



City of Sierra Madre & Successor Agency Agenda Report

*John Capoccia, Mayor
Gene Goss, Mayor Pro Tem
Rachelle Arizmendi, Council Member
Denise Delmar, Council Member
John Harabedian, Council Member*

*Nancy Shollenberger, City Clerk
Richard Mays, City Treasurer*

TO: Honorable Mayor Capoccia and Members of the Successor Agency

FROM: Elaine I. Aguilar, City Manager

INITIATED BY: Vincent Gonzalez, Director of Planning and Community Preservation

DATE: July 14, 2015

SUBJECT: SUCCESSOR AGENCY RESOLUTION 453 AND CITY COUNCIL RESOLUTION 15-41 – ADOPTION OF DISPOSITION AND DEVELOPMENT AGREEMENT, AUTHORIZATION TO SUBMIT DEVELOPMENT APPLICATIONS, AND CONSIDERATION TO WAIVE DEVELOPMENT IMPACT FEES FOR THE PURPOSE OF CREATING AFFORDABLE HOUSING UNITS AT 186 WEST HIGHLAND AVENUE

EXECUTIVE SUMMARY

The applicant, HHP-Highland, LLC (Developer), submitted entitlement requests to renovate the former First Church of Christ Scientist building located at 186 W. Highland Avenue for the purpose of creating three affordable housing condominium units for home ownership. The property is owned by the City of Sierra Madre, as the Housing Successor Agency (Agency) to the Sierra Madre Community Redevelopment Agency. The land was purchased for \$230,000 in 1995, with housing set-aside funds for the purpose of creating affordable housing units. The building has been used for City purposes in the past and is currently vacant.

Staff recommends that the Housing Successor Agency and the City Council (City and Agency) approve the following actions pursuant to Housing Successor Agency Resolution 453 (Exhibit A), and City Council Resolution 15-41 (Exhibit B):

- 1) Approve Disposition and Development Agreement, which includes authorization to transfer ownership of Agency owned Property to Developer for development of the affordable units;
- 2) Authorize the City Manager to sign Owner's Affidavit and Entry onto Land forms to permit Developer to submit the following entitlement applications to the Planning Commission:
 - a) Application for Tentative Parcel Map 15-01 (TPM 15-01) for condominium purposes;
 - b) Application to consider the use of affordable housing incentives;
 - c) Application to designate the property as a local Historic Resource in the City's Register;
 - d) Application for a Certificate of Appropriateness 15-02 (COA 15-01);
 - e) Application for a Mills Act Contract and
- 3) Consider the Waiver of Development Impact Fees for the adaptive reuse and renovation of the property located at 186 W. Highland Avenue to construct three (3) attached residential units as part of an affordable housing condominium subdivision, and sold to First-Time Homebuyers whose income does not exceed Moderate Income.

BACKGROUND

Project Site

The project site is located at 186 W. Highland Avenue, at the southeast corner of Highland and Hermosa Avenues. The site is zoned R-3 Multiple Family Residential and has a General Plan Land Use Designation of Residential Medium/High Density (RH). No change of zone or new development of residential uses is proposed under this Parcel Map at this time.

Authorization to Submit Development Applications

In order for the Developer's request to proceed, the City and Agency, as property owner, must authorize the submittal of the applications. An Owners Affidavit and Entry into Private Land forms is on file in the Planning and Community Preservation Department. The City Manager will sign the forms on behalf of the City and Agency upon City Council's approval. Note that the signature on the forms does not in any way approve the proposed project or provide any rights or entitlements to the Applicant. The signature merely allows the application to be processed and does not guarantee any particular outcome of the review process.

Review and Approval procedures

This application is an affordable housing project that is governed by Chapter 17.34 of the Municipal Code. This section of the Code has been adopted to comply with California State housing law (and the City's Housing Element), which is permissive in nature rather than regulatory. Therefore, both the standards and procedures for review are different than what is normally applied to multi-family housing projects.

First, the City cannot require a conditional use permit for the project. A market rate project of this size in the R-3 zone would require a conditional use permit and the Planning Commission would be the approval body for the site plan review. However, this level of discretion is considered a barrier to the provision of affordable housing and State Housing law requires that cities remove these barriers. For this project, site plan review is a ministerial action conducted by staff during plan check.

Second, the City may grant up to three development incentives that will enable the project to go forward. The applicant is requesting only two incentives: 1) relaxing the on-site covered parking requirement to require uncovered on-site parking, and 2) reduction in the setback requirement along Hermosa Avenue from 25 feet to 17.5 feet (noting that a setback of 17.5 feet will reduce the existing nonconforming setback of 11 feet.) The Planning Commission will discuss the incentives being requested and provide recommendations to the Agency and City.

Finally, all of the entitlements must be reviewed as a package rather than in sequential order, so the Planning Commission is a recommending body to the Agency and City for all of the requests, including the certificate of appropriateness and Mills Act Contract. Accordingly, the Planning Commission's recommendation will be brought back to City Council for final action at a later Council meeting.

The Planning Commission will conduct a public hearing on the parcel map and the designation of a historic landmark, which is presently scheduled for July 16, 2015, depending on the action of the City Council on July 14, 2015. There is no waiver of these requirements under the affordable housing chapter. All requirements for subdivisions for condominiums still apply, just as if this was a market rate project. Similarly, the requirements for Historic Designation and Certificate of Appropriateness also apply, except that these are reviewed simultaneously rather than sequentially.

Effects of current moratoria on the project

Water meters. There are currently two water meters on this site. Although three units are being proposed, the applicant is not requesting new water service. Therefore, the current moratorium on new water meters will not impact this request.

Demolition. A portion of a one-story non-conforming addition to the original structure will be removed as part of the new project. The current demolition moratorium applies to single-family houses and duplexes, not to an adaptive re-use project like this one.

General Plan/Housing Element 2014-2021

The General Plan identifies this particular project in a couple of ways. First, the City's Housing Element, adopted in January 2014, recognizes the City's accomplishment in the previous 2008-2014 Plan, of having purchased this specific property at 186 W. Highland for an adaptive reuse project (Table V-1, #2). Second, in the Housing Programs Summary (Table V-3,#1,#2, #7), the City commits to supporting the preservation of historic structures, adaptive re-use, and specifically providing affordable

housing development assistance and entering into a Disposition and Development Agreement for the 186 W. Highland property.

In addition, the Housing Element includes goals and policies for reducing governmental constraints on the maintenance, improvement and development of housing in a number of ways including regulatory incentives.

Goal 3.0: Reduce governmental constraints on the maintenance, improvement and development of housing while maintaining community character.

Policy 3.1: Provide regulatory incentives and concessions to offset the costs of affordable housing development while protecting quality of life goals

Policy 3.3: Provide fee waivers to facilitate production of affordable housing

Policy 3.4: Provide reduced parking standards for affordable and special needs housing.

The goals and policies of the General Plan are enacted in the Zoning Code. The code promulgates the rules that apply, both policies and procedures, to this request.

ANALYSIS

DISPOSTION AND DEVELOPMENT AGREEMENT (DDA)

The purpose of the Disposition and Development Agreement (Exhibit C) is to:

- 1) Transfer ownership of Agency owned property to HHP-Highland, LLC;
- 2) Construct (condominium units for purchase by qualified moderate income purchasers, thus providing affordable housing opportunities in the City of Sierra Madre; through adaptive reuse for three separate three-bedroom units;
- 3) Provide an affordability covenant on the units for 45 years which restricts their resale to other income-qualified purchasers; and
- 4) Require the monitoring of the units for compliance with the covenants and servicing in the event that resale is desired or necessary.

The Highland Mews Project ("Project") consists of the development of three (3) Units for the sale to Moderate Income First-Time Homebuyers. These Units will be subject to a 45-year Affordability Covenant, which means that they cannot be resold to anyone other than an income qualified purchaser. The 45-year Affordability Covenant will be recorded in priority position on title, and all lender liens—including the temporary construction loan lien—shall be subordinate to it, thus ensuring that the Units remain affordable for the entire 45-year period.

Because the Units will be sold at a price below fair market value in order to make them affordable to a qualified Moderate-Income purchaser, the Project must be subsidized by both affordable housing funds from Los Angeles County ("County Loan") and the contribution of the Agency's property to the Project ("City Loan"). The value of both the County Loan and the City Loan will be recorded against each unit in the form of a "silent second" and "silent third" mortgage deed of trust, as discussed under the Affordability Restrictions in the next heading.

This condominium development will also be subject to Conditions, Covenants & Restrictions (CC&R's) and a Home Owners Association (HOA). HHP-Highland, LLC will form the HOA initially, prepare CC&R's and set the monthly home-owners dues at an amount sufficient to provide required reserves and still fit within the monthly affordable housing cost.

Once the DDA is approved and all needed entitlements are in place, HHP-Highland, LLC will construct the project, and upon completion of the construction and receipt of a Certificate of Occupancy, will market and sell the Units to qualified Moderate-Income First Time Home Buyers. It is anticipated that the number of applicants will greatly exceed the number of available Units. The Program Mechanics (Marketing and Sales Plan) is attached as Attachment 10 and provides that Sierra Madre residents and employees of Sierra Madre-based businesses will be given priority in the home-buyer selection process.

Once the Units are sold to their initial Buyers, it can be anticipated that the new owners may at some point desire to resell their Units; the DDA requires certain notice obligations of the new owner regarding their intent to resell their Unit. The DDA also provides for a Right of First Refusal (Attachment 8) which may be exercised by HHP-Highland, LLC, which as a practical matter, acts as remedy to facilitate the resale of the Unit to an income-qualified new purchaser in order to retain the affordability of the Unit.

The DDA also provides for a Servicing Agreement (Attachment 12) with HHP-Highland, LLC, at no cost to the City or Agency for the purpose of annually monitoring the Unit use and occupancy to maintain compliance and to facilitate any resale of the Units to other qualified Moderate-Income purchasers (either through providing a new income-qualified purchaser or exercising the Right of First Refusal). Because the Units may only be resold at a restricted sales price (representing the amount affordable to a qualified Moderate-Income purchasers), the amount of equity available upon resale will be restricted to the difference (if any) between the Buyer's purchase cost and the new qualified Moderate-Income purchaser, plus 6% administrative fee to HHP-Highland, LLC (similar to a seller's agent commission).

The DDA also provides for damages in the event of default. Additionally, any default by HHP-Highland, LLC will still be subject to the priority Affordability Covenant, which means that even if the construction lender foreclosed its lien, it would still need to work closely with the City/Agency to facilitate the hiring of a new developer to complete the project and sell the Units to a Moderate-Income First Time Homebuyer.

Affordability Covenant – (Attachment No. 11)

The opportunity to Purchase the Units shall be offered to applicants who are both program-eligible as Moderate-Income First-Time Homebuyers and able to secure fixed-rate mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community second mortgage loans designed to protect and preserve the affordability of the Units. This requirement, that the Units be used as affordable housing for persons and families of Moderate Income who are First-Time

Homebuyers shall remain in effect for 45 years from the date of the initial sale of each Restricted Unit. The Affordability Covenant shall be recorded in first priority position on title and all liens shall be subordinate to it, as explained previously.

Sale of Units (DDA, Article 3, Section 3.13)

The sale of the Units to Moderate-Income First-Time Homebuyers shall be set at a Contract Price which is equal to the sum of:

- A. The Affordable Sales Price (which may not exceed 28%-35% of gross monthly income of qualified moderate income purchaser, including all housing costs—this amount is secured by the first deed of trust in favor of the primary lender in the form of a traditional 30-year, fixed rate mortgage);
- B. The reconveyed and pro rated County Purchaser Loan (supported by a "silent second" mortgage which bears no interest, requires no monthly payments, but must be paid in full upon expiration of the 45-year Affordability Covenant), and
- C. The City Loan (supported by a "silent third" mortgage representing the pro rata value of the land for each Unit, which will be forgiven upon expiration of the 45-year Affordability Covenant).

Accordingly, the sales price of each Unit is determined upon the range of the gross income of the qualified Moderate-Income purchaser, taking into account all monthly housing costs, including all mortgages, anticipated utility costs, insurance, property taxes, and home owners' association dues. It is anticipated that the sales price of these Units will be approximately \$345,000 (per 2015 State Median income statistics) assuming a Mills Act contract is approved (see discussion below).

The Developer will have the right to assign all of its rights in and to the City Loan to the Agency. In the event the Developer assigns its rights in and to any City Loan to the Agency, the Agency acknowledges and agrees that it will retain a developer or affiliate of the developer to service the City Loan (silent third mortgage Lien).

The amount of the City Purchaser Loan shall be the lesser of \$76,000 or the difference between the appraised value of the Unit less the Affordable Sales Price and the County Purchaser Loan. The grant deed to each Unit shall be subject to affordability restrictions described in the Purchaser Loan documents (Exhibit No. 7).

Owner-Occupancy Requirement (Exhibit D)

The purchasers of the Units are required to occupy the property as a primary residence. The Unit shall not be leased or rented by the Purchaser to any person or entity except as provided in the "hardship" exemption described in Exhibit D, Section 1 c.

Maintenance of the Property (DDA - Article 4, Section 4.2)

It is the intention of the Developer to transfer to the Homeowners Association and to each purchaser of a unit all responsibilities for maintenance of exterior and interior improvements and the landscaping on the property. The Notice of Restrictions and Right of First Refusal to Purchase Property and the Sierra Madre Municipal Code require the property to be maintained in a manner consistent with community standards

that will uphold the value of the Property. In addition, prior to the initial sale and occupancy of any unit, the Developer shall prepare and submit to the City staff for approval Covenants, Codes, and Restrictions (“CC&Rs”), which shall be subject to the approval of any lender and shall comply with applicable Federal Housing Authority, Fannie Mae, and Freddie Mac requirements.

Staff finds that the stated requirements are sufficient to afford the level of protection necessary to ensure that the property will be maintained in a manner consistent with community standards.

Mills Act Contract

The Project pro forma anticipates that the property will be the beneficiary of a Mills Act contract. HHP-Highland intends to apply for a historic designation and a Mills Act contract for the property as part of its entitlement package before the Planning Commission. The project site was originally purchased in 1920 by the Christian Science Society of Sierra Madre and the church was erected in 1921 as the First Church of Christ Scientist. The Society was active at the site until the property was sold to Gloria Dei Lutheran Church in 1973.

