or future financing or deeds of trust without the prior approval of the City Council.

Section 6.23 Revival of Agreement after Foreclosure. This Agreement shall be revived according to its original terms if, during the original Term, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Development or the Property.

Section 6.24 Compliance with Financing Requirements. Owner shall comply with the requirements of any lenders financing the Affordable Project or who have a secured interest in the Affordable Project.

Section 6.25 Tax Credit Program. Notwithstanding anything contained herein to the contrary, if and for as long as the Property is subject to the requirements of the California and/or Federal Low-Income Housing Tax Credit Program under the provisions of Section 42 of the Code and Section 23610.5 of the California Revenue and Taxation Code, as applicable (collectively, the "Tax Credit Program") and there is a conflict between the requirements of the Tax Credit Program and the affordability provisions set forth in 2.3 above, inclusive, then the provisions of the Tax Credit Program shall prevail. That notwithstanding, the fact that this Agreement and the Tax Credit Program provide for greater, lesser or different obligations or

requirements shall not be deemed a conflict unless the applicable provisions are inconsistent and could not be simultaneously enforced or performed.

Section 6.26 Action and Approval. Whenever action and/or approval by City is required under this Agreement, the City Manager or the City Manager's designee may act on and/or approve such matter unless specifically provided otherwise, or unless the City Manager or the City Manager's designee determine in their discretion that such action or approval requires referral to City Council for consideration.

[Signature Page Follows.]

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

OWNER:

_____, L.P., a California limited
partnership

By: _____

Date: _____

CITY:

CITY OF REDWOOD CITY, a California charter city

By:

Melissa Stevenson Diaz, City Manager

ATTEST:

By:

Yessika Castro, Interim City Clerk

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, _____, 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.

Name: _____
Name: 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 _____)

On _____, before me, _____, 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.

Name: _____
Name: Notary Public

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT D

PROMISSORY NOTE

(Broadway Plaza)

\$20,000

Redwood City, California
_____, 20__

FOR VALUE RECEIVED, _____ LP, a California limited partnership (“Borrower”), promises to pay to the CITY OF REDWOOD CITY, a California charter city (“Holder”) the principal sum of Twenty Thousand Dollars (\$20,000) or so much thereof as is disbursed pursuant to the Loan Agreement (as defined in Section 1 below). All capitalized terms used but not defined in this Note have the meanings set forth in the Loan Agreement.

1. Borrower's Obligation. This Note evidences the Borrower's obligation to pay the Holder the principal amount of Twenty Thousand Dollars (\$20,000) for the funds loaned to Borrower by Holder (the “Loan”). The Borrower intends to fund a Capitalized Operating Subsidy Reserve pursuant to that certain Loan Agreement dated as of _____, 20__, as such may be amended from time to time, by and between Borrower and Holder (collectively, the “Loan Agreement”).

2. Interest. The Loan will bear simple interest at three percent (3%) per annum commencing upon funding; provided, however, in the event of an uncured Developer Event of Default under the City Loan Documents and the failure of the Borrower to cure the same within the time specified in the City Loan Documents, interest shall accrue following the Developer Event of Default at the default rate of the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.

3. Term and Repayment Requirements.

(a) The term of the Loan shall commence on the date of this Note and shall expire fifty-five (55) years from the date a certificate of occupancy is issued, but in no event later than _____, 20__.

(b) This Note shall be due and payable pursuant to the terms set forth in Section 3.5 of the Loan Agreement. In any event, the unpaid principal balance is due and payable not later than the expiration of the Term of the Loan Agreement. Repayment of this Note shall be non-recourse to the Borrower pursuant to Section 3.8 of the Loan Agreement

4. No Assumption. This Note is not assumable by the successors and assigns of Borrower without the prior written consent of the Holder except as provided in the Loan Agreement.

5. Security. This Note is secured by the Loan Deed of Trust executed concurrently herewith.

6. Terms of Payment.

(a) Borrower shall make all payments due under this Note in currency of the United States of America to Holder at the City of Redwood City, 1017 Middlefield Road, Redwood City, CA 94063, Attention: City Manager, or such other place as Holder may from time to time designate.

(b) All payments on this Note are without expense to Holder. Borrower shall pay all costs and expenses, including reconveyance fees and reasonable attorney's fees of Holder, incurred in connection with the payment of this Note and the release of any security hereof.

(c) The obligations of Borrower under this Note are absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

(d) Notwithstanding any other provision of this Note, or any instrument securing the obligations of the Borrower under this Note, if, for any reason whatsoever, the payment of any sums by the Borrower pursuant to the terms of this Note would result in the payment of interest which would exceed the amount that the Lender may legally charge under the laws of the State of California, then the amount by which payments exceed the lawful interest rate shall automatically be deducted from the principal balance owing on this Note, so that in no event shall the Borrower be obligated under the terms of this Note to pay any interest which would exceed the lawful rate.

(e) Borrower may prepay all or any portion of the Loan at any time without fee or penalty.

7. Default.

(a) Upon the occurrence of an uncured Developer Event of Default under the Loan Agreement, the entire unpaid principal balance, and together with all other sums then payable under this Note, will, at the option of the Holder, become immediately due and payable upon written notice by the Holder to the Borrower without further demand.

(b) The Holder's failure to exercise the remedy set forth in subsection 7(a) above or any other remedy provided by law upon the occurrence of an uncured Developer Event of Default will not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other uncured Developer Event of Default. The acceptance by Holder hereof of any payment which is less than the total of all amounts due and payable at the time of such payment will not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of the Holder, except as and to the extent otherwise provided by law.

8. Waivers.

(a) Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, notice of dishonor and notice of non-payment of this Note. Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Borrower.