HHP-Highland, LLC will seek to list the building (prior to construction) as a local landmark. If designated, the Project will require a Certificate of Appropriateness in order to construct the adaptive reuse project. The Mills Act contract would require the anticipated adaptive reuse capital improvements and maintenance to preserve the local landmark (if approved), in exchange for a reduction in property taxes, which is in turn, passed along to the qualified Moderate-Income Buyer. It is anticipated that a Mills Act contract will decrease the qualified Moderate-Income Buyer's property taxes by approximately \$1,800/year.

Economic Analysis – Sources and Uses of Infill Funds

Agency and City Property Donation

In order to facilitate the project, the Agency and City shall donate the property to the Developer at no cost. The assigned valuation of the property is based on the acquisition cost by the Agency in 1995 for \$230,000, the value of which shall be spread pro rata against each Unit as a "silent third" mortgage, as discussed above.

Construction Period Costs

The total project cost of development is estimated at \$1,474,108 (excluding anticipated sales proceeds totaling approximately \$345,000 per Unit (per 2015 State median income statistics)).

Sources of Financing

The Developer proposes to finance the project by a combination of a construction loan from a conventional construction lender and a construction loan from the Community Development Commission of the County of Los Angeles (“County Loan”).

Construction Period Funds include:

- Developer Funds - \$25,000 (developer's equity in project toward the cost of construction)
- County Loan - \$500,000(subsidy, which is secured by the "silent second" mortgage deed of trust, to be paid in full upon expiration of 45-year Affordability Covenant)
- Conventional Construction Loan - \$719,051 (this will be paid off through the sale of the Units to the qualified Moderate-Income purchasers).

Developer Fee

Net developer fee is \$248,088 (\$82,696 per unit).

See the Table below, Sources and Uses of Funds for more detailed information.

	Total Project	per Unit	% of Total
Construction Period Costs:			
Total Project Costs	\$1,807,230	\$602,410	123%
less Costs Paid from Sales Proceeds	(\$333,179)	(\$111,060)	-23%
Net Construction Period Costs	\$1,474,051	\$491,350	100%
Construction Period Funds:			
HHP Funds	\$25,000	\$8,333	2%
RDA Land Donation	\$230,000	\$76,667	16%
County of LA Loan	\$500,000	\$166,667	34%
Additional RDA Cash Assistance	\$0	\$0	0%
Construction Loan	\$719,051	\$239,684	49%
Subtotal	\$1,474,051	\$491,350	100%
Net Sales Proceeds from Escrow:			
Gross Unit Sales Proceeds	\$1,033,200	\$344,400	107%
less Interest Rate Buydown	(\$4,500)	(\$1,500)	0%
less Inventory Period Property Taxes	(\$4,470)	(\$1,490)	0%
less Sales Commission	(\$43,740)	(\$14,580)	-5%
Title/Escrow/Closing	(\$10,500)	(\$3,500)	-1%
County of LA Loan @ Closing	\$0	\$0	0%
Subtotal	\$969,990	\$323,330	100%
Repay Construction Loan	(\$719,051)	(\$239,684)	94%
Repay Additional RDA Cash Assistance	\$0	\$0	0%
Inventory Period Interest	(\$14,381)	(\$4,794)	2%
Post-Completion Costs	(\$7,500)	(\$2,500)	1%
Repay HHP Equity	(\$25,000)	(\$8,333)	3%
Subtotal	(\$765,932)	(\$255,311)	100%
less Developer Fee	(\$248,088)	(\$82,696)	
Surplus (Deficit)	(\$44,029.82)	(\$14,676.61)	

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Waiver of Certain Development Fees (DDA - Section 3.14) and Attachment 9 – Acknowledgement

The Developer requests a reduction or waiver of the Development Impact Fee (also known as the Public Facilities Fee): \$22,035 per unit x 3 Units = \$66,105).

The fee relates to the impact a development may have on public facilities. The existing structure is connected to public facilities and has been since construction of the building in 1921. The 1950s addition along the west elevation contains kitchen facilities and bathrooms. The building serviced a church congregation of families for Sunday service, weekly events, and a public reading room until 1995. The structure was also used for a youth activities center from 1998 to 2005. The addition of three condominium units does not intensify the appearance of the development on the site or intensify the use of existing utilities.

The request of the fee waiver is based on two different sections of the Zoning Code (read together) and the General Plan Housing Element.

Section 17.28.060 (A)-Density

The maximum number of dwelling units permitted on the Highland Church site is four (4). This is based on site area calculations of 15,103 square feet, and follows Section 17.28.060 (A)-Density, which allows two (2) units for the first 9,000 square feet of lot area and one (1) additional unit for each additional 3,000 square feet of lot area.

Section 17.28.060 (B)-Density Bonus

Although the Developer is not requesting a density bonus, the project could be eligible for a density bonus that would permit five (5) total units. This is based on the density bonus allowance of two (2) units for the first 7,500 square feet of lot area and one (1) additional unit for each additional 2,500 square feet of lot area. The R-3 density bonus for this site also calls out historic preservation as one criterion for granting a density bonus mechanism for affordable housing projects.

Accordingly, rather than maximize density for the site, developer seeks a waiver of development fees in recognition of the lesser impact. More importantly, the waiver of developer impact fees helps to make the Project affordable, consistent with the General Plan, Housing Element as discussed next.

Housing Element

The City's Housing Element also provides support for a waiver of the Development Impact Fees. Section V-21-Removing Government Constraints, Item #12 – Reduced Development Fees for Affordable Housing states that the reduction, deferral or waiver of City fees can lower residential construction costs. Under the City's Affordable Housing Ordinance (Section 17.34 of the Zoning Code), the City's Planning and Community Preservation Department may provide fee reductions, deferrals or waivers for affordable housing developments.

The Sierra Madre Zoning Code and the General Plan provide the authority to waive the Development Impact Fee for the project. Without this fee waiver, the economics of the

project would be substantially harmed; therefore, staff recommends that the Development Impact Fee totaling \$66,105 be waived for this project.

ENVIRONMENTAL

The project qualifies for the following Categorical Exemptions: Class 15 (Minor Land Divisions) under Section 15315 of the California Environmental Quality Act in that it involves the division of property in an urbanized area zoned for residential use into four or less parcels; Class 32 (Infill Development) under Section 15332 in that it involves infill development; Class 31 (Historical Resource Restoration/Rehabilitation) under Section 15331 in that it involves restoration/rehabilitation of a historical resource.

FINANCIAL REVIEW

Direct cost to the City and Agency includes the transfer of ownership of the Property acquired in 1995 using housing set-aside funds for \$230,000, the waiver of Development Impact Fees totaling \$66,105 and the waiver of the Public Facilities Fee totaling \$7,385. All other application and permit fees apply.

LEGAL NOTIFICATION

The subject project was properly noticed pursuant to the City's Municipal Code, including noticing through the regular agenda notification process. Notice of the hearing was also published consistent with the requirements of Government Code Section 65090. Copies of this report are available at the City Hall public counter, the Sierra Madre Public Library, and on the City's website.

ALTERNATIVES

1. Approve City of Sierra Madre Housing Successor Agency Resolution 453 approving the Disposition and Development Agreement based on the exhibits submitted and agenda report prepared for the subject property;
2. Deny City of Sierra Madre Housing Successor Agency Resolution 453 based on the inadequacy of the Disposition and Development Agreement to protect the long-term interest of the Agency and City of Sierra Madre regarding monitoring of affordable housing covenants, future re-sales of each unit, and maintenance of common areas;
3. Approve City of Sierra Madre City Council Resolution 15-41 approving the Disposition and Development Agreement based on the exhibits submitted and agenda report prepared for the subject property;
4. Deny City of Sierra Madre City Council Resolution 15-41 based on the inadequacy of the Disposition and Development Agreement to protect the long-term interest of the Agency and City of Sierra Madre regarding monitoring of affordable housing covenants, future re-sales of each unit, and maintenance of common areas;

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5. Direct the City Manager to sign the appropriate documents that allow Heritage Housing Partners to submit development applications consisting of a Tentative Parcel Map 15-01 (TPM 15-01) for condominium purposes; to consider the use of affordable housing incentives; designation of the property as a local Historic Resource in the City's Register; and to Review a Certificate of Appropriateness 15-02 (COA 15-01);
6. Deny the request to submit development applications for the proposed adaptive reuse and major renovation of the property;
7. Approve the waiver of Development Impact Fees totaling \$66,105 and Public Facilities Fee totaling \$7,385 for the adaptive reuse and major renovation of the property located at 186 W. Highland Avenue;
8. Deny the waiver of Development Impact Fees totaling \$66,105 and Public Facilities Fee totaling \$7,385 for the adaptive reuse and major renovation of the property located at 186 W. Highland Avenue;
9. Continue the subject project for further information.

RECOMMENDATION

Staff recommends that the Agency and City:

- 1) Approve the Disposition and Development Agreement and transfer of ownership of Agency and City owned property to the Developer by approving Successor Agency Resolution 453 and City Council Resolution 15-51;
- 2) Direct the City Manager to sign the appropriate planning applications to allow HHP-Highland, LLC to submit development applications consisting of:
 - a) A Tentative Parcel Map 15-01 (TPM 15-01) for condominium purposes;
 - b) Use of affordable housing incentives;
 - c) Designation of the property as a local Historic Resource in the City's Register;
 - d) A Certificate of Appropriateness 15-02 (COA 15-01); and
- 3) To approve the waiver of Development Impact Fees totaling \$66,105 and Public Facilities Fee totaling \$7,385 for the adaptive reuse and major renovation of the property located at 186 W. Highland Avenue for the purpose of creating three affordable housing units.

EXHIBITS

Exhibit A - Housing Successor Agency Resolution 453

Exhibit B - City Council Resolution 15-41

Exhibit C - Disposition and Development Agreement:

Attachment No. 1 – Legal Description

Attachment No. 2 – Method of Financing

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Attachment No. 3 – Schedule of Performance

Attachment No. 4 – Form of Grant Deed

Attachment No. 5 – Scope of Development

Attachment No. 6 – Project Budget

Attachment No. 7 – Form of Addendum to Grant Deed

Attachment No. 8 – Form of Third Mortgage Loan Documents

Attachment No. 9 – Development Fee Waivers and Acknowledgement

Attachment No. 10 – Program Mechanics

Attachment No. 11 – Form of Affordability Restrictions

Attachment No. 12 – Form of Servicing Agreement

EXHIBIT A

**CITY OF SIERRA MADRE
HOUSING SUCCESSOR AGENCY
RESOLUTION 453**

CITY OF SIERRA MADRE HOUSING SUCCESSOR AGENCY RESOLUTION 453

A RESOLUTION OF THE CITY OF SIERRA MADRE HOUSING SUCCESSOR AGENCY APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SIERRA MADRE, THE HOUSING SUCCESSOR AGENCY AND HHP-HIGHLAND, LLC, FOR THE PURPOSE OF CONSTRUCTING AFFORDABLE HOUSING UNITS AT 186 WEST HIGHLAND AVENUE SUBJECT TO THE TERMS OF THIS AGREEMENT

THE HOUSING SUCCESSOR AGENCY OF THE CITY OF SIERRA MADRE DOES HEREBY RESOLVE:

WHEREAS, the property located at 186 W. Highland Avenue in Sierra Madre was acquired by the former Sierra Madre Community Redevelopment Agency in 1995 with low and moderate income housing set-aside funds for the purpose of affordable housing development; and

WHEREAS, the 2014 Housing Element of the City's General Plan identifies this property for an adaptive reuse project to both preserve the existing proposed historic structure on site and create new affordable housing units; and

WHEREAS, HHP-Highland, LLC (Developer) was selected to develop the property at 186 W. Highland Avenue (Property) through an adaptive reuse project to create three condominium units within the existing proposed historic structure for sale to qualified moderate-income first-time homebuyers; and

WHEREAS, the City and Agency have reviewed the Disposition and Development Agreement (DDA) and concur with the terms and conditions identified therein, including the transfer of City and Agency-owned Property to the Developer for the purpose of constructing three (3) Units for the sale to moderate income first-time homebuyers, the transfer of which will not close escrow until the applicable development entitlements have been approved; and

WHEREAS, Developer has submitted development entitlement applications to the City to adaptively reuse City and Agency Property for the purpose of creating affordable housing units; and

WHEREAS, in order for the Developer's entitlement application request to proceed prior to the transfer of the Property, the City and Agency must authorize the submittal of the development entitlement applications by signing or approving the signature of the City Manager on the Owners Affidavit and Entry into Private Land forms; and

WHEREAS, the Developer has requested the City to waive the Development Impact Fee totaling \$66,105 and the Public Facilities Fee totaling \$7,385 to lower the residential construction costs of the affordable housing development, thus helping to make resulting units affordable for purchase by qualified moderate-income first time homebuyers; and

WHEREAS, the City Council and Housing Successor Agency held a noticed joint public hearing on July 14, 2015 to consider the request to 1) approve entering into the DDA, 2) authorize the Owners Affidavit and Entry onto Private-Lands forms, and 3) approved the waiver of development Public Facilities fees.

NOW, THEREFORE, THE HOUSING SUCCESSOR AGENCY FOR THE CITY OF SIERRA MADRE DOES HEREBY RESOLVE AS FOLLOWS:

1. This project is exempt from the California Environmental Quality Act under Section 15315, Class 15 (Minor Land Divisions), Section 15332, Class 32 (Infill Development) and 15331, Class 31 (Historic Resource Restoration/Rehabilitation), in that it involves an infill development project consisting of the division of property in an

urbanized area zoned for residential use into four or less parcels where the existing improvements thereon constitute a proposed historic resources which will be restored or rehabilitated for adaptive reuse.

2. The terms of the Disposition and Development Agreement are approved, which include the transfer of the Property located at 186 W. Highland Avenue in the City of Sierra Madre for the purpose of an adaptive reuse project to create three affordable condominium Units for sale to qualified moderate-income first time homebuyers; and

3. The Agency authorizes the Developer's submittal of development entitlement applications by directing the City Manager to sign the Owners Affidavit and Entry into Private Land forms

APPROVED and ADOPTED this 14th day of July, 2015 by the following vote:

AYES:

NOES:

John Capoccia, Mayor

ATTEST:

APPROVED AS TO FORM

Nancy Shollenberger, City Clerk

Teresa Highsmith, Agency
General Counsel

I, NANCY SHOLLENBERGER, CITY CLERK OF THE CITY OF SIERRA MADRE, hereby certify that the foregoing Resolution was adopted by the City Council of the City of Sierra Madre at a regular meeting held on the 14th day of July, 2015.

Nancy Shollenberger, City Clerk.