(b) Any extension of time for payment of this Note or any installment hereof made by agreement of Holder with any person now or hereafter liable for payment of this Note must not operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part.

9. Miscellaneous Provisions.

(a) All notices to Holder or Borrower are to be given in the manner and at the addresses set forth in the Loan Agreement, or to such addresses as Holder or Borrower may therein designate.

(b) Borrower promises to pay all costs and expenses, including reasonable attorney's fees, incurred by Holder in the enforcement of the provisions of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, or discharge is sought.

(d) This Note is governed by the laws of the State of California.

(e) The times for the performance of any obligations hereunder are to be strictly construed, time being of the essence.

(f) The City Loan Documents, of which this Note is a part, contain the entire agreement between the parties as to the Loan. This Note may not be modified except upon the written consent of the parties.

[Signature Page Follows]

IN WITNESS WHEREOF, this Promissory Note is executed by Borrower as of the day and year written below and is effective as of the date first written above.

BORROWER:

_____, LP, a California limited partnership

By: SI 78, LLC, a California
limited liability company, its Managing General Partner

By: Sobrato Interests 3, a California limited partnership,
its Sole Member

By: Sobrato Development Companies, LLC, a
California limited liability

By: _____
John Michael Sobrato, Manager

EXHIBIT E

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063
Attention: City Clerk

NO FEE FOR RECORDING PURSUANT
TO GOVERNMENT CODE
SECTIONS 6103 AND 27383

APN: _____

(Space above this line for Recorder's Use)

DEED OF TRUST WITH ASSIGNMENT OF RENTS,
SECURITY AGREEMENT, AND FIXTURE FILING
(Broadway Plaza Development)

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING ("Deed of Trust") is made as of _____, 20__, by and among _____, LP, a California limited partnership ("Trustor"), _____ Title Company, a California corporation ("Trustee"), and the City of Redwood City, a California charter city ("Beneficiary").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, Trustor's fee interest in the property located in the City of Redwood City, County of San Mateo, State of California, described in the attached Exhibit A, incorporated herein by this reference (the "Property").

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, including (without limiting the generality of the foregoing) all tenements, hereditaments and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings and improvements of every kind and description now or hereafter erected thereon, and all property of Trustor now or hereafter affixed to or placed upon the Property;

TOGETHER WITH all building materials and equipment now or hereafter delivered to said Property and intended to be installed therein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all deposits made with or other security given by Trustor to utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of such property, including without limitation, any awards resulting from a change of grade of streets and awards for severance damages to the extent Beneficiary has an interest in such awards for taking as provided in Section 4.1 herein;

TOGETHER WITH all of Trustor's interest in all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or will be, attached to said building or buildings in any manner; and

TOGETHER WITH all of Trustor's interest in all building materials, fixtures, equipment, work in process and other personal property to be incorporated into the Property; all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings, signs and other personal property now or hereafter appropriated for use on the Property, whether stored on the Property or elsewhere, and used or to be used in connection with the Property; all rents, issues and profits, and all inventory, accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes, leases, letters of credit, insurance policies, insurance and condemnation awards and proceeds, trade names, trademarks and service marks arising from or related to the Property and any business conducted thereon by Trustor; all replacements, additions, accessions and proceeds; and all books, records and files relating to any of the foregoing; and

TOGETHER WITH all funds in all operating, replacement and transition reserve accounts created in connection with the development and operation of the Property and any improvements thereon.

All of the foregoing, together with the Property, is herein referred to as the "Security." To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

FOR THE PURPOSE OF SECURING THE FOLLOWING OBLIGATIONS (collectively, the "Secured Obligations"):

A. Payment of just indebtednesses of Trustor to Beneficiary of all sums at any time owing under, or in connection with, the Promissory Note (defined in Article 1 below) until paid in full or cancelled and any other amounts owing under the City Loan Documents. Said principal and other payments are due and payable as provided in the Promissory Note or other City Documents, as applicable. The Promissory Note and all its terms are incorporated herein by reference, and this conveyance secures any and all extensions thereof, however evidenced;

B. Payment of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust following a breach of Trustor's obligation to advance said sums and the expiration of any applicable cure period, with interest thereon as provided herein;

C. Performance of every obligation, covenant or agreement of Trustor contained herein and in the City Loan Documents (defined in Article 1 below); and

D. All modifications, extensions and renewals of any of the Secured Obligations (including without limitation: (1) modifications, extensions or renewals at a different rate of interest; or (2) deferrals or accelerations of the required principal payment dates or interest payment dates or both, in whole or in part), however evidenced, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes (defined in Article 1 below).

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

ARTICLE 1:
DEFINITIONS

Section 1.1 Definitions. In addition to the terms defined elsewhere in this Deed of Trust, the following terms have the following meanings in this Deed of Trust:

(a) "City Loan" means the loan made by the Beneficiary to the Trustor in the amount of up to Twenty Thousand Dollars (\$20,000).

(b) "City Loan Documents" means this Deed of Trust, the Promissory Note, the Regulatory Agreement, the Loan Agreement, and any other debt, loan or security instruments between Trustor and the Beneficiary relating to the Property.

(c) "Force Majeure" has the meaning set forth in Section 9.3 of the Loan Agreement.

(d) "Loan Agreement" means that certain Loan Agreement between Trustor and Beneficiary, of even date herewith, as such may be amended from time to time, providing for the Beneficiary to make the City Loan.

(e) "Principal" means the aggregate of the amounts required to be paid under the Promissory Note.

(f) "Promissory Note" means that certain promissory note in the amount of Twenty Thousand Dollars (\$20,000) dated of even date herewith, executed by the Trustor in favor of the Beneficiary, the payment of which is secured by this Deed of Trust. (A copy of the Promissory Note is on file with the Beneficiary and terms and provisions of the Promissory Note are incorporated herein by reference.)