EXHIBIT B

**CITY OF SIERRA MADRE CITY COUNCIL
RESOLUTION 15-41**

RESOLUTION NO. 15-41

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE
APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF SIERRA MADRE, THE HOUSING SUCCESSOR AGENCY AND HHP-
HIGHLAND, LLC, FOR THE PURPOSE OF CONSTRUCTING AFFORDABLE
HOUSING UNITS AT 186 WEST HIGHLAND AVENUE SUBJECT TO THE TERMS OF
THIS AGREEMENT**

THE CITY COUNCIL OF THE CITY OF SIERRA MADRE DOES HEREBY RESOLVE:

WHEREAS, the property located at 186 W. Highland Avenue in Sierra Madre was acquired by the former Sierra Madre Community Redevelopment Agency in 1995 with low and moderate income housing set-aside funds for the purpose of affordable housing development; and

WHEREAS, the 2014 Housing Element of the City's General Plan identifies this property for an adaptive reuse project to both preserve the existing proposed historic structure on site and create new affordable housing units; and

WHEREAS, HHP-Highland, LLC (Developer) was selected to develop the property at 186 W. Highland Avenue (Property) through an adaptive reuse project to create three condominium units within the existing proposed historic structure for sale to qualified moderate-income first-time homebuyers; and

WHEREAS, the City and Agency have reviewed the Disposition and Development Agreement (DDA) and concur with the terms and conditions identified therein, including the transfer of City and Agency-owned Property to the Developer for the purpose of constructing three (3) Units for the sale to moderate income first-time homebuyers, the transfer of which will not close escrow until the applicable development entitlements have been approved; and

WHEREAS, Developer has submitted development entitlement applications to the City to adaptively reuse City and Agency Property for the purpose of creating affordable housing units; and

WHEREAS, in order for the Developer's entitlement application request to proceed prior to the transfer of the Property, the City and Agency must authorize the submittal of the development entitlement applications by signing or approving the signature of the City Manager on the Owners Affidavit and Entry into Private Land forms; and

WHEREAS, the Developer has requested the City to waive the Development Impact Fee totaling \$66,105 and the Public Facilities Fee totaling \$7,385 to lower the residential construction costs of the affordable housing development, thus helping to make resulting units affordable for purchase by qualified moderate-income first time homebuyers; and

WHEREAS, the City Council and Housing Successor Agency held a noticed joint public hearing on July 14, 2015 to consider the request to 1) approve entering into the DDA, 2) authorize the Owners Affidavit and Entry onto Private-Lands forms, and 3) approve the waiver of development fees.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SIERRA MADRE
DOES HEREBY RESOLVE AS FOLLOWS:**

1. This project is exempt from the California Environmental Quality Act under Section 15315, Class 15 (Minor Land Divisions), Section 15332, Class 32 (Infill Development) and 15331, Class 31 (Historic Resource Restoration/Rehabilitation), in that it involves an infill development project consisting of the division of property in an urbanized area zoned for residential use into four or less parcels where the existing

improvements thereon constitute a proposed historic resources which will be restored or rehabilitated for adaptive reuse.

2. The terms of the Disposition and Development Agreement are approved, which include the transfer of the Property located at 186 W. Highland Avenue in the City of Sierra Madre for the purpose of an adaptive reuse project to create three affordable condominium Units for sale to qualified moderate-income first time homebuyers; and

3. The City Council authorizes the Developer's submittal of development entitlement applications by directing the City Manager to sign the Owners Affidavit and Entry into Private-Land forms

4. The City authorizes the waiver of Development Impact Fees totaling \$66,105, and the Public Facilities Fees totaling \$7,385 which will assist this affordable housing project by lowering the residential construction costs to produce three affordable housing units.

APPROVED and ADOPTED this 14th day of July, 2015 by the following vote:

AYES:

NOES:

John Capoccia, Mayor

ATTEST:

APPROVED AS TO FORM

Nancy Shollenberger, City Clerk

Teresa Highsmith, City Attorney

I, NANCY SHOLLENBERGER, CITY CLERK OF THE CITY OF SIERRA MADRE, hereby certify that the foregoing Resolution was adopted by the City Council of the City of Sierra Madre at a regular meeting held on the 14th day of July, 2015.

Nancy Shollenberger, City Clerk.

EXHIBIT C

DISPOSITION AND DEVELOPMENT AGREEMENT

DISPOSITION AND DEVELOPMENT AGREEMENT
186 W. Highland Ave.

by and among

THE CITY OF SIERRA MADRE HOUSING SUCCESSOR AGENCY,

THE CITY OF SIERRA MADRE,

and

HHP-HIGHLAND, LLC,

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DISPOSITION AND DEVELOPMENT AGREEMENT

THE CITY OF SIERRA MADRE/CITY OF SIERRA MADRE HOUSING SUCCESSOR AGENCY, a public body, corporate and politic (“Agency”), and HHP-HIGHLAND, LLC, a California limited liability company (“Developer”), hereby agree as follows:

Recitals

A. The City of Sierra Madre Housing Successor Agency is the successor to the housing assets of the Sierra Madre Redevelopment Agency, including the improved land located at 186 West Highland Avenue, Sierra Madre, described on Exhibit “A” (the “Property”), which was acquired by the Sierra Madre Redevelopment Agency using low and moderate income housing set aside funds. The Property and the improvements existing thereon pursuant to the terms of this Agreement are hereinafter collectively referred to as the “Project.”

B. Developer proposes to restore the historic structure located on the Property. The Property will be subdivided into three (3) attached residential units as part of an affordable housing condominium subdivision, and sold to First-Time Homebuyers (as defined below) whose income does not exceed Moderate Income (as defined below) such that their total Housing Cost does not exceed an Affordable Housing Cost.

C. Developer proposes to finance the Project by a combination of a construction loan from a conventional construction lender and a construction loan from the Community Development Commission of the County of Los Angeles (“County Loan”). The terms of the County Loan will provide for, among other things, affordability restrictions on the Property, as evidenced by the affordability restrictions in the form and content acceptable to Developer and County.

D. In order to facilitate the Project, the Agency desires to contribute the Property to Developer subject to the terms of this Agreement.

E. The contribution, transfer and use of the Property pursuant to this Agreement, and the fulfillment generally of this Agreement are in the vital and best interests of Agency and the City of Sierra Madre (the “City”), and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

NOW, THEREFORE, in consideration of their mutual promises set forth herein, City, Agency and Developer hereby agree as follows:

ARTICLE 1 SUBJECT OF AGREEMENT

Section 1.1 Definitions

For purposes of this Agreement, the following capitalized terms shall have the following meanings:

“Addendum to Grant Deed” shall mean the instrument to be included with all grant deeds from Developer to purchasers of the Units, substantially in the form attached hereto as Attachment No. 7, which is incorporated herein by this reference.

“Affiliate” means any corporation, limited liability company, limited partnership or other entity with respect to which Developer owns a controlling interest and has control over management.

“Affordable Housing Cost” shall mean monthly Housing Cost payments which are not less than 28% of the gross income of a household and do not exceed the maximum Housing Cost for Moderate Income households as defined in Cal. Health and Safety Code Section 50052.5(b)(4). In addition, for any Moderate-Income household that has a gross income that exceeds 110% of the area median income, affordable housing cost shall not exceed the greater of the foregoing and thirty-five percent (35%) of the gross income of the household.

“Certificate of Completion” shall have the meaning set forth in Section 3.12 of this Agreement.

“Closing” or “Close of Escrow” shall mean the point in time when all conditions precedent to the sale of the Property have been satisfied, in accordance with this Agreement and the Grant Deed conveying title to the Property from Agency to Developer is recorded in the Official Records of Los Angeles County, California.

“Conditions” shall mean, with respect to the Property, the condition of the soil, geology, the presence of known or unknown faults or defects, or Hazardous Substances, the suitability of the Property for its intended uses, or the condition of any related public improvements.

“Development Costs” shall mean all costs which are actually incurred by Developer for the acquisition of the Property and the financing, design, development and construction of the Project, and shall include, without limitation, all of the items of cost set forth in the Project Budget and similar costs, fees and expenses as approved by Agency’s Executive Director.

“Displaced Homemaker” shall mean an individual who (1) is an adult; (2) has not worked full-time in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment, provided that such individual is able to secure 30-year fixed-rate fully amortizing mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community third mortgage loans designed to protect and preserve the affordability of the Units.

“Escrow Instructions” shall mean escrow instructions prepared on behalf of City and Agency relating to the land contribution and transfer of the Property to Developer.

“First Time Homebuyer” shall mean an individual and his or her spouse who have not owned a home during the 3-year period before the purchase of the Unit, except that:

(a) Any individual who is a Displaced Homemaker may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker,

owned a home with his or her spouse or resided in a home owned by the spouse, provided that such individual is able to secure 30-year fixed-rate fully amortizing mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community third mortgage loans designed to protect and preserve the affordability of the Units;

(b) Any individual who is a Single Parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse, provided that such individual is able to secure 30-year fixed-rate fully amortizing mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community third mortgage loans designed to protect and preserve the affordability of the Units;

(c) An individual may not be excluded from consideration as a first-time homebuyer on the basis that the individual owns or owned, as a principal residence during the 3-year period before the purchase of the Unit, a dwelling unit whose structure is:

(1) Not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

(2) Not in compliance with State, local or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

“Force Majeure” or “Force Majeure Event” shall mean the following events, when they actually delay and interfere with the timely performance of the matter to which it would apply and despite the exercise of diligence and good business practices are or would be beyond the reasonable control of the party claiming such interference: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation including litigation challenging the validity of this transaction or any element thereof; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor, or suppliers; acts of the other party; acts or failure to act of any Governmental Authority (except acts or failure to act of Agency or City shall not excuse performance by Agency or City); the imposition of any applicable moratorium by a Governmental Authority; or any other causes which despite the exercise of diligence and good business practices are or would be beyond the reasonable control of the party claiming such delay and interference. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Event unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any party claiming a Force Majeure Delay shall deliver such written notice within fifteen (15) days after it obtains actual knowledge of the event.

“Force Majeure Delay” shall mean any delay in taking any action required by this Agreement, proximately caused by the occurrence of any Force Majeure Event.

“Governmental Approvals” shall mean and include any and all general plan amendments, zoning approvals or changes, required approvals and certifications under the California Environmental Quality Act, tentative and final tract maps, variances, conditional use permits, demolition permits, excavation/foundation permits, grading permits, building permits, inspection reports and approvals, certificates of occupancy, and other approvals, permits, certificates, authorizations, consents, orders, entitlements, filings or registrations, and actions of any nature whatsoever required from any Governmental Authority in order to commence and complete the construction of the Project.

“Governmental Authority” means the United States, the State of California, the County of Los Angeles, or any other political subdivision in which the Property is located, and any court or political subdivision, agency or instrumentality having jurisdiction over the Property.

“Grant Deed” shall mean the instrument by which Agency shall convey title to the Property to Developer, substantially in the form attached hereto as Attachment No. 4.

“Hazardous Materials” and “Hazardous Substances” shall include, but not be limited to, substances defined as “extremely hazardous substances,” “hazardous substances,” “hazardous materials,” “hazardous waste” or “toxic substances” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, et seq.; and those substances defined as “hazardous waste” in Section 25117 of the California Health and Safety Code, as “infectious waste” in Section 25117.5 of the California Health and Safety Code, or as “hazardous substances” in Section 25316 of the California Health and Safety Code or “hazardous materials” as defined in Section 353 of the California Vehicle Code; and in the regulations adopted and publications promulgated pursuant to said laws.

“Housing Cost” shall have the meaning set forth in Title 25 of California Code of Regulations, Section 6920.

“HUD” shall mean the United States Department of Housing and Urban Development.

“Improvements” shall mean the restoration of the three (3) residential condominiums, and installation of related accessory structures to be constructed on the Property in accordance with this Agreement.

“Instruments” shall mean and include this Agreement, the Grant Deed, attached hereto as Attachment No. 4, and the Addendum to Grant Deed, attached hereto as Attachment No. 7.

“Method of Financing” shall mean the Method of Financing attached to this Agreement as Attachment No. 2, which is incorporated herein by this reference.

“Moderate-Income” shall mean a household income that exceeds 80% but not 120% of the area median income, as determined by HUD and published annually by the California Department of Housing and Community Development (“HCD”).

“Permitted Exceptions” shall mean (a) those encumbrances, liens, taxes, assessments, easements, rights of way, leases, covenants, agreements or other exceptions affecting title to the Property as of the date of recordation of the Grant Deed which are not disapproved in writing by Developer, and (b) the restrictions set forth in the Grant Deed.

“Permitted Transfer” means any of the following:

(a) An assignment of this Agreement and all of Developer’s interests in the Property to a limited liability company in which Developer owns majority interest and is the controlling and managing member with control over management;

(b) Any Primary Loan or any refinancing that repays a Primary Loan (referred to herein as a “Take Out Loan”);

(c) A conveyance of the Property to any limited partnership or limited liability company in which Developer is the controlling and managing general partner or managing member, or a sale back from such partnership or limited liability company to such general partner or member, if in the reasonable determination of Agency’s Executive Director, the reconstituted Developer is comparable in all material respects (including experience and financial capability) to Developer as of the time of execution of this Agreement. Notwithstanding any provision to the contrary contained herein, any event described in this subparagraph c. shall not be deemed to be a Permitted Transfer unless Agency’s Executive Director or designee reasonably determines, which determination shall not be unreasonably withheld, Developer or its managing member remains, or any other entity reasonably acceptable to Agency’s Executive Director (which shall not be unreasonably withheld) becomes, the controlling and managing general partner or managing member of Developer;

(d) The inclusion of equity participation by Developer by transfer of or addition of limited partners or members to Developer or similar mechanism;

(e) The sale for occupancy of any Unit to an eligible buyer;

Any transfer described in clauses a. through d. shall be subject to the reasonable approval of Agency’s Executive Director or designee in accordance with the standards set forth in the respective provisions of this Agreement, which approval shall not be unreasonably withheld and shall be deemed given if not withheld with reasons given within ten (10) business days after Agency’s Executive Director’s receipt of a written request for such approval with reasons to support that approval.

“Plans” shall mean any architectural and construction plans and drawings prepared on behalf of Developer for Project in accordance with this Agreement.

“Primary Lender” shall mean construction lender.

“Primary Loan” shall mean, subject to the reasonable approval of Agency’s Executive Director, loans made by the Primary Lender to pay the Development Costs, secured by a Primary Loan Deed of Trust and other security instruments having a lien on the Property that is senior in priority to Agency’s liens, other than the City Affordability Restrictions.

“Primary Loan Deed of Trust” shall mean the first priority deed of trust on the Property which secures the Primary Loan.

“Project” shall mean the financing, planning, construction and use of the Property as provided in this Agreement.

“Project Budget” shall mean the applicable schedule of Project Costs attached to this Agreement as Attachment No. 6, incorporated herein by this reference.

“Property” shall mean the real property, including all improvements thereon, legally described as set forth in Attachment No. 1.

“Purchase Price” shall have the meaning described in the Method of Financing.

“Schedule of Performance” shall refer specifically to Attachment No. 3 hereof.

“Scope of Development” shall refer specifically to Attachment No. 5 hereof.

“Single Parent” shall mean an individual who (1) is divorced from or legally separated from a spouse or registered domestic partner; and (2)(i) has one or more minor children for whom the individual has custody or joint custody..

“Title Company” shall mean Commonwealth Land Title/Lawyers Title Company, or another title insurance company approved by Agency’s Executive Director or designee.

“Transfer” shall mean:

(a) The sale, agreement to sell, transfer or conveyance of the Property, the Project, or any portion thereof or interest therein, whether voluntary, involuntary, by operation of law or otherwise, the execution of any installment sale contract or similar instrument affecting all or a portion of the Property or Project, or the lease of all or substantially all of the Property or Project.

(b) “Transfer” shall also include the transfer, assignment, hypothecation or conveyance of legal or beneficial ownership of any interest in Developer, except that a cumulative change in ownership interest of any constituent owner, member or partner of forty-nine percent (49%) or less shall not be deemed a “Transfer” for purposes of this Agreement.

“Units” shall mean each of the three residential condominium units to be developed on the Property.

Section 1.2 Purpose of Agreement

(a) The purpose of this Agreement is to provide affordable housing opportunities in the City of Sierra Madre for Moderate Income First-Time Homebuyers by providing for the transfer of the Property to Developer, the construction of the Units by Developer, and their sale to Moderate Income First-Time Homebuyers such that that their total monthly Housing Cost does not exceed an Affordable Housing Cost. The affordability

restrictions are more particularly set forth in the Affordable Housing Covenant and Regulatory Agreement attached hereto as Attachment No. 11 (“City Affordability Restriction”). The City Affordability Restriction shall be recorded in priority position on title to all other liens, mortgages or deeds of trust.

(b) Subject to the terms and conditions of this Agreement, City shall transfer the Property to Developer, Developer shall complete the Units and sell all three of the Units to Moderate Income First-Time Homebuyers. The sale of the Property and the construction and use of the Units pursuant to this Agreement, and the fulfillment generally of the Agreement, are in the public interest and in accord with applicable federal, state and local laws and requirements.

(c) The Property is located in the City and is owned by the Agency; subject to the terms and conditions of this Agreement, the Agency will convey fee title to the Property to Developer for the Project.

(d) In the event any general provision of this Section 1.2 conflicts with any specific provision of this Agreement, the specific provision shall be deemed to prevail.

Section 1.3 Agency and City

(a) Agency is a public body, corporate and politic, exercising governmental functions and powers. The principal office of Agency is located at 232 West Sierra Madre Boulevard, Sierra Madre, California, 91024.

(b) City is a municipal corporation exercising governmental functions and powers, and organized and existing under the State Constitution and State laws. The principal office of Agency is located at 232 West Sierra Madre Boulevard, Sierra Madre, California, 91024.

(c) Agency and City as used in this Agreement includes any assignee of or successor to each of their rights, powers and responsibilities.

Section 1.4 Developer

Developer is HHP-HIGHLAND, LLC, a California limited liability company. The principal address of Developer for purposes of this Agreement is 608 North Fair Oaks Avenue, #126, Pasadena, California, 91103. “Developer” shall mean Developer and any assignee of or successor to the rights, powers, and responsibilities of Developer permitted by this Agreement.

Section 1.5 Prohibition Against Transfers

(a) The qualifications and identity of Developer are of particular concern to City and Agency. It is because of those qualifications and identity that City and Agency have entered into this Agreement with Developer. No voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

(b) Developer shall not assign all or any part of this Agreement without the prior written approval of City and Agency. City and Agency agree to give approval if the Transfer is a Permitted Transfer as defined in Section 1.1, above.

(c) For the reasons cited above, Developer represents and agrees for itself and any successor in interest that without the prior written approval of City and Agency, there shall be no significant change in the ownership of Developer or in the relative proportions thereof, or with respect to the identity of the parties in control of Developer or the degree thereof, by any method or means. Developer shall promptly notify the City and Agency of any significant changes in the identity of the parties in control of Developer or the degree of control (only to the extent such changes have the effect of changing the party in control of or managing Developer), of which it or any of its officers have been notified or otherwise have knowledge or information.

(d) Developer shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any right herein, nor make any Transfer affecting the whole or any part of the Property, without prior written approval of City and Agency, except as expressly permitted by this Agreement and the other Instruments. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Any such proposed transferee shall have at least the same qualifications and financial responsibility as Developer as of the date hereof as may be reasonably determined by City and Agency, to fulfill the obligations undertaken in this Agreement by Developer. Any such proposed transferee, by instrument in writing satisfactory to City and Agency and in form recordable among the land records, for itself and its successors and assigns, and for the benefit of City and Agency shall expressly assume all of the obligations of Developer under this Agreement and agree to be subject to all conditions and restrictions applicable to Developer in this Agreement. There shall be submitted to City and Agency for review all instruments and other legal documents proposed to effect any such transfer; and if approved by City and Agency its approval shall be indicated to Developer in writing.

(e) In the absence of specific written agreement by City and Agency, no unauthorized Transfer, or approval thereof by City and Agency, shall be deemed to relieve Developer or any other party from any obligations under this Agreement.

(f) In the event Developer does assign this Agreement or any of the rights herein, or does sell, transfer, convey, or assign any part of the Property prior to the issuance of the Certificate of Completion, except as permitted by this Agreement, Agency shall be entitled to increase the Purchase Price paid by Developer for the Property by the amount by which the consideration payable for such sale, transfer, conveyance, or assignment exceeds the value of improvements to the Property made by Developer, and until such amount is paid to Agency, Agency shall have a lien on the Property for such amount. Any such lien shall be subordinate and subject to any mortgage, deeds of trust, or other security instrument executed in connection with a construction loan as authorized herein.

ARTICLE 2 DISPOSITION OF THE PROPERTY

Section 2.1 Land Contribution

In accordance with and subject to all the terms, covenants, and conditions of this Agreement, Agency agrees to contribute the Property to Developer. Developer and Agency acknowledge and agree to the terms of the proposed land contribution, and the conditions precedent to conveyance and delivery of title pursuant to this Agreement are set forth in the Method of Financing attached to this Agreement as Attachment No. 2.

Section 2.2 Escrow

Developer agrees to open an escrow for the land contribution of the Property and funding of acquisition and pre-development loan, with the Title Company and Escrow Company to be Commonwealth Land Title Company/Lawyer's Title (the "Escrow Agent"), not later than the date established therefor in the Schedule of Performance. Not later than the time provided in the Schedule of Performance, Developer shall cause to be prepared and shall deliver to the Escrow Agent instructions for the close of escrow (the "Joint Escrow Instructions"). Agency's Executive Director, or her designee, and Developer shall provide such additional or amended escrow instructions as may be necessary and consistent with this Agreement.

Section 2.3 Conveyance of Title and Delivery of Possession

(a) Conveyance of title to the Property shall be completed on or prior to the date specified therefor in the Schedule of Performance, or such later date as mutually agreed to in writing by City, Agency, and Developer and communicated in writing to the Escrow Agent. City, Agency and Developer agree to perform all acts necessary to convey title in sufficient time for escrow to be closed in accordance with the foregoing provisions.

(b) Possession of the Property shall be delivered to Developer concurrently with the conveyance of title, except that access and entry may be granted before the Closing, as permitted pursuant to Section 2.11 of this Agreement.

Section 2.4 Form of Deed

City shall convey to Developer title to the Property in the condition provided in Section 2.5 of this Agreement, by Grant Deed in the form attached hereto as Attachment No. 4 consistent with this Agreement.

Section 2.5 Condition of Title

City shall convey to Developer fee simple marketable title to the Property free and clear of all liens, encumbrances, assessments, easements, leases, and taxes, except the Permitted Exceptions.

Section 2.6 Closing Date

Subject to any mutually agreed-upon extension of time, the parties shall use their best efforts to satisfy all conditions precedent to the Closing prior to the date specified therefore in the Schedule of Performance. City shall not be obligated to convey the Property to Developer unless

all the conditions set forth in the Method of Financing as conditions precedent to Closing have been satisfied, and such conditions precedent shall be satisfied on or before the date established for the conveyance of the Property to Developer in the Schedule of Performance.

Section 2.7 Title Insurance

(a) Concurrent with the Closing of the land contribution, the Title Company shall be prepared to issue the following title insurance policies: (1) to Developer a CLTA Owner's policy (the "Owner's Title Policy"), insuring the title is vested in Developer in the condition required by Section 2.5 of this Agreement.

(b) Concurrent with the issuance of the Owner's Title Policy, the Title Company shall, if requested by Developer, provide Developer with an endorsement to insure the amount of Developer's estimated construction costs of the Improvements.

(c) Developer shall pay the total costs for Owner's Title Policy.

Section 2.8 Taxes and Assessments

Ad valorem taxes and assessments, if any, on the Property and taxes upon this Agreement or any rights hereunder levied, assessed, or imposed as to any period prior to or after the Closing shall be paid by Developer.

Section 2.9 Possession of the Property

City warrants and agrees title to the Property shall be conveyed free of any possession and any right of possession except that of Developer, except as waived by Developer in writing, and the Permitted Exceptions.

Section 2.10 Condition of the Property

(a) The Property shall be conveyed in an "as is" condition, with no warranty, express or implied by City or Agency as to the condition of the Property or the buildings situated thereon, its soil (or water) conditions (including Hazardous Materials), its geology, or the presence of known or unknown seismic faults.

(b) Developer shall have the right and responsibility to investigate and determine the soil and seismic conditions of the Property and their suitability for the Project. Developer shall perform all work necessary to grade, clear, and prepare the Property and to investigate and determine the soil conditions of the Property (including Hazardous Materials) and the suitability of the Property for the Project. Subject to paragraph c. of Section 2.11, below, if any conditions of the Property or any portion thereof are not in all respects entirely suitable for the Project, then it is the sole responsibility and obligation of Developer to take such action as may be necessary to remediate such conditions and place the Property in all respects in a condition entirely suitable for the development of the Project thereon.

Section 2.11 Preliminary Work by Developer

(a) Prior to the conveyance of title, representatives of Developer shall have the right of access to the Property at all reasonable times for the purpose of obtaining data, and making surveys and tests necessary to carry out this Agreement. In addition, Developer shall have the right, without cost or expense to City and Agency, to perform such grading of the Property as may be required for the development of the Property.

(b) Developer hereby indemnifies and holds harmless City, Agency, and each of their officers, employees, and agents for any injury or damages arising out of any activity of Developer, its agents, employees, and contractors, related to this Section 2.11. Developer shall have access to all data concerning the condition of the Property in the possession of City or Agency.

(c) At any time prior to the Close of Escrow, Developer may terminate this Agreement in its sole and absolute discretion by sending written notice of such termination to City and Agency.

Section 2.12 Financing

The financing for the Project shall be as described in the Method of Financing attached to this Agreement as Attachment No. 2. Not later than the respective times provided therefor in the Schedule of Performance, Developer shall submit to City and Agency evidence satisfactory to the Agency's Executive Director that Developer has obtained commitments for the financing needed for the Project, as provided in the Method of Financing.

Section 2.13 Relationship of City, Agency and Developer

Nothing contained in this Agreement or in any other document or instrument made in connection with this Agreement shall be deemed or construed to create a partnership, tenancy in common, joint tenancy, joint venture, or co-ownership by or between City, Agency, and Developer. City and Agency shall not be in any way responsible or liable for the debts, losses, obligations, or duties of Developer with respect to the Property or otherwise, and Developer shall not be in any way responsible or liable for the debts, losses, obligations, or duties of City or Agency with respect to the Property or otherwise.

Section 2.14 Representations and Warranties

(a) As an inducement to City and Agency to enter into this Agreement and for City to convey the Property to Developer, Developer hereby represents and warrants to City and Agency, which representations and warranties are true and correct as of the date of this Agreement and which shall survive the Close of Escrow:

(1) Developer has the legal power, right, and authority to enter into this Agreement and the instruments referenced herein, and to satisfy all obligations of Developer in this Agreement or in any instrument or document referred to herein (referred to collectively as the "Developer's Obligations");

(2) This Agreement and all documents required hereby to be executed by Developer are, and shall be, valid, legally binding obligations of and enforceable against Developer in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws, or similar laws or equitable principles affecting or limiting the rights of contracting parties generally;

(3) There is no charter, bylaw, or capital stock provision of Developer, and no provision of any indenture, instrument, or agreement, written or oral, to which Developer is a party or which governs the actions of Developer or which is otherwise binding upon Developer or Developer's property, nor is there any statute, rule, or regulation, or any judgment, decree, or order of any court or agency binding on Developer or Developer's property which would be contravened by the execution, delivery, or performance of any of Developer's Obligations;

(4) To Developer's reasonable knowledge, there is no action, suit, or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of Developer, threatened against or affecting Developer, or any properties or rights of Developer, which could reasonably be expected materially to impair the right of Developer to execute or perform any of Developer's Obligations;

(5) To Developer's reasonable knowledge, neither the execution and delivery of this Agreement and documents referenced herein, nor the incurrence of Developer's Obligations, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Agreement and the documents referenced herein, conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under any bond, note, or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which Developer is a party;

(6) No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or threatened against Developer, nor are any of such proceedings contemplated by Developer;

(7) All reports, documents, instruments, information, and forms of evidence delivered to City and Agency concerning or required by this Agreement are accurate, correct and sufficiently complete to give City and Agency true and accurate knowledge of their subject matter, and do not contain any misrepresentation or omission;

(8) No representation, warranty or statement of Developer in this Agreement contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

(b) As an inducement to Developer to enter into this Agreement and develop the Property as provided herein, City and Agency hereby represent and warrant to Developer, which representations and warranties are true and correct as of the date of this Agreement and which shall survive the Close of Escrow:

(1) City and Agency have the legal power, right, and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby;

(2) This Agreement and all documents required hereby to be executed by City and Agency are, and shall be, valid, legally binding obligations of and enforceable against City and Agency in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws, or similar laws or equitable principles affecting or limiting the rights of contracting parties generally;