(g) "Regulatory Agreement" means that certain Regulatory Agreement and Declaration of Restrictive Covenants (City Loan- Sobrato Village) that will be recorded in the Official Records against the Developer's fee interest of the Property upon the Close of Escrow securing the City's interest in the City Loan.

ARTICLE 2:

MAINTENANCE AND MODIFICATION OF THE PROPERTY AND SECURITY

Section 2.1 Maintenance and Modification of the Property by Trustor.

(a) The Trustor agrees that at all times prior to full payment of the sum owed and performance of the Secured Obligations under the Promissory Note, the Trustor will, at the Trustor's own expense, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition. The Trustor will from time to time make or cause to be made all repairs, replacements and renewals deemed proper and necessary by it. The Beneficiary has no responsibility in any of these matters or for the making of improvements or additions to the Security.

(b) Trustor agrees to pay fully and discharge (or cause to be paid fully and discharged) all claims for labor done and for material and services furnished in connection with the Security, diligently to file or procure the filing of a valid notice of cessation upon the event of a cessation of labor on the work or construction on the Security for a continuous period of thirty (30) days or more (subject to any Force Majeure extension allowed under Section 9.3 of the Loan Agreement), and to take all other reasonable steps to forestall the assertion of claims of lien against the Security or any part thereof. Trustor irrevocably appoints, designates and authorizes Beneficiary as its agent (said agency being coupled with an interest) with the authority, but without any obligation, to file or record any notices of completion or cessation of labor or any other notice that Beneficiary deems necessary or desirable to protect its interest in and to the Security or the City Loan Documents; provided, however, that Beneficiary exercises its rights as agent of Trustor only in the event that Trustor fails to take, or fails to diligently continue to take, those actions as hereinbefore provided.

(c) Upon demand by Beneficiary, Trustor shall make or cause to be made such demands or claims as Beneficiary specifies upon laborers, materialmen, subcontractors or other persons who have furnished or claim to have furnished labor, services or materials in connection with the Security. Nothing herein contained requires Trustor to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting provided that Trustor shall, within thirty (30) days after the filing of any claim of lien, record in the Office of the Recorder of the County of San Mateo, a surety bond in an amount equal to the amount of such claim item to protect against a claim of lien, or to provide other form of security acceptable to the Beneficiary at the Beneficiary's sole and absolute discretion.

Section 2.2 Granting of Easements. Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to any property or rights included in the Security except those required or desirable for installation and maintenance of public utilities, including, without limitation, water, gas, electricity, sewer, telephone, or those required by law and as approved, in writing, by Beneficiary; such approval shall not be unreasonably withheld, conditioned, or delayed. Beneficiary hereby approves all easements and encumbrances affecting the Property as disclosed on Beneficiary's lender's title policy issued at the time this Deed of Trust is recorded in the Official Records.

Section 2.3 Assignment of Rents.

(a) Subject to the rights of any approved senior mortgage lender, as part of the consideration for the indebtedness evidenced by the Promissory Note, Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary all the rents and revenues of the Property including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Trustor hereby authorizes Beneficiary or Beneficiary's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Beneficiary or Beneficiary's agents; provided, however, that prior to an Event of Default by Trustor, Trustor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Beneficiary and Trustor to apply the rents and revenues so collected to the Secured Obligations with the balance, so long as no such Event of Default has occurred and is continuing, to the account of Trustor, it being intended by Trustor and Beneficiary that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Beneficiary to Trustor of an Event of Default, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Section as the same becomes due and payable, including but not limited to rents then due and unpaid, and all such rents will, immediately upon delivery of such notice, be held by Trustor as trustee for the benefit of Beneficiary only; provided, however, that the written notice by Beneficiary to Trustor of the breach by Trustor contains a statement that Beneficiary exercises its rights to such rents. Trustor agrees that commencing upon delivery of such written notice of Trustor's breach by Beneficiary to Trustor, each tenant of the Property shall make such rents payable to and pay such rents to Beneficiary or Beneficiary's agents on Beneficiary's written demand to each tenant thereof, delivered to each tenant personally, by mail or by

delivering such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of a default by Trustor.

(b) Subject to the rights of any approved senior mortgage lender, the Trustor hereby represents and covenants that Trustor has not executed any prior assignment of said rents, that Trustor has not performed, and will not perform, any acts or has not executed and will not execute, any instrument which would prevent Beneficiary from exercising its rights under this Section, and that at the time of execution of this Deed of Trust, there has been no anticipation or prepayment of any of the rents of the Property for more than two (2) months prior to the due dates of such rents. Trustor covenants that Trustor will not hereafter collect or accept payment of any rents of the Property more than two (2) months prior to the due dates of such rents. Trustor further covenants that Trustor will execute and deliver to Beneficiary such further assignments of rents and revenues of the Property as Beneficiary may from time to time request.

(c) Upon Trustor's breach of any covenant or agreement of Trustor in the City Loan Documents, after applicable notice and cure periods, Beneficiary may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Deed of Trust. In the event Beneficiary elects to seek the appointment of a receiver for the Property upon Trustor's breach of any covenant or agreement of Trustor in this Deed of Trust, Trustor hereby expressly consents to the appointment of such receiver. Beneficiary or the receiver will be entitled to receive a reasonable fee for so managing the Property.

(d) All rents and revenues collected subsequent to delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the City Loan Documents after applicable notice and cure periods, are to be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Trustor as lessor or landlord of the Property and then to the sums secured by this Deed of Trust. Beneficiary or the receiver is to have access to the books and records used in the operation and maintenance of the Property and will be liable to account only for those rents actually received. Beneficiary is not liable to Trustor, anyone claiming under or through Trustor or anyone having an interest in the Property by reason of anything done or left undone by Beneficiary under this Section.