(3) There is no charter or bylaw of City or Agency, and no provision of any indenture, instrument, or agreement, written or oral, to which City or Agency is a party or which governs the actions of Authority or which is otherwise binding upon City or Agency or City or Agency's property, nor is there any statute, rule, or regulation, or any judgment, decree, or order of any court or agency binding on City or Agency or City or Agency's property, which would be contravened by the execution, delivery, or performance of this Agreement or any documents required hereby to be executed by City and Agency;

(4) There is no action, suit, or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of City or Agency, threatened against or affecting City or Agency, or any properties or rights of Authority, which, if adversely determined, would materially impair the right of City or Agency to execute or perform its obligations under this Agreement or any documents required hereby to be executed by Authority, or would materially adversely affect the financial condition of City or Agency;

(5) Neither the execution and delivery of this Agreement and documents referenced herein, nor the incurrence of the obligations set forth herein, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Agreement and the documents referenced herein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, lease or other agreements or instruments to which City or Agency is a party;

(6) To the best of City and Agency's knowledge, there are no pending, threatened, or contemplated actions, suits, arbitrations, claims, or proceedings, at law or in equity, affecting the Property or in which City or Agency is, or to the best of City or Agency's knowledge will be, a party by reason of this Agreement, including but not limited to, judicial, municipal or administrative proceedings in eminent domain, unlawful detainer or tenant evictions, collections, alleged building code, health and safety or zoning violations, employment discrimination or unfair labor practices, or workers' compensation, personal injuries, or property damages;

(7) No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or threatened against City or Agency, nor are any of such proceedings contemplated by Authority;

(8) All reports, documents, instruments, information, and forms of evidence delivered to Developer concerning or required by this Agreement are accurate, correct, and sufficiently complete to give Developer true and accurate knowledge of their subject matter, and do not contain any misrepresentation or omission;

(9) No representation, warranty or statement of City or Agency in this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading;

(c) Each party's representations and warranties made in this Section 2.14 shall be continuing, and shall be true and correct as of the date of the Close of Escrow with the same force and effect as if remade in a separate certificate at that time. The truth and accuracy of each party's representations and warranties made herein shall constitute a condition for the benefit of the other party to the performance of such other party's obligations hereunder.

ARTICLE 3 DEVELOPMENT OF THE PROPERTY

Section 3.1 Scope of Development

The Property shall be developed in accordance with and within the limitations established in the "Scope of Development" and the schematic plans attached thereto (which are attached to this Agreement as Attachment No. 5 and incorporated herein by reference) and subsequent plans approved by City pursuant to this Agreement and permits issued by City.

Section 3.2 Construction Drawings and Related Documents

(a) Developer shall prepare and submit construction drawings and related documents for the development of the Property to City for the times established in the Schedule of Performance. The construction drawings and related documents shall be submitted in two stages: preliminary and final drawings & plans. Final drawings & plans are hereby defined as those in sufficient detail to obtain a building permit. Except as required to protect public health and safety or as required by generally applicable laws and rules, any items so submitted and approved in writing by City shall not be subject to subsequent disapproval. The City will expeditiously process and review any construction drawing and related documents submitted by Developer to the City for approval.

(b) [Intentionally omitted.]

(c) As necessary, during the preparation of all drawings and plans, Agency staff, City staff, and Developer shall hold regular progress meetings to coordinate the preparation of, submission to, and review of construction plans and related documents by City. City staff and Developer shall communicate and consult informally as frequently as is necessary to insure that the formal submittal of any documents to City and Agency can receive prompt and speedy consideration.

(d) If any revisions or corrections of plans approved by City shall be required by a governmental official, agency, department, or bureau having jurisdiction over the

development of the Property, Developer and City shall cooperate in efforts to obtain waiver of such requirements or to develop a mutually acceptable alternative. The City and Developer will expeditiously process and review any construction drawing and related documents necessary to develop a mutually acceptable alternative. It is the intention of the parties to this Agreement that the plans for the development of the Property should not be changed in any way that makes the development of the Property economically infeasible. In the event City requires changes to plans which materially adversely change Developer's reasonable economic assumptions such that the project is no longer economically feasible, and Agency and Developer are unable to obtain a waiver of such requirements or agree on a mutually acceptable alternative, Developer shall have the right, upon thirty (30) days notice to Agency, to terminate this Agreement. In that event, neither party shall have any liability to the other party as the result of the termination of this Agreement.

Section 3.3 City Approval of Plans, Drawings and Related Documents

As provided in Section 3.2, City shall have the right of review of all plans, drawings, and related documents for the development of the Property, including any proposed changes therein. The City will expeditiously process and review such plans, drawings, and related documents referred to in this Agreement (and any proposed changes therein) submitted by Developer to the City for approval in order to meet the times established in the Schedule of Performance. Any disapproval shall state, in writing, the reasons for disapproval. Developer, upon receipt of a disapproval shall revise such portions of the plans, drawings, or related documents in a manner that satisfies the reasons for disapproval, and resubmit such revised portions to City and Agency as soon as possible after receipt of the notice of disapproval. Absent any errors in the plans, drawings or other related documents for the Project ("Project Plans"), once the Project Plans are approved by the City and the applicable permits are issued (or ready to issue letters are provided with respect to such permits), such Project Plans cannot be subsequently disapproved by the City. Concurrently with the approval of this Agreement, City has approved the schematic plans and specifications, which are attached to the Scope of Development and incorporated herein by this reference (Attachment No. 5). In the event that Developer is unable to obtain City approvals and any necessary entitlements to begin construction of the Project, or the City requires changes to plans which materially adversely change Developer's reasonable economic assumptions such that the project is no longer economically feasible, and Agency and Developer are unable to obtain a waiver of such requirements or agree on a mutually acceptable alternative, Developer shall have the right, upon thirty (30) days notice to Agency, to terminate this Agreement. In that event, neither party shall have any liability to the other party as the result of the termination of this Agreement.

Section 3.4 Cost of Construction

The cost of developing the Property and constructing all Improvements thereon shall be the responsibility of Developer, as provided in the Method of Financing. The Development Costs are set forth in the Project Budget (Attachment No. 6), which shall be subject to change from time-to-time as provided in the Method of Financing.

Section 3.5 Schedule of Performance

(a) Developer, City, and Agency shall perform all acts respectively required of such party in this Agreement within the times provided in the Schedule of Performance, and if no time is provided, within a reasonable time.

(b) Developer shall diligently and continuously prosecute to completion all procedures reasonably necessary for accomplishing the following:

(1) preparation and submission to City of construction drawings for the Project;

(2) completion of Planning Commission review, to the extent required;

(3) application to City for and approval of any necessary variances for the Project;

(4) plan check and issuance of all necessary permits;

(5) preparation and approval of final condominium plan for the Project;

(6) obtaining approval of all necessary pre-development and construction financing;

(7) construction of the Units in accordance with the construction schedule; and

(8) marketing and sales of the Units.

(c) After the Closing, Developer shall promptly begin and thereafter diligently prosecute to completion the Improvements as provided in the Scope of Development. Developer shall begin and complete all construction and development within the times specified in the Schedule of Performance, with such reasonable extensions of said times as may be granted by City and Agency. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing by Developer, City, and Agency.

(d) During the periods of construction, Developer shall submit to City and Agency a written report of the progress of the construction, if requested by City and Agency. The report shall be in such form and detail as may be reasonably required by City and Agency; this shall be delivered to City and Agency no later than fifteen (15) business days after report is requested.

Section 3.6 Local, State, and Federal Laws

(a) Developer shall carry out the construction of the Improvements in conformity with all applicable laws.

(b) Developer shall be responsible for obtaining all Permits and land use approvals required by City for the construction of the Improvements, ensuring that the use of the Property for the purposes described in this Agreement complies with the zoning and other City land use regulations (including any applicable exemptions and/or exceptions) applicable to the Property.

(c) As soon as feasible after the Closing, Developer shall satisfy all conditions to the issuance of any Permit required for the development of the Property. City and Agency shall provide reasonable assistance to Developer in obtaining these permits.

Section 3.7 Nondiscrimination During Construction

Developer, for itself and its successors and assigns, agrees that during the construction of the Improvements provided for in the Agreement, Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

Section 3.8 Indemnification and Insurance

(a) Indemnification. During the period commencing with the Closing and until the issuance of the Certificate of Completion (the “Indemnification Period”), except for the sole negligence, error, omission or willful misconduct of City or Agency, or their respective officers, employees, contractors or agents, Developer agrees to and shall defend, indemnify, and hold harmless City and Agency and each of their respective officers, employees, contractors, and agents from and against all claims, liability, loss, damage, costs, or expenses (including reasonable attorneys’ fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person arising out of or related to actions contemplated by this Agreement or caused by Developer or its officers, employees, contractors, or agents, including, but not limited to (1) Developer’s pre-development, construction, development, marketing, sale or use of the Property in any way, (2) any plans or designs for Improvements prepared by or on behalf of Developer, including, without limitation, any errors or omissions with respect to such plans or designs, or (3) any loss or damage to City or Agency resulting from any inaccuracy in or breach of any representation or warranty of Developer, or resulting from any breach or default by Developer under this Agreement. The foregoing indemnities shall not terminate upon the issuance of the Certificate of Completion, but shall survive with respect to all applicable causes of action that accrued during the Indemnification Period.

(b) Insurance. Concurrently with the Closing (and until the issuance of the Certificate of Completion), Developer shall furnish or cause to be furnished to City and Agency evidence of the following policies of insurance, naming Developer as insured and, except as to the insurance described in paragraph (iii), below, City and Agency as additional insureds.

(i) Fire Policies: Developer shall maintain or cause to be maintained a policy or policies of insurance against loss or damage to the Property or the Improvements and all property of an insurable nature located upon the Property, resulting from fire, lightning, vandalism, malicious mischief, riot and civil commotion, and such other perils

ordinarily included in extended coverage fire insurance policies. Such insurance shall be maintained in an amount not less than one hundred percent (100%) of the full insurable value of the Improvements, as defined herein in paragraph (d).

(ii) Liability Insurance: Developer shall maintain or cause to be maintained public liability insurance, to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever on or about the Property and the business of Developer on the Property, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Developer or its sublessees, or any person acting for Developer, or under its respective control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person occurring on or about the Property, or in connection with the operation thereof, caused directly or indirectly by or from acts or activities of Developer or its tenants, or any person acting for Developer, or under its control or direction. Such property damage and personal injury insurance shall also provide for and protect City and Agency against incurring any legal cost in defending claims for alleged loss. Such personal injury and property damage insurance shall be maintained in full force and effect during the term of this Agreement. Such property damage and personal injury insurance shall be in the form of a wrap policy with minimum coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, with extended completed operations coverage in the amount of \$2,000,000. At times during which construction, repairs or alterations are being made on the Property, Developer shall maintain or cause to be maintained liability insurance provided for herein written in a so called "builder's risk" completed value form in the amount of \$875,000. Developer agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way (other than to the extent City or Agency receives proceeds for the insurance required hereby) the extent to which Developer may be held responsible for the indemnification of City and Agency or the payment of damages to persons or property resulting from Developer's activities, activities of its tenants or the activities of any other person or persons for which Developer is otherwise responsible.

(iii) Workers' Compensation Insurance: If required, Developer shall maintain or cause to be maintained workers' compensation insurance issued by a responsible carrier authorized under the laws of the State of California to insure employers against liability for compensation under the workers' compensation laws now in force in California, or any laws hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Developer in connection with the Property, and shall cover liability within statutory limits for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of any person incurring or suffering injury or death in connection with the Property or the operation thereof by Developer.

(c) All policies hereunder shall not be subject to cancellation, reduction in coverage, or non-renewal except after notice in writing shall have been sent by registered mail addressed to City and Agency, to the extent practicable within 30 days but in any event prior to the effective date thereof. All policies shall name City and Agency as additional insureds, and/or loss payable parties as their interests may appear.

(d) The term “full insurable value” as used in this Section 3.8(b)(i) shall mean the actual replacement cost (excluding the cost of excavation, foundation and footings below the lowest floor and without deduction for depreciation) of the Improvements on the Property immediately before such casualty or other loss, including the cost of construction, architectural and engineering fees, and inspection and supervision. To ascertain the amount of coverage required, Developer shall cause the full insurable value to be determined from time to time by appraisal by the insurer, by agreement between Developer, City, and Agency or by an appraiser mutually acceptable to Developer, City, and Agency not less often than once every three years.

(e) All insurance provided under this Section 3.8 shall be for the benefit of Developer, City, and Agency. Developer agrees to timely pay all premiums for such insurance and, at its sole cost and expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of such insurance. Developer agrees to submit policies of all insurance required by this Section 3.8, or certificates evidencing the existence thereof, to City and Agency on or before the Closing, indicating full coverage of the contractual liability imposed hereby. Within thirty (30) days, if practicable, but in any event prior to expiration of any such policy, copies of renewal policies, or certificates evidencing the existence thereof, shall be submitted to City and Agency. All insurance herein provided for under this Section 3.8 shall be effected under policies issued by insurers of recognized responsibility, licensed or permitted to do business in the State of California, and reasonably approved by City and Agency. All policies or certificates of insurance shall provide that such policies shall not be canceled or limited in any manner without at least thirty (30) days prior written notice to City and Agency.

(f) If Developer fails or refuses to procure or maintain insurance as required by this Agreement, City and Agency shall have the right, at City and Agency’s election, and upon ten (10) days prior notice to Developer, to procure and maintain such insurance. The premiums paid by City and Agency shall be treated as a loan, due from Developer, to be paid on the first day of the month following the date on which the premiums were paid. City and Agency shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

Section 3.9 Disclaimer of Responsibility by City and Agency

City and Agency neither undertake nor assume nor will have any responsibility, right, or duty to Developer or to any third party to review, inspect, supervise, pass judgment upon, or inform Developer or any third party of any matter in connection with the Property. Developer and all third parties shall rely upon its or their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment, or information supplied to Developer or to any third party by the City in connection with such matter is for the public purpose of providing affordable housing, and neither Developer (except for the purposes set forth in this Agreement) nor any third party is entitled to rely thereon.