(e) If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Beneficiary for such purposes will become part of the Secured Obligations. Unless Beneficiary and Trustor agree in writing to other terms of payment, such amounts are payable by the Trustor to the Beneficiary, upon notice from Beneficiary to Trustor requesting payment thereof and will bear interest from the date of disbursement at the rate stated in Section 3.3.

(f) If the Beneficiary or the receiver enters upon and takes and maintains control of the Property, any application of rents as provided herein will not cure or waive any default hereunder or invalidate any other right or remedy of Beneficiary under applicable law or provided herein. This assignment of rents of the Property will terminate at such time as this Deed of Trust ceases to the Secured Obligations.

ARTICLE 3:
TAXES AND INSURANCE; ADVANCES

Section 3.1 Taxes, Other Governmental Charges and Utility Charges.

(a) Trustor shall pay, or cause to be paid prior to the date of delinquency, all taxes, assessments, charges and levies imposed by any public authority or utility company that are or may become a lien affecting the Security or any part thereof; provided, however, that Trustor is not required to pay and discharge any such tax, assessment, charge or levy so long as: (1) the legality thereof is promptly and actively contested in good faith and by appropriate proceedings; and (2) Trustor maintains reserves adequate to pay any liabilities contested pursuant to this Section. With respect to taxes, special assessments or other similar governmental charges, Trustor shall pay such amount in full prior to the attachment of any lien thereof on any part of the Security; provided, however, if such taxes, assessments or charges may be paid in installments, Trustor may pay in such installments. Except as provided in clause (2) of the first sentence of this paragraph, the provisions of this Section shall not be construed to require that Trustor maintain a reserve account, escrow account, impound account or other similar account for the payment of future taxes, assessments, charges and levies.

(b) In the event that Trustor fails to pay any of the items required by this Section to be paid by Trustor, Beneficiary may (but is under no obligation to) pay the same, after the Beneficiary has notified the Trustor in writing of such failure to pay and the Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced therefor by Beneficiary, together with interest thereon from the date of such advance at the maximum rate permitted by law, will become part of the Secured Obligations secured hereby, and Trustor agrees to pay all such amounts.

Section 3.2 Provisions Respecting Insurance.

(a) Trustor agrees to provide insurance conforming in all respects to that required under the City Loan Documents at all times and until all amounts secured by this Deed of Trust have been paid and all Secured Obligations hereunder have been fulfilled, and this Deed of Trust has been reconveyed.

(b) All such insurance policies and coverages are to be maintained at Trustor's sole cost and expense. Certificates of insurance for all of the above insurance policies, showing the same to be in full force and effect, are to be delivered to the Beneficiary upon demand therefor at any time prior to the Trustor's satisfaction of the Secured Obligations.

(c) The Trustor is aware that California Civil Code Section 2955.5(a) provides as follows: "No lender shall require a borrower, as a condition of receiving or maintaining a loan secured by real property, to provide hazard insurance coverage against risks to the improvements on that real property in an amount exceeding the replacement value of the improvements on the property."

Section 3.3 Advances. In the event the Trustor fails to maintain the full insurance coverage required by this Deed of Trust or fails to keep the Security in accordance with the City Loan Documents, the Beneficiary, after at least seven (7) days' prior written notice to Trustor, may (but is under no obligation to): (a) take out the required policies of insurance and pay the premiums on the same; and (b) make any repairs or replacements that are necessary and provide for payment thereof. All amounts so advanced by the Beneficiary will become part of the Secured Obligations (together with interest as set forth below) and will be secured hereby, which amounts the Trustor agrees to pay on the demand of the Beneficiary, and if not so paid, will bear interest from the date of the advance at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

ARTICLE 4: DAMAGE, DESTRUCTION OR CONDEMNATION

Section 4.1 Awards and Damages. All judgments, awards of damages, settlements and compensation made in connection with or in lieu of: (a) a taking of all or any part of or any interest in the Property by or under assertion of the power of eminent domain; (b) any damage to or destruction of the Property or in any part thereof by insured casualty; and (c) any other injury or damage to all or any part of the Property (collectively, the "Funds"), are hereby assigned to and are to be paid to the Beneficiary by a check made payable to the Beneficiary. The Beneficiary is authorized and empowered (but not required) to collect and receive any Funds and is authorized to apply them in whole or in part to any indebtedness or obligation secured hereby, in such order and manner as the Beneficiary determines at its sole option. The Beneficiary is entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. All or any part of the amounts so collected and recovered by the Beneficiary may be released to Trustor upon such conditions as the Beneficiary may impose for its disposition. Application of all or any part of the Funds collected and received by the Beneficiary or the release thereof will not cure or waive any default under this Deed of Trust. The rights of the Beneficiary under this Section are subject to the rights of any senior mortgage lender. The Beneficiary shall release the Funds to Trustor to be used to reconstruct the improvements on the Property provided that Beneficiary reasonably determines that Trustor (taking into account the Funds) has sufficient funds to rebuild the improvements in substantially the form that existed prior to the casualty or condemnation.

ARTICLE 5:
AGREEMENTS AFFECTING THE PROPERTY; FURTHER
ASSURANCES; PAYMENT OF PRINCIPAL AND INTEREST

Section 5.1 Other Agreements Affecting Property. The Trustor shall duly and punctually perform all terms, covenants, conditions and agreements binding upon it under the City Loan Documents and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

Section 5.2 Agreement to Pay Attorneys' Fees and Expenses. In the event of any Event of Default hereunder, and if the Beneficiary employs attorneys or incurs other expenses for the collection of amounts due or the enforcement of performance or observance of an obligation or agreement on the part of the Trustor in this Deed of Trust, the Trustor agrees that it will, on demand therefor, pay to the Beneficiary the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Beneficiary (including, but not limited to, other professional services fees and costs). Any such amounts paid by the Beneficiary will be added to the Secured Obligations, and will bear interest from the date such expenses are incurred at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

Section 5.3 Payment of the Principal. The Trustor shall pay to the Beneficiary the Principal and any other payments as set forth in the Promissory Note in the amounts and by the times set out therein.

Section 5.4 Personal Property. To the maximum extent permitted by law, the personal property subject to this Deed of Trust is deemed to be fixtures and part of the real property and this Deed of Trust constitutes a fixtures filing under the California Commercial Code. As to any personal property not deemed or permitted to be fixtures, this Deed of Trust constitutes a security agreement under the California Commercial Code. The Trustor hereby grants the Beneficiary a security interest in such items.

Section 5.5 Financing Statement. The Trustor shall execute and deliver to the Beneficiary such financing statements pursuant to the appropriate statutes, and any other documents or instruments as are required to convey to the Beneficiary a valid perfected security interest in the Security. The Trustor agrees to perform all acts which the Beneficiary may reasonably request so as to enable the Beneficiary to maintain such valid perfected security interest in the Security in order to secure the payment of the Promissory Note in accordance with its terms. The Beneficiary is authorized to file a copy of any such financing statement in any jurisdiction(s) as it shall deem appropriate from time to time in order to protect the security interest established pursuant to this instrument. Trustor shall pay all costs of filing such financing statements and any extensions, renewals, amendments, and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements, and releases thereof, as the Beneficiary may reasonably require. Without the prior written consent of the Beneficiary, Trustor shall not create or suffer to be created pursuant to the California Commercial Code any other security interest in the Security, including replacements and additions thereto.

Section 5.6 Operation of the Security. The Trustor shall operate the Security (and, in case of a transfer of a portion of the Security subject to this Deed of Trust, the transferee shall operate such portion of the Security) in full compliance with the City Loan Documents.

Section 5.7 Inspection of the Security. At any and all reasonable times upon forty-eight (48) hours' prior written notice, the Beneficiary and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, may inspect the Security without payment of charges or fees, to inspect the Security, provided, however, that any such inspection shall not unreasonably disturb any tenants or other occupants of the Property.

Section 5.8 Nondiscrimination.

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

ARTICLE 6: HAZARDOUS MATERIALS

Section 6.1 Hazardous Materials.

(a) Trustor shall keep and maintain the Property in compliance with, and shall not cause or permit the Property to be in violation of any applicable federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions on, under, or about the Property including, but not limited to, soil and ground water conditions. Trustor shall not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except such of the foregoing as may be customarily used in construction and operation of the improvements on the Property or as may be kept and used in and about residential development of this type.

(b) Trustor shall promptly advise Beneficiary in writing if at any time it receives written notice of: (1) any and all enforcement, cleanup, removal or other governmental or regulatory actions related to the Property instituted, completed or threatened against Trustor or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials Law ("Hazardous Materials Law"); (2) all claims made or

threatened by any third party against Trustor or the Property relating to any loss, damage, cost, expense or liability, contribution, cost recovery compensation, loss or injury directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on or under the Property (the matters set forth in clauses (1) and (2) above are hereinafter referred to as "Hazardous Materials Claims"); and (3) Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be classified as "border-zone property" under the provision of California Health and Safety Code, Sections 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law.

(c) Beneficiary has the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Trustor. Trustor shall indemnify and hold harmless Beneficiary and its council members, supervisors, directors, officers, employees, and agents (collectively, "Indemnified Parties") from claims arising from Trustor's breach of its obligations under the Section 6.1, including without limitation claims for: (1) all foreseeable consequential damages; (2) the costs of any required, reasonable and necessary repair, cleanup or detoxification of the Property and the preparation and implementation of reasonable and necessary closure, remedial or other required plans all to the extent required by an environmental regulatory agency asserting jurisdiction under Hazardous Materials Laws; and (3) all reasonable costs and expenses incurred by Beneficiary in connection with clauses (1) and (2), including but not limited to reasonable attorneys' fees and other professional services fees and costs. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (i) losses attributable to diminution in the value of the Property; (ii) loss or restriction of use of rentable space on the Property; (iii) adverse effect on the marketing of any rental space on the Property; and (iv) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties). The forgoing indemnity shall not apply to any claims, losses, damages, liabilities, fines, penalties, or charges that are caused by the sole negligence or willful misconduct of the Indemnified Parties.

(d) Without Beneficiary's prior written consent, which shall not be unreasonably withheld, Trustor may not take any remedial action in response to the presence of any Hazardous Materials on, under, or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in Beneficiary's reasonable judgment, impairs the value of the Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent shall not be necessary in the event that the presence of Hazardous Materials on or under the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably practicable to obtain Beneficiary's consent before taking such action, provided that in such event Trustor shall notify Beneficiary as soon as practicable of any action so taken. Beneficiary agrees not to withhold its consent, where such consent is required

hereunder, if either: (1) a particular remedial action is ordered by a court of competent jurisdiction; (2) Trustor will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (3) Trustor establishes to the reasonable satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder; or (4) the action has been agreed to by Beneficiary.