Section 3.10 Rights of Access

During the term of this Agreement, City and Agency shall have the right, at its sole risk and expense, to enter the Property or any part thereof at reasonable times and with as

little interference as possible, for the purpose of inspecting the Property for purposes of Developer's compliance with this Agreement. The representatives of City and Agency entering the Property shall be identified in writing in advance by Agency's Executive Director (or his or her designee). Any such entry shall be made only after reasonable notice to Developer, and Agency and City (to the extent City is not exercising its building, electrical, plumbing, mechanical, zoning, and similar inspection authority) shall indemnify and hold harmless Developer from any claims or liabilities pertaining to such entry. Any damage or injury to the Property resulting from such entry shall be promptly repaired at the sole expense of Agency and City (to the extent City is not exercising its building, electrical, plumbing, mechanical, zoning, and similar inspection authority).

Section 3.11 Taxes, Assessments, Encumbrances and Liens

Developer shall be responsible for paying when due all real estate taxes and assessments, if any, assessed and levied on or against the Property for any period after the Closing. Developer's obligation to pay taxes and assessments shall terminate as to each Unit upon the sale and conveyance of title of that Unit to its purchaser. Developer shall not place, or allow to be placed, on the Property or any portion thereof, any mortgage, trust deed, encumbrance (excluding easements not unreasonably interfering with the use of the Property) or lien (excluding mechanic's liens paid prior to foreclosure or liens for current year property taxes due but not yet payable) except for those issued in connection with predevelopment and construction financing. Developer shall remove, or shall have removed, any levy or attachment made on the Property (or any portion thereof), or shall assure the satisfaction thereof within a reasonable time but in any event prior to foreclosure. Nothing herein contained shall be deemed to prohibit Developer from contesting the validity or amount of any tax, assessment, encumbrance, or lien, nor to limit the remedies available to Developer in respect thereto. The covenants of Developer set forth in this Section 3.11 relating to the placement of any unauthorized mortgage, trust deed, encumbrance, or lien shall remain in effect until issuance of the Certificate of Completion.

Section 3.12 Certificate of Completion

(a) Promptly after completion of the Improvements, as generally and specifically required by this Agreement and in particular the Scope of Development, approval by the City staff of the CC&Rs (as defined in Section 3.12(e) below), and concurrently with the sale of the Units to Moderate Income First-Time Homebuyers, Agency shall furnish Developer with a Certificate of Completion upon written request therefor by Developer. Agency shall not unreasonably withhold such Certificate of Completion and such Certificate of Completion shall be issued so long as Developer has constructed, developed, and sold the Units in accordance with this Agreement and the Plans. Such Certificate of Completion shall be, and shall so state, conclusive determination of satisfactory completion of all of the construction and sale required by this Agreement and except for any provisions expressly surviving termination, the Agreement will automatically terminate following issuance of such Certificate of Completion. Developer shall not transfer title to any Unit prior to the issuance by Agency of a Certificate of Completion, but shall have the right to enter into a purchase and sale agreement with respect to such Unit prior to the issuance of the Certificate of Completion.

(b) The Certificate of Completion shall be in such form as to permit it to be recorded in the Recorder's Office of Los Angeles County.

(c) Within twenty (20) days after written request from Developer, Agency will schedule an action on the next available meeting of the City Council for issuance of the Certificate of Completion. If Agency refuses or fails to schedule the action on the next available meeting after written request from Developer, or the City Council refuses or fails to furnish a Certificate of Completion, then Agency shall, within twenty (20) days after the written request, provide Developer with a written statement of the reasons Agency refused or failed to furnish a Certificate of Completion. The statement shall also contain Agency's opinion of the action Developer must take to obtain a Certificate of Completion. If the reason for such refusal is confined to the immediate availability of specific items or materials for landscaping, and/or minor items, then Agency will issue its Certificate of Completion upon the posting of a bond by Developer with Agency in an amount representing a fair value of the work not yet completed. Following delivery by Developer of its written request for issuance of the Certificate of Completion, Agency hereby authorizes Developer to enter into any purchase and sale agreements for purchase of the Units by First Time Homebuyers.

(d) Such Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any Primary Lender. Such Certificate of Completion is not notice of completion as referred to in Section 3093 of the California Civil Code.

(e) Prior to the initial sale and occupancy of any Unit, Developer shall prepare and submit to the City staff for approval Covenants, Conditions, and Restrictions with respect to the Property ("CC&Rs"), which among other things shall also be subject to the approval of any lender and which shall comply with applicable FHA, Fannie Mae, and Freddie Mac requirements. The CC&Rs shall be recorded against the Property consisting of the Units and the applicable common area and shall run with the land. The Property shall be maintained in accordance with the approved CC&Rs. The CC&Rs will be recorded prior to any liens related to any First Time Homebuyer mortgages, including, without limitation, the lien of any Primary Loan or the Third Mortgage Loan. The CC&Rs will provide for, among other things, the creation of a home owner's association for the Property ("HOA") with bylaws reasonably satisfactory to the Agency and the City, which HOA will be charged with providing sufficient funding and reserves for the maintenance of the Property.

Section 3.13 Sale of Units.

(a) To help finance acquisition of the Units by First-Time Homebuyers, City and Agency acknowledge and agree that Developer will offer to any First Time Homebuyer acquiring a Unit the opportunity to apply for a purchase money loan from Developer ("Third Mortgage Loan") in an amount equal to the positive difference between (1) the estimated sales price of the Unit determined as if the Unit was not subject to any affordability restrictions, and (2) the affordable sales price for which the First Time Homebuyer purchased the Unit. The Third Mortgage Loan will be evidenced by a promissory note initially in favor of Developer, evidencing the First Time Homebuyer's obligations with respect to the Third Mortgage Loan, which promissory note will be secured by a third deed of trust and other related Third Mortgage

Loan Documents in the forms substantially the same as those attached hereto as Attachment Nos. 8A and B (“Third Mortgage Loan Documents”), as may be amended from time to time. The Third Mortgage will be subordinated to the lien of the Primary Lender. Developer will have the right to assign all of its rights in and to the Third Mortgage Loan to the Agency. In the event Developer assigns its rights in and to any Third Mortgage Loan to the Agency, Agency acknowledges and agrees that it will retain Developer or an affiliate of Developer to service the Third Mortgage Loan in accordance with a loan servicing agreement in form and content acceptable to Developer and Agency, and substantially in form attached hereto as Attachment No. 12.

(b) The program mechanics for selecting, implementing and administering the Third Mortgage Loans shall be conducted in a manner similar to that outlined in Attachment No. 10, provided that these program mechanics may be altered to conform with Fair Housing practices as determined by the County of Los Angeles, State of California, or the Federal Housing Agency, as may be amended from time to time.

Section 3.14 Waiver of Certain Development Fees.

(a) As more particularly set forth in Attachment No. 9, due to the nature of the Property, certain development fees are not applicable and/or should be waived with respect to the development of the Property. Accordingly, Agency and City hereby agree that the development fees set out in Attachment No. 9 are hereby waived (collectively, the “Development Fees”). Agency and City hereby indemnify and hold Developer from and against any and all Development Fees that are incurred by Developer in connection with the Project.

ARTICLE 4 USE OF THE PROPERTY

Section 4.1 Uses

Developer covenants and agrees (for itself, its successors, its assignees, and every successor in interest to the Property or any part thereof) that Developer, its successors and assigns shall use the Property exclusively to provide affordable housing for Moderate Income First-Time Homebuyers, as provided in the Addendum to Grant Deed.

Section 4.2 Maintenance of the Property

Developer covenants and agrees Developer shall maintain the Property in good repair and free from any accumulation of debris, graffiti or waste materials, maintain the landscaping required to be planted in a healthy and attractive condition, and take all other actions necessary to maintain and ensure the neat and clean appearance of the Property. The Property shall be maintained in a professional manner. In the event Developer fails to comply with this Section, City or Agency, on two (2) weeks’ prior written notice, may cause such compliance and upon the completion thereof, its cost shall be borne by Developer and until paid, shall be a lien against the Property. Upon sale of the Units, any Permitted Transfer, or other Transfer which is reasonably approved by Agency and City, Developer shall be released from liability under this Section upon such assignment; provided, that the Permitted Transferee assumes, in writing, all such liability under this Section during that Transferee’s ownership of a Unit or the common areas, which shall be deemed to have been done upon recordation of the Addendum to Grant

Deed. It is the intention of the parties to this Agreement that Developer's obligations pursuant to this Section shall be automatically transferred to the HOA as to common areas, and to each purchaser of a Unit as to the respective Units.

Section 4.3 Obligation to Refrain from Discrimination

Developer covenants and agrees for itself, its successors and assigns, there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, sex, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall Developer, itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property.

Section 4.4 Effect of Violation of the Terms and Provisions of this Agreement

City and Agency are deemed beneficiaries of the terms and provisions of this Agreement and the covenants herein, both for and in their own right and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants running with the land have been provided. City and Agency shall have the right if the covenants contained in this Agreement are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants are entitled.

Section 4.5 Hazardous Substances and Materials

Developer shall indemnify, protect, and hold harmless City, Agency, and each of their officers, employees, and agents from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements, or expenses (including, without limitation, attorneys' and experts' fees and disbursements) of any kind or of any nature whatsoever (collectively, the Obligations) which may at any time be imposed upon, incurred by, or asserted or awarded against City, Agency, or any of their officers or employees, arising from or out of the presence of any Hazardous Substances or Materials on, in, under, or affecting all or any portion of the Property while Developer owns the Property; provided, that as among the parties, no party shall have any liability or obligation whatsoever for any event or condition of any kind or nature existing on or before that party became fee owner of the Property including, without limitation, any liability relating to the presence or release of any Hazardous Substances or Materials on, in, under or affecting all or any portion of the Property or any surrounding areas which occurred or existed prior to that party becoming fee owner of the Property.

ARTICLE 5 DEFAULTS, REMEDIES AND TERMINATION

Section 5.1 Defaults – General

(a) Subject to the Force Majeure Delay, as provided in Section 6.4 and to the provisions of subparagraphs c. and d., below, failure or delay by either party to perform any term

or provision of this Agreement, within thirty (30) days after written notice from the other party or such longer period as set forth herein, constitutes a default under this Agreement. The party who fails or delays must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction, or remedy with reasonable diligence.

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

(c) If a monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default written notice of such default. The party in default shall have a period of fifteen (15) days after such notice is given within which to cure the default prior to exercise of remedies by the injured party.

(d) If a non-monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the party in default shall have such period to effect a cure prior to exercise of remedies by the injured party. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and the party in default (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then the party in default shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the injured party. In no event shall the injured party be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the first notice of default is given.

Section 5.2 Institution of Legal Actions

Subject to the notice and cure provisions of Section 5.1, in addition to any other rights or remedies (and except as otherwise provided in this Agreement), either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Los Angeles, State of California, in any other appropriate court of that county, or in the United States District Court for the Central District of California.

Section 5.3 Applicable Law

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

Section 5.4 Acceptance of Service of Process

(a) In the event that any legal action is commenced by Developer against City or Agency, service of process on City and Agency shall be made by personal service upon the Executive Director of Agency or in such other manner as may be provided by law.

(b) In the event that any legal action is commenced by City or Agency against Developer, service of process on Developer shall be made by personal service upon Developer (or upon an officer of Developer) and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

Section 5.5 Rights and Remedies Are Cumulative

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

Section 5.6 Damages

If either party defaults with regard to any of the provisions of this Agreement, subject to the notice and cure provisions of Section 5.1, the defaulting party shall be liable to the non-defaulting party for any actual (not indirect or consequential) damages caused by such default, and the non-defaulting party may, after such notice and opportunity to cure (but not before) commence an action for damages against the defaulting party with respect to such default.

ARTICLE 6 GENERAL PROVISIONS GENERAL PROVISIONS

Section 6.1 Notices, Demands and Communications between the Parties

Formal notices, demands and communications between City, Agency and Developer shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of City, Agency and Developer, as designated in Sections 1.3 and 1.4 hereof. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section 6.1. Any notice that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by the recipient; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

Section 6.2 Conflicts of Interest

(a) No member, official or employee of Agency or City has any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his/her personal interests or the interests of any corporation, partnership or association in which he/she is, directly or indirectly, interested.

(b) Developer warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

(c) Developer warrants, covenants, and agrees that no officer, employee, agent, or consultant of Developer will be eligible to purchase the Units. This paragraph applies to the immediate family of Developer's officers, employees, agents, or consultants. For purposes of this agreement, immediate family means spouse, registered domestic partner, mother, father, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepchild, and stepparent.

Section 6.3 Nonliability of Agency and City Officials and Employees

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

Section 6.4 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 Force Majeure Events.

Section 6.5 Inspection of Books and Records

Developer shall maintain complete, accurate, and current records pertaining to the Property for a period of three (3) years after the creation of such records, and shall permit any duly authorized representative of City or Agency, upon reasonable advance notice, to inspect and copy records, including records pertaining to income and household size of purchasers of the Units, during regular business hours. Records must be kept accurate and current.

Section 6.6 Approvals

Unless otherwise provided in this Agreement, approvals required of the Agency, City or Developer shall not be unreasonably withheld.

Section 6.7 Real Estate Commissions

Neither the Agency, City nor Developer shall be liable for any real estate commissions, brokerage fees or finder's fees which may arise from the land contribution of the

Property to Developer. Agency, City and Developer each represent to the other it has employed no broker, agent, or finder in connection with this transaction.

ARTICLE 7 ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

(a) This Agreement shall be executed in five duplicate originals each of which is deemed to be an original. This Agreement includes [____ (____) pages] and [____ (____)] attachments, including all exhibits appended to such attachments, which constitute the entire understanding and agreement of the parties.

(b) This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the Property.

(c) All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of Agency, City or Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of Agency, City and Developer. This Agreement and any provisions hereof may be amended by mutual written agreement by Agency, City and Developer.

ARTICLE 8 EFFECTIVE DATE OF AGREEMENT

This Agreement shall be effective when executed on behalf of Agency.

THE CITY OF SIERRA MADRE HOUSING
SUCCESSOR AGENCY

Dated: _____

By: _____

CITY OF SIERRA MADRE

Dated: _____

By: _____

APPROVED AS TO FORM:

By: _____
City Attorney/General Counsel

HHP-HIGHLAND LLC,
a California limited liability company

By: HERITAGE HOUSING PARTNERS, Its Manager

Dated: _____

Charles E. Loveman, Jr., Its Executive Director

ATTACHMENT NO. 1

[SEE ATTACHED]

ATTACHMENT NO. 1

LEGAL DESCRIPTION

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

The North 100 feet of Lots 13, 14, and 15 of Mrs. C.B. Jones Subdivision, in the City of Sierra Madre, County of Los Angeles, State of California, as per recorded in Book 13, Page 89, of Miscellaneous Records, in the Office of the County Recorder of said County.