(e) The Trustor hereby acknowledges and agrees that: (1) this Article is intended as the Beneficiary's written request for information (and the Trustor's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5; and (2) each representation and warranty in this Deed of Trust or any of the other City Loan Documents (together with any indemnity applicable to a breach of any such representation and warranty) with respect to the environmental condition of the property is intended by the Beneficiary and the Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

(f) In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the Beneficiary's or the Trustee's rights and remedies under this Deed of Trust, the Beneficiary may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to: (1) waive its lien on such environmentally impaired or affected portion of the Property; and (2) exercise: (i) the rights and remedies of an unsecured creditor, including reduction of its claim against the Trustor to judgment; and (ii) any other rights and remedies permitted by law. For purposes of determining the Beneficiary's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), the Trustor will be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of hazardous materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and the Trustor knew or in the exercise of reasonable diligence should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) reasonable attorneys' fees, incurred by the Beneficiary in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the default rate specified in the Loan Agreement until paid, will be added to the indebtedness secured by this Deed of Trust and will be due and payable to the Beneficiary upon its demand made at any time following the conclusion of such action.

ARTICLE 7:
EVENTS OF DEFAULT AND REMEDIES

Section 7.1 Events of Default. The following constitute events of default following the expiration of any applicable notice and cure periods (each an "Event of Default"): (a) failure to

make any payment to be paid by Trustor under the City Loan Documents when due, subject to a three (3) day notice of right to cure; (b) failure to observe or perform any of Trustor's other covenants, agreements or obligations under the City Loan Documents, including, without limitation, the provisions concerning discrimination, subject to applicable notice and cure periods, if any, included in the City Loan Documents, subject to a thirty (30) day notice of right to cure; (c) failure to make any payments or observe or perform any of Trustor's other covenants, agreements or obligations under any other debt instrument or regulatory agreement secured by the Property, which default is not cured within the time and in the manner provided therein.

Section 7.2 Acceleration of Maturity. If an Event of Default has occurred and is continuing, then at the option of the Beneficiary, the amount of any payment related to the Event of Default and all unpaid Secured Obligations are immediately due and payable, upon written notice by the Beneficiary to the Trustor (or automatically where so specified in the City Loan Documents), and no omission on the part of the Beneficiary to exercise such option when entitled to do so may be construed as a waiver of such right.

Section 7.3 The Beneficiary's Right to Enter and Take Possession. If an Event of Default has occurred and is continuing, the Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Property and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts that it deems necessary or desirable to preserve the value or marketability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security shall not cure or waive any Event of Default or Notice of Sale (as defined in Section 7.3(c) below) hereunder or invalidate any act done in response to such Event of Default or pursuant to such Notice of Sale and, notwithstanding the continuance in possession of the Security, Beneficiary will be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Security to be sold ("Notice of Sale"), which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of the County of San Mateo, California; or

(d) Exercise all other rights and remedies provided herein, in the instruments by which the Trustor acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing the Secured Obligations.

Section 7.4 Foreclosure By Power of Sale.

(a) Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall deliver to the Trustee the Notice of Sale and shall deposit with Trustee the Promissory Note which is secured hereby (and the deposit of which will be deemed to constitute evidence that the unpaid Principal amount of the Secured Obligations are immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

(b) Upon receipt of such Notice of Sale from the Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Sale as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in said Notice of Sale, whether as a whole or in separate lots or parcels or items as Trustee deems expedient and in such order as it may determine unless specified otherwise by the Trustor according to California Civil Code Section 2924g(b), at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters of facts will be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale.

(c) After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (1) the unpaid Principal amount of the Promissory Note; (2) all other Secured Obligations owed to Beneficiary under the City Loan Documents; (3) all other sums then secured hereby; and (4) the remainder, if any, to Trustor.

(d) Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new Notice of Sale.

Section 7.5 Receiver. If an Event of Default occurs and is continuing, Beneficiary, as a matter of right and without further notice to Trustor or anyone claiming under the Security, and without regard to the then value of the Security or the interest of Trustor therein, may apply to any court having jurisdiction to appoint a receiver or receivers of the Security (or a part thereof), and Trustor hereby irrevocably consents to such appointment and waives further notice of any application thereof. Any such receiver or receivers will have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of entry as provided herein, and will continue as such and exercise all such powers until the date of confirmation of sale of the Security, unless such receivership is sooner terminated.

Section 7.6 Remedies Cumulative. No right, power or remedy conferred upon or reserved to the Beneficiary by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy will be cumulative and concurrent and will be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.7 No Waiver.

(a) No delay or omission of the Beneficiary to exercise any right, power or remedy accruing upon any Event of Default will exhaust or impair any such right, power or remedy, and may not be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Deed of Trust to the Beneficiary may be exercised from time to time and as often as may be deemed expeditious by the Beneficiary. Beneficiary's express or implied consent to breach, or waiver of, any obligation of the Trustor hereunder will not be deemed or construed to be a consent to any subsequent breach, or further waiver, of such obligation or of any other obligations of the Trustor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, will not constitute a waiver by the Beneficiary of its right hereunder or impair any rights, power or remedies consequent on any Event of Default by the Trustor.

(b) If the Beneficiary: (1) grants forbearance or an extension of time for the payment or performance of any Secured Obligations; (2) takes other or additional security or the payment of any sums secured hereby; (3) waives or does not exercise any right granted in the City Loan Documents; (4) releases any part of the Security from the lien of this Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the City Loan Documents; (5) consents to the granting of any easement or other right affecting the Security; or (6) makes or consents to any agreement subordinating the lien hereof, any such act or omission will not release, discharge, modify, change or affect the original liability under this Deed of Trust, or any other obligation of the Trustor or any subsequent purchaser of the Security or any part thereof, or any maker, co-signer, endorser, surety or guarantor (unless expressly released); nor will any such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary will the lien of this Deed of Trust be altered thereby.

Section 7.8 Suits to Protect the Security. The Beneficiary has the power to: (a) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Security and the rights of the Beneficiary as may be unlawful or any violation of this Deed of Trust; (b) preserve or protect its interest (as described in this Deed of Trust) in the Security; and (c) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement for compliance with such enactment, rule or order would impair the Security thereunder or be prejudicial to the interest of the Beneficiary.

Section 7.9 Trustee May File Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings

affecting the Trustor, its creditors or its property, the Trustee and/or the Beneficiary, to the extent permitted by law, will be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings and for any additional amount that becomes due and payable by the Trustor hereunder after such date.

Section 7.10 Waiver. The Trustor waives presentment, demand for payment, notice of dishonor, notice of protest and nonpayment, protest, notice of interest on interest and late charges, and diligence in taking any action to collect any Secured Obligations, including but not limited to sums owing under the Promissory Note, or in proceedings against the Security, in connection with the delivery, acceptance, performance, default, endorsement or guaranty of this Deed of Trust.

ARTICLE 8:
MISCELLANEOUS

Section 8.1 Amendments. This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

Section 8.2 Reconveyance by Trustee. Upon written request of Beneficiary stating that all Secured Obligations have been paid or forgiven, and all obligations under the City Loan Documents have been performed, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee's reasonable fees, Trustee shall fully reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

Section 8.3 Notices.

(a) If at any time after the execution of this Deed of Trust it becomes necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication must be in writing and is to be served personally, by reputable overnight delivery service (which provides a delivery receipt) or by depositing the same in the registered United States mail, return receipt requested, postage prepaid and, (1) if intended for Beneficiary is to be addressed to:

City:

City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063
Attention: City Manager

with copy to:

City of Redwood City
Office of the City Attorney
1017 Middlefield Road
Redwood City, CA 94063

Attention: City Attorney

and: Goldfarb & Lipman LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
Attn: Rafael Yaquian

and (2) if intended for Trustor shall be addressed to:

c/o The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA 94041
Attn: Peter Tsai, Vice President
Real Estate Development

with copy to: Cox, Castle & Nicholson LLP
50 California Street, Suite 3200
San Francisco, CA 94111
Attn: Christian Dubois

Any notice, demand or communication will be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed in the manner herein specified, on the delivery date or date delivery is refused by the addressee, as shown on the return receipt. A copy of any notice sent to the Beneficiary must also be sent to the Office of the City Clerk at the above address. Either party may change its address at any time by giving written notice of such change to Beneficiary or Trustor as the case may be, in the manner provided herein, at least ten (10) days prior to the date such change is desired to be effective.

Section 8.4 Successors and Joint Trustors. Where an obligation created herein is binding upon Trustor, the obligation also applies to and binds any transferee or successors in interest. Where the terms of the Deed of Trust have the effect of creating an obligation of the Trustor and a transferee, such obligation will be deemed to be a joint and several obligation of the Trustor and such transferee. Where more than one entity or person is signing as Trustor, all obligations of Trustor will be deemed to be a joint and several obligation of each and every entity and person signing as Trustor.

Section 8.5 Captions. The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 8.6 Invalidity of Certain Provisions. Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or other body of competent jurisdiction, such illegality or invalidity will not affect the balance of the terms and provisions hereof, which terms and provisions will remain binding and enforceable. If the lien of this Deed of Trust is invalid or

unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, will be considered to have been first paid or applied to the full payment of that portion of the debt that is not secured or partially secured by the lien of this Deed of Trust.

Section 8.7 Governing Law and Venue. This Deed of Trust is to be governed by and construed in accordance with the laws of the State of California. In the event any legal action is commenced to interpret or to enforce the terms of this Deed of Trust or to collect damages as a result of any breach thereof, the venue for such action shall be the Superior Court of the County of San Mateo.

Section 8.8 Gender and Number. In this Deed of Trust the singular includes the plural and the masculine includes the feminine and neuter and vice versa, if the context so requires.

Section 8.9 Deed of Trust, Mortgage. Any reference in this Deed of Trust to a mortgage also refers to a deed of trust and any reference to a deed of trust also refers to a mortgage.

Section 8.10 Actions. Trustor agrees to appear in and defend any action or proceeding purporting to affect the Security.

Section 8.11 Substitution of Trustee. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter will be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution is to be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the Property is situated, will be conclusive proof of proper appointment of the successor trustee.

Section 8.12 Statute of Limitations. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

Section 8.13 Acceptance by Trustee. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of a pending sale under this Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee is to be a party unless brought by Trustee.

Section 8.14. Low-Income Housing Commitment. Trustee agrees that the lien of this Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the “**Extended Use Agreement**”) recorded against the Property; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Deed of Trust or upon the transfer of the Property by

instrument in lieu of foreclosure, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code.

Section 8.15. Subordination. Notwithstanding anything to the contrary in this Deed of Trust, Trustor, without the consent of but subject to the prior written notice to Beneficiary, may encumber the Property with any mortgage, deed of trust or lien made in connection with any financing or refinancing secured by the Property; provided that Trustor extends the term of the Regulatory Agreement to be co-terminus with the term of such financing or refinancing and provided that the resulting loan-to-value ratio of all financing secured by the Property does not exceed ninety percent (90%) at the time of the closing of such financing or refinancing, hereinafter “**Senior Liens**”: The Beneficiary agrees that the lien of this Deed of Trust shall be subordinate to any Senior Liens, provided however, that the Beneficiary agrees to execute and acknowledge any commercially reasonable subordination agreement, estoppel certificate and any other reasonable documentation required by the lender of any indebtedness secured by a Senior Lien within thirty (30) days of written request therefor. For the purposes of the foregoing the “loan-to-value ratio” requirement described above shall be satisfied if Trustor provides Beneficiary or its consultant with an MAI appraisal relied upon by the holder of the Senior Lien evidencing that the total financing secured by the Property (including any refinancing amount) does not exceed ninety percent (90%) of market valuation. For the purposes of the foregoing “loan-to-value ratio” and “debt service coverage ratio” shall be calculated in accordance with Freddie Mac and Fannie Mae lending standards, or commercially reasonably equivalent standards, in effect at the time such financing is obtained

[Signature Page Follows]

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

TRUSTOR:

_____, LP, a California limited partnership

By: SI 78, LLC, a California
limited liability company, its Managing General Partner

By: Sobrato Interests 3, a California limited partnership,
its Sole Member

By: Sobrato Development Companies, LLC, a
California limited liability

By: _____
John Michael Sobrato, Manager

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, _____, 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.