Assessor's Parcel Number: 5767-021-900

ATTACHMENT NO. 2

[SEE ATTACHED]

ATTACHMENT NO. 2
METHOD OF FINANCING

This is the Method of Financing attached to the Disposition and Development Agreement (“DDA”) between Agency, City, and Developer pertains to the transfer of certain Agency-owned Property and the development of three (3) residential condominium units to be sold exclusively to Moderate Income, First-Time Homebuyers. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA.

1. Developer’s Purchase Price.

Agency shall contribute the Property at no cost to Developer.

2. Total Development Cost. The parties estimate the cost of the development of the Property (included the imputed cost of the Property) by Developer will be approximately \$1,731,000 (subject to changes to the Project Budget as provided in Section 4 below).

3. Sources of Financing. The parties anticipate the costs of the Property, predevelopment, and the construction of the Improvements thereon (the “Development Costs”) shall be financed with a combination of funding sources, as follows:

- a. Property contribution by the Agency.
- b. Conventional construction loan from one or more lending institutions (the “Construction Lender”) in an amount not to exceed \$650,000, to be secured by a construction first deed of trust (such loan referred to as the “Construction Loan”). The lien of the construction first deed of trust will be partially reconveyed upon the sale of each Unit to the Unit Purchaser and will be fully reconveyed before or concurrently with the sale of the last Unit.
- c. Predevelopment and construction financing not to exceed \$500,000 from the County of Los Angeles Community Development Commission (the “County Loan”). These funds shall be reconveyed pro rata upon the sale of each Unit to the Unit Purchaser in the form of a deed-restricted second mortgage loan.
- d. Developer shall make an initial Equity investment of \$25,000 to the Project upon issuance of a building permit and commencement of construction. Thereafter, Developer shall be responsible, during the construction period, to provide funds if and as needed to pay for cost overruns and contingencies not otherwise funded by a, b, and c above.

4. Project Budget. The parties anticipate all Development Costs shall be as set forth in the Project Budget attached to the DDA as Attachment No. 6 (the “Project Budget”), incorporated herein by this reference. The Project Budget shall be subject to change from time-to-time, subject to the prior written approval of material changes by Agency’s Executive Director or designee (which approval shall not be unreasonably withheld), upon which approval the Project Budget shall be replaced by the approved revised Project Budget. For purposes of this Section 4, a

“material change” to the Project Budget is any change (increase or decrease) to the total Development Costs, and any change (increase or decrease) of ten percent (10%) or more, in the aggregate, over any length of time, of any individual line item, but only to the extent such change derives from a change to the project specifications and does not simply reflect that a particular line item costs more or less than anticipated. Notwithstanding anything in this Section 4 to the contrary, Developer shall not change the Project Budget if the Construction Loan plus County Loan plus Developer Equity is insufficient to pay all Development Costs.

5. Evidence of Financing and Marketing Plan.

- a. Construction Financing. The sum of the Property Contribution, Construction Loan, and County Loan plus any other amounts provided by Developer shall be sufficient at all times to pay all Development Costs as set forth in the most recently approved Project Budget. Within the time provided in the Schedule of Performance, Developer shall submit for Agency Executive Director’s review and approval evidence of such financing, including copies of all documents required by the Construction Lender to obtain such financing. Agency’s Executive Director shall not unreasonably withhold his/her approval. To the extent the sum of the Property Contribution, Construction Loan, and County Loan is insufficient to pay all Development Costs, Developer shall provide funds to cover the difference.
- b. Marketing Plan. In addition, Developer shall prepare and submit to Agency for review a Marketing Plan. Such plan shall contain the overall plan for sales and marketing of the Units, such as the start and duration of the marketing period, methods of dissemination of information to the public, and the selection criteria. Agency’s Executive Director shall not unreasonably withhold its approval of said Marketing Plan.

6. Conditions Precedent to Close of Escrow

The Close of Escrow is conditioned upon each of the following occurring prior to the time for Transfer of the Property set forth in the Schedule of Performance:

- a. Condition of Title and Site. Developer to approve any title exceptions in the Preliminary Title Report, and approve the soil condition of the Property or waive its right to terminate as the result of Hazardous Materials on the Property pursuant to Section 2.11 of the Agreement;
- b. Drawings and Plans. Developer to submit to the City preliminary drawings and plans;
- c. Project Budget. Developer to deliver to Agency a final project budget or any revisions to the Project Budget attached to the DDA as Attachment No. 6, demonstrating to the satisfaction of Agency’s Executive Director the availability of sufficient funds to pay all Development Costs;
- d. Construction Schedule. Developer or its architect shall deliver to Agency a construction schedule showing a detailed trade-by-trade breakdown of the

estimated periods of commencement and completion of construction, demonstrating that construction will be completed within the time provided in the Schedule of Performance;

- e. Evidence of Financing. The Construction Lender approves the Construction Loan, Developer submits copies of final Construction Loan Documents, and Developer has commenced negotiation of the County Loan documents, consistent with the Project Budget and this Method of Financing, or provides other sources of funding to make up the difference; however, the lien of the Construction Loan deed of trust shall be recorded subject to and subordinate to the City's Affordability Restrictions, attached as Attachment No. 11 to the DDA;
 - f. Insurance Policies. Developer submits evidence of the insurance policies required by the DDA;
 - g. Tentative Parcel Map. Developer has submitted for approval, the tentative tract map for the Project;
 - h. Title Insurance Policies. Title Company has committed to issue the title insurance policies described in Section 2.7 of the DDA;
 - i. Closing Cost Statement. Escrow to deliver closing statement of costs;
 - j. Escrow Instructions. Developer or its counsel to prepare such Escrow Instructions as may be needed;
 - k. Closing Certificate. City and Agency to submit to Escrow a certificate stating that all conditions precedent to close of escrow have been satisfied or waived;
 - l. Grant Deed and Addendum to Grant Deed. City, Agency, and Developer, or other parties, as appropriate, to execute.
7. Sale of Units to Moderate-Income Purchasers
- a. Developer shall sell the Units to Moderate-Income First-Time Homebuyers at a Contract Price which is equal to the sum of: (i) the Affordable Sales Price; (ii) the reconveyed and pro rated County Purchaser Loan; and (iii) the City Purchaser Loan. The County Purchaser Loan shall be a junior to the Purchaser's first mortgage, and the City Purchaser Loan shall be a junior to both the Purchaser's first mortgage and the County Purchaser Loan. The amount of the City Purchaser Loan shall be the lesser of: (i) \$76,667; or (ii) the difference between the appraised value of the Unit less the Affordable Sales Price and the County Purchaser Loan.
 - b. The grant deed to each Unit shall be subject to affordability restrictions as described in the City Purchaser Loan documents.
 - c. Developer shall be responsible for obtaining all the source documentation evidencing income for Moderate-Income First-Time Homebuyers. Developer shall submit a copy of all source documentation for both eligible and non-eligible applicants along with an income verification analysis to City and Agency for their

records.

- d. The opportunity to purchase Units shall be offered to applicants who are both program-eligible as Moderate-Income First-Time Homebuyers and able to secure fixed-rate mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community second mortgage loans designed to protect and preserve the affordability of the Units. Priority to purchase the Units among applicants who meet the above criteria shall be offered in accordance with the marketing and selection plan.

ATTACHMENT NO. 3

[SEE ATTACHED]

ATTACHMENT NO. 3
Schedule of Performance

<u>ACTION</u>	<u>TIMEFRAME</u>	<u>RESPONSIBLE ENTITY FOR OVERSIGHT AND COORDINATION</u>	<u>RESPONSIBLE ENTITY FOR COST</u>
1. Deposit of \$2,500 with Agency per ENA Section 3D	Previously Completed	Developer	Developer
2. Developer submittal of Comprehensive Development Plans to Agency		Developer	Developer
a. Conduct due diligence studies on the site, possibly including but not limited to: 1) engineering suitability analysis of soils, 2) ASTM Phase 1 Environmental Assessment, 3) Utility analysis of surrounding utility infrastructure.	Previously Completed	Developer	Developer
b. Submittal of updates to the pro forma, inclusive of any City Successor Agency, County, or other third party financing source	Previously Completed	Developer	Developer
c. Conduct community outreach, including community meetings	Previously Completed	Developer, with input from Agency and City	Developer
3. Negotiation and Completion of a Draft Disposition and Development Agreement	Previously Completed	Developer and Agency	Agency
4. City Council Approval of Draft Disposition and Development Agreement	No later than 07/14/2015	City, Agency, and Developer	Agency
5. HHP and County to execute Loan Agreement for Infill Funds	No later than 09/01/2015	Developer and County	Agency
6. Processing of land use entitlements and CEQA compliance. Will include review and public hearings conducted by the Planning Commission, City Council, and Successor Agency Board.	No later than 09/30/2015	City, Agency, and Developer	Developer to pay processing fees

ATTACHMENT NO. 3
Schedule of Performance

<u>ACTION</u>	<u>TIMEFRAME</u>	<u>RESPONSIBLE ENTITY FOR OVERSIGHT AND COORDINATION</u>	<u>RESPONSIBLE ENTITY FOR COST</u>
7. Nomination and approval of site as "Cultural Landmark"	No later than 09/30/2015	City and Developer	City
8. Processing of necessary permits, including building permits.	No later than 12/31/2015	City and Developer	Developer
9. Transfer of Property	No later than 09/15/2015	City and Developer	Developer
10. Construction to commence	No later than 01/31/2016	Developer	Developer
11. Construction to be completed	No later than 10/31/2016	Developer	Developer
12. Certificate of Occupancy and Fannie Mae Condo "Spot" Approval to be issued	No later than 11/30/2016	Developer	Developer
13. Completion of home sales to Qualified Low-Income Homebuyers	No later than 05/15/2017	Developer	Developer

ATTACHMENT NO. 4

[SEE ATTACHED]

ATTACHMENT NO. 4

GRANT DEED

OFFICIAL BUSINESS.
FREE RECORDING REQUESTED
(Gov't Code Section 6103)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

The City of Sierra Madre Successor
Agency Housing Authority
232 West Sierra Madre Blvd.
Sierra Madre, CA 91024
Attn: Assistant City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the CITY OF SIERRA MADRE HOUSING SUCCESSOR AGENCY, a public body, corporate and politic, herein called "Grantor", hereby grants to HHP-HIGHLAND, LLC, a California limited liability company, herein called "Grantee", the real property, hereinafter referred to as the "Property", described in the document attached hereto, labeled Exhibit "A" and incorporated herein by this reference.

1. The Property is conveyed in accordance with and subject to the Disposition and Development Agreement (the "DDA") entered into by and among the Grantor, The City of Sierra Madre Housing Successor Agency ("City"), and Grantee as of [_____], 2015, which document is a public record on file in the offices of the Clerk of Grantor and Secretary of Agency, and is by reference hereto incorporated herein as though fully set forth herein. All capitalized terms used herein shall have the same meaning as in the DDA unless expressly stated, or the context requires, otherwise.

2. Title to the Property is conveyed pursuant hereto subject to all recorded liens, encumbrances, covenants, encroachments, assessments, easements, leases and taxes.

3. The Property is conveyed to Grantee in accordance with the uses permitted by the DDA. Therefore, Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property, or portion thereof, that the Grantee, such successors and assigns, shall:

a. Restore a three-unit residential condominium development on the Property in

accordance with the DDA.

- b. (1) to sell the Units to be restored on the Property exclusively to “Persons and families of Moderate Income” (as that term is defined in Health and Safety Code Section 50093) who are First-Time Homebuyers so their total monthly Housing Cost is not less than 28% of household income and does not exceed an Affordable Housing Cost as defined in Cal. Health and Safety Code Section 50052.5(b)(4), and (2) to attach to the grant deed conveying the Units to the initial Moderate Income First-Time Homebuyers the Addendum to Grant Deed attached to this Grant Deed as Exhibit “B” This requirement that the Units be used as affordable housing for persons and families of Moderate Income who are First-Time Homebuyers shall remain in effect for 45 years from the date of the initial sale of each such Restricted Unit by Grantee, except as otherwise provided in the Addendum to Grant Deed.
 - c. Maintain and keep the buildings and related improvements on the Property in good repair and free from any accumulation of debris, graffiti or waste materials, maintain the landscaping required to be planted in a healthy and attractive condition, and take all other actions necessary to maintain and ensure the neat and clean appearance of the Property. The Property shall be maintained in a professional manner. In the event of the Grantee’s or any successor’s failure to comply with this Section, the Grantor, on two-weeks’ (2-weeks’) prior written notice, may cause such compliance and upon the completion thereof, its cost shall be borne by the Grantee or its successor (as the case may be) and until paid, shall be a lien against the Property.
4. Grantee hereby covenants for itself, its successors, its assigns and every successor in interest to the Property that, prior to recordation of a Certificate of Completion of the Project in accordance with the DDA:
 - a. The Grantee shall have no power to make any sale, transfer, conveyance, encumbrance, lease or assignment of the Property, or any part thereof, or any buildings or improvements thereon, without the prior written consent of the Grantor, except to a mortgagee or trustee under a mortgage or deed of trust or other conveyance permitted by 3.b., above, or Section 4.b, below, or by a purchaser in foreclosure or to municipal corporations or public utilities or others as grantee for easements of permits to facilitate development of the Property.
 - b. The Grantee shall not place or suffer to be placed on the Property any lien (excluding mechanic’s liens paid prior to foreclosure or liens for current year property taxes due but not yet payable) or encumbrance other than mortgages, deeds of trust, sales and leases-back or other methods of financing the Improvements and developing the Property that is permitted by the DDA.
5. The Grantee covenants and agrees for itself, its successors, assigns and any successor in interest to the Property, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, national origin, ancestry, age, physical

handicap, medical condition, marital status, sex or sexual orientation in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of their Property, nor shall the Grantee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, leases, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land. All deeds, leases or contracts made relative to the Property, the Improvements thereon, or any part thereof shall contain or be subject to substantially the following non-discrimination or non-segregation clauses:

- a. In deeds: “The Grantee herein covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use occupancy, tenure or enjoyment of the land herein conveyed, nor shall the Grantee himself or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. the foregoing covenants shall run with the land.”

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

“That there shall be no discrimination against or segregation of any person or group of persons, on account or race, color, creed, religion, national origin, ancestry, age, physical handicap, medical condition, marital status, sex or sexual orientation in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the land herein leased nor shall the lessee himself, or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein leased.”