Name: _____
Name: Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to is situated in the County of San Mateo, City of Redwood City, State of California, and is described as follows:

[NOTE- Legal description for affordable housing parcel will be attached when finalized.]

EXHIBIT F

INSURANCE REQUIREMENTS

Prior to initiating work on the Project and continuing through throughout the term of this Agreement, Owner shall obtain and maintain the following policies of insurance:

(a) a commercial general liability policy in the amount of Two Million Dollars (\$2,000,000) each occurrence, Five Million Dollars (\$5,000,000) annual aggregate, together with Three Million Dollars (\$3,000,000) excess liability coverage, or such other policy limits as City may require in its reasonable discretion, including coverage for bodily injury, property damage, products, completed operations and contractual liability coverage. Such policy or policies shall be written on an occurrence basis and shall name the Indemnitees as additional insureds.

(b) a comprehensive automobile liability coverage in the amount of Two Million Dollars (\$2,000,000), combined single limit including coverage for owned and non-owned vehicles and shall furnish or cause to be furnished to City evidence satisfactory to City. Automobile liability policies shall name the Indemnitees as additional insureds.

(c) Owner and Owner's general partners shall furnish or cause to be furnished to City evidence satisfactory to City that Owner and any contractor with whom Owner has contracted for the performance of work on the Property or otherwise pursuant to this Agreement carries statutory Workers' Compensation insurance and Employer's Liability insurance in a minimum amount of One Million Dollars (\$1,000,000) per accident.

(d) Upon commencement of construction and continuing until issuance of a Certificate of Occupancy, Owner and all contractors working on behalf of Owner shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee as its interests may appear.

(e) Upon completion of Project construction, Owner shall maintain property insurance covering all risks of loss (other than earthquake), for 100% of the replacement value of the Project. Any additional coverage, and if reasonably available, will be mutually agreed upon. Deductibles will be mutually agreed upon. City will be named as a loss payee as its interest may appear.

(f) Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A: VII. The Commercial General Liability and comprehensive automobile policies required hereunder shall name the Indemnitees as additional insureds. Builder's Risk and property insurance shall name City as loss payee as its interests may appear.

(g) Prior to commencement of construction, Owner shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage and duly executed endorsements evidencing such additional insured status. The carriers shall endeavor to notify City of any material adverse change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination or non-renewal.

The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(h) If any insurance policy or coverage required hereunder is canceled or reduced, Owner shall, within fifteen (15) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Owner's expense, and Owner shall promptly reimburse City for such expense upon receipt of billing from City.

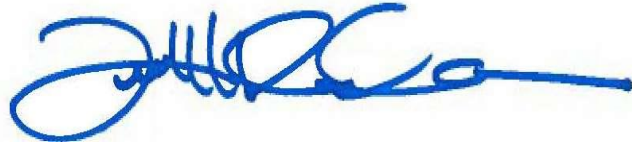
(i) Coverage provided by Owner shall be primary insurance and shall not be contributing with any insurance, or self-insurance maintained by City, and the policies shall so provide. The insurance policies shall contain a waiver of subrogation for the benefit of the City. Owner shall furnish the required certificates and endorsements to City prior to the commencement of construction of the Project. Failure to provide the required documents shall not waive the Owner's obligation to obtain and maintain for the duration for the agreement all the above-referenced insurance, and comply with its obligations.

(j) Deductibles/Retentions. Any deductibles or self-insured retentions shall be mutually agreed upon. At the option of and upon request by City's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects the Indemnitees or Owner shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(k) Adjustments. The limits of the liability coverage and, if necessary, and mutually agreed upon, the terms and conditions of insurance, shall be reasonably adjusted from time to time (not less than every five (5) years after the Effective Date nor more than once in every three (3) year period) to address changes in circumstances, including, but not limited to, changes in the purchasing power of the dollar and the litigation climate in California. Within thirty (30) days following City's delivery of written notice of any such adjustments, Owner shall provide City with amended or new insurance certificates and endorsements evidencing compliance with such adjustments.

Passed and adopted by the Council of the City of Redwood City at a
Joint City Council/Successor Agency Board/Public Financing Authority Meeting
thereof held on the 23rd day of October 2023 by the following votes:

AYES: Aguirre, Eakin, Howard, Martinez Saballos, Sturken, Vice
Mayor Espinoza-Garnica and Mayor Gee
NOES: None
ABSENT: None
ABSTAINED: None
RECUSED: None



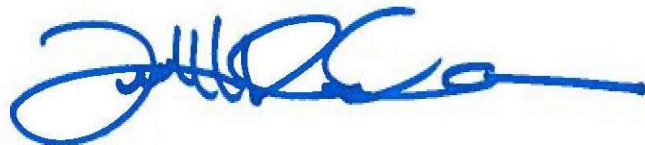
Jeff Gee
Mayor of the City of Redwood City

Attest:



Yessika Castro, CMC, CPMC
Interim City Clerk of Redwood City

I hereby approve the foregoing resolution this
24th day of October 2023.



Jeff Gee
Mayor of the City of Redwood City