- c. In contracts: “there shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, national origin, ancestry, age, physical handicap, medical condition, marital status, sex or sexual orientation in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee himself or any person claiming under or through him, 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 land.”

6. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed or in the DDA shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other security instrument permitted by this Grant Deed or the DDA and made in good faith and for value; provided, however, that any subsequent owner of the Property shall be bound by such remaining covenants, conditions, restrictions limitations and provisions, whether such owner's title was acquired by foreclosure, trustee's sale or otherwise, and shall be entitled to all the benefits granted to Grantee and its assigns hereunder.

7. Following completion of construction of the Improvements, and the Grantor's determination, to be made reasonably and in good faith, that the completed Improvements comply with the DDA, and the covenants contained herein, and the sale of the Units to Moderate Income First-Time Homebuyers as required by the DDA, Grantor shall issue and record a Certificate of Completion, as provided in the DDA. Following the recording of said Certificate of Completion, Grantee shall have no further obligations hereunder and the only obligation of Grantee's successors and assigns shall be as provided in Sections 3.b., 3.c., and 5, hereof.

8. All covenants without regard to technical classification or designation shall be binding for the benefit of the Grantor and Agency, and such covenants shall run in favor of the Grantor and Agency for the entire period during which such covenants shall be in force and effect, without regard to whether the Grantor or Agency is or remains an owner of any land or interest therein to which such covenants relate. The Grantor and Agency, in the event of any breach of any such covenant, shall have the right to exercise all the rights and remedies, and to maintain any action at law or suits in equity or other proper proceedings to enforce the curing of such breach.

9. All covenants contained in this Grant Deed shall be construed as covenants running with the land and not as conditions which might result in forfeiture of title, except for the covenant and condition contained in Section 5 of this Grant Deed.

10. None of the terms, covenants, agreements, or conditions heretofore agreed upon in writing in other instruments between the parties to this Grant Deed with respect to obligations to be performed, kept or observed in respect to the Property after this conveyance of the Property, shall be deemed to be merged with this Grant Deed until such time as the Certificate of Completion is recorded pursuant to the DDA.

11. Both before and after recording of the Certificate of Completion, only the Grantor, its successors, and assigns, and Grantee and the successors and assigns of Grantee in and to all or any part of the fee title to the Property, or any part thereof, shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements, or other restrictions contained in this Grant Deed. The covenants contained in this Grant Deed without regard to technical classification or designation shall not benefit or be enforceable by any person, firm, or corporation, public or private, except Grantor, Agency and Grantee and their respective successors and assigns.

12. Except as otherwise provided in this Grant Deed, every covenant and condition and

restriction contained in this Grant Deed shall remain in effect for a period of forty-five (45) years from the recordation of a Certificate of Completion. The covenants set forth in Sections 3.a., and 4 shall terminate upon the issuance by the Grantor of the Certificate of Completion or Partial Certificate of Completion. The covenants set forth in Section 3.b. and 3.c. shall be subject to termination as provided in the Addendum to Grant Deed. The covenants against discrimination set forth in Section 5 shall remain in perpetuity.

13. In the event of any express conflict between this Grant Deed and the DDA, the provisions of this Grant Deed shall control.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on its behalf.

THE CITY OF SIERRA MADRE SUCCESSOR
AGENCY

Dated: _____

By: _____

CITY OF SIERRA MADRE

Dated: _____

By: _____

APPROVED AS TO FORM:

By: _____
City Attorney/General Counsel

Accepted and agreed on behalf of Grantee this ____ day of _____, 2015

HHP-HIGHLAND LLC,
a California limited liability company

By: HERITAGE HOUSING PARTNERS, Its Manager

Dated: _____

Charles E. Loveman, Jr., Its Executive Director

EXHIBIT A
LEGAL DESCRIPTION

[To be attached]

EXHIBIT B

ADDENDUM TO GRANT DEED

(ATTACHMENT NO. 7 TO DDA)

ATTACHMENT NO. 5

[SEE ATTACHED]

ATTACHMENT NO. 5

SCOPE OF DEVELOPMENT

The proposed Project includes three residential condominium units to be constructed within the existing “Old Church” building (originally the First Church of Christ, Scientist, of Sierra Madre). The site area is 15,013 sq. ft., and the existing church structure is 3,335 sq. ft.

The three residential units will each be 3-bedroom, townhouse-style units to be sold to Moderate-Income, First-Time Homebuyers. The project includes the rehabilitation of the existing structure, demolition of the existing semi-subterranean (non-original) basement addition, and construction of two additions along the west and south elevations. Each unit will have private outdoor space, plus have access to landscaped common area.

Each unit will have assigned two uncovered parking spaces. One unassigned guest space will also be provided. Access into the Property will be from Highland Avenue, and access away from the Property will be via Hermosa Avenue.

Developer shall comply with, and the project shall be constructed in accordance with, all land use and zoning entitlements.

ATTACHMENT NO. 6

[SEE ATTACHED]

HHP-Highland, LLC
Highland Mews
With County Infill Funds
Project & Cost Assumptions

COST ANALYSIS:	Cost Factor	Per Unit	Total	Percentage
HARD COSTS				
Construction Hard Cost	\$216.10	\$269,759	\$809,278	44.78%
Construction Supervision		\$0	\$0	0.00%
Contingency	5.00%	\$13,488	\$40,464	2.24%
Subtotal		\$283,247	\$849,742	47.02%
SOFT COSTS				
A&E Costs		\$38,333	\$115,000	6.36%
Accounting		\$1,667	\$5,000	0.28%
Property/Liability Insurance		\$2,500	\$7,500	0.41%
Wrap/Builders Risk Insurance		\$6,500	\$19,500	1.08%
Title/Escrow/Closing		\$3,500	\$15,500	0.86%
Due Diligence Costs		\$1,667	\$5,000	0.28%
Legal Fees		\$5,000	\$15,000	0.83%
Housemoving		\$0	\$0	0.00%
Relocation		\$0	\$0	0.00%
Consultants		\$3,333	\$10,000	0.55%
City Permits & Fees	8.61%	\$23,231	\$69,692	3.86%
Construction Period Property Taxes	1.10%	\$1,977	\$5,932	0.33%
Inventory Period Property Taxes	1.10%	\$1,490	\$4,470	0.25%
Marketing Expense	1.00%	\$4,860	\$14,580	0.81%
Sales Commision	3.00%	\$14,580	\$43,740	2.42%
Interest Rate Buydown	\$1,500	\$1,500	\$4,500	0.25%
Miscellaneous Expense		\$1,667	\$5,000	0.28%
Post-Completion Costs		\$2,500	\$7,500	0.41%
Contingency	11.00%	\$12,678	\$38,034	2.10%
Subtotal		\$128,649	\$385,948	21.36%
FINANCING				
Construction Period Interest		\$4,854	\$14,561	0.81%
Inventory Period Interest		\$4,794	\$14,381	0.80%
Construction Loan Points @	1.00%	\$2,397	\$7,191	0.40%
Subtotal		\$12,044	\$36,132	2.00%
GENERAL & ADMINISTRATIVE				
General & Administrative	3.17%	\$19,107	\$57,320	3.17%
Developer Profit	17.02%	\$82,696	\$248,088	13.73%
Subtotal	20.19%	\$101,803	\$305,408	16.90%
DIRECT DEVELOPMENT COST		\$525,743	\$1,577,230	87.27%
SITE ACQUISITION		\$76,667	\$230,000	12.73%
TOTAL DEVELOPMENT COST		\$602,410	\$1,807,230	100.00%
less Costs Paid from Sales Proceeds		(\$111,060)	(\$333,179)	
TOTAL COST TO BE FINANCED		\$491,350	\$1,474,051	

ATTACHMENT NO. 7

[SEE ATTACHED]

ATTACHMENT NO. 7

FORM OF ADDENDUM TO GRANT DEED FROM DEVELOPER TO PURCHASER

A. Purpose of this Addendum. This Addendum to Grant Deed (this “**Addendum**”) is attached to and made part of that certain Grant Deed between HHP Highland, LLC, a California limited liability company (“**Grantor**” herein) and _____ (“**Grantee**” herein) and provides that the property which is the subject of the Grant Deed (“**Unit**”) is conveyed by Grantor subject to the deed restrictions (collectively the “**Deed Restriction**”) set forth below. Words and phrases used in this Addendum shall have the same meanings as in the Grant Deed unless specifically provided otherwise. If there is any conflict between the provisions of this Addendum and the provisions of the Grant Deed, the provisions of this Addendum will prevail.

B. Subsidy. In accepting said Deed Restriction, the undersigned Grantee understands and acknowledges that the Unit is being sold to the Grantee because Grantee is a Moderate Income First Time Homebuyer; that the Unit is being sold to Grantee for a sales price that results in an Affordable Housing Cost to Grantee as the result of the following subsidies (collectively, the “**Subsidy**”) (i) a subsidy provided to Grantor by the City of Sierra Madre (“**City**”) in accordance with a certain Disposition and Development Agreement (the “**DDA**”) by and between the City and Grantor, dated as of July [___], 2015 which DDA is a public record on file in the office of the City, and passed along and made available to Grantee by means of the third mortgage purchase money loan made by the Grantor to Grantee and secured by a third lien on the Unit (the “**Third Mortgage**”) and (ii) an additional subsidy from the County of Los Angeles made available to Grantee by means of a mortgage loan secured by a second priority lien on the Unit); and that without the Subsidy, the sales price of the Unit would exceed the amount that is affordable to Grantee. Provided, however, that nothing contained herein is intended to prohibit Grantee from benefiting from additional financing subsidies, if available, including, without limitation, subsidies made from the County of Los Angeles (which is anticipated to be made available to Grantee by means of a mortgage loan secured by a junior lien on the Unit) and similar programs.

C. Heritage Housing Partners to act as Loan Servicer. So long as Grantor is the beneficiary of the Third Mortgage, Heritage Housing Partners shall act as loan servicer on behalf of Grantor.

D. Deed Restrictions. In return for and in consideration of the opportunity for the Grantor to sell and the Grantee to purchase the Unit under the above-referenced circumstances and for other good and valuable consideration, the receipt and legal sufficiency of which the undersigned hereby acknowledge, the Grantee, on behalf of himself, herself, or themselves and with the express intent to bind all those defined as “Grantee” in Paragraph 1 below, hereby agrees as follows:

1. Definitions

“Affordable Housing Cost” shall mean Housing Cost payments which are not less than 28% of the gross income of the household and which do not exceed the maximum Housing Cost for Moderate Income households as defined in California Health and Safety Code Section 50052.5(b)(4). In addition, for any Moderate-Income household that has a gross income that exceeds 110% of the

area median income, affordable housing cost shall not exceed the greater of the foregoing and thirty-five percent (35%) of the gross income of the household.

“Area Median Income” means the median income of the Los Angeles-Long Beach Standard Metropolitan Statistical Area, adjusted for family size, as published from time to time by the California Department of Housing and Community Development.

“County Mortgage Loan” means the second priority purchase money loan of County Funds made by the County of Los Angeles to Grantee.

“DDA” shall mean the Disposition and Development Agreement entered by and between the City and HHP Highland, LLC, a California limited liability company, dated as of July [____], 2015.

“Displaced Homemaker” shall mean an individual who (1) is an adult; (2) has not worked full-time in the labor force for at least two (2) years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. Such individual must be able to secure first mortgage loan financing in the appropriate amount in order to qualify for the Displaced Homemaker exemption.

“First Time Homebuyer” shall mean an individual and his or her spouse who have not owned a home during the 3-year period before the purchase of the Unit, except that:

(a) Any individual who is a Displaced Homemaker may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse, provided that such individual is able to secure a 30-year fixed-rate fully amortizing mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community second mortgage loans designed to protect and preserve the affordability of the Units;

(b) Any individual who is a Single Parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse, provided that such individual is able to secure a 30-year fixed-rate fully amortizing mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community second mortgage loans designed to protect and preserve the affordability of the Units;

(c) An individual may not be excluded from consideration as a first-time homebuyer on the basis that the individual owns or owned, as a principal residence during the 3-year period before the purchase of the Unit, a dwelling unit whose structure is:

(1) Not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

(2) Not in compliance with State, local or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

“Grantee” shall mean and include the undersigned Grantee and any or all successors in interest (whether voluntary or involuntary), transferees, assigns, heirs, executors, or administrators of the undersigned.

“Housing Cost” shall have the meaning set forth in Title 25 California Administrative Code Section 6920.

“Moderate Income” shall mean a household income that exceeds 80% but does not exceed 120% of the Area Median Income, adjusted for household size, as determined by the United States Department of Housing and Urban Development and published from time-to-time by the California Department of Housing and Community Development.

“Program” shall mean the rules and regulations adopted by and form of documents approved by Lender’s Executive Director to carry out the Lender’s Third Mortgage Loan program.

“Right of First Refusal” shall mean Grantor’s right of first refusal to purchase the Unit pursuant to that certain “Notice of Restrictions and Right of First Refusal to Purchase Property” of approximately even date herewith by and between Grantor (“Lender” therein) and Grantee (“Borrower” therein). The Right of First Refusal shall be freely assignable by Grantor to the Lender, Servicer, or to a Moderate Income First Time Homebuyer.

“Single Parent” means an individual parent who is raising one or more children in a family household in which no other parent(s) of said children reside.

“Subsidy” shall mean the Third Mortgage Loan and the County Mortgage Loan.

“Third Mortgage” shall mean the third deed of trust securing the Third Mortgage Loan Promissory Note.

“Third Mortgage Loan” means a purchase money loan made by Grantor to Grantee in an original principal amount approximately equal to the positive difference between (a) the estimated sales price of the Unit determined as if the Unit was not subject to any affordability restrictions, less the County Mortgage Loan on that Unit, and (b) the affordable sales price for which the Grantee purchased the Unit.

“Third Mortgage Loan Promissory Note” shall mean a promissory note initially in favor of Grantor, evidencing the Grantee’s obligations with respect to the Third Mortgage Loan. Grantor shall have the right, with or without Grantee’s consent, to assign all of its rights in and to the Third Mortgage Loan Promissory Note.

2. Method of Resale or Recapture

(a) Procedures to Notify Lender

(i) Notice of Proposed Resale. Grantee shall not sell or otherwise transfer the Unit except in accordance with this Addendum and the Third Mortgage loan

documents. If the Grantee of the Unit desires to sell or otherwise transfer the Unit, the Grantee shall notify the Lender in writing (hereinafter referred to as the “Notice of Intended Sale”) and provide such information as the Servicer shall reasonably request regarding the proposed sale or transfer. The Notice of Intended Sale shall state the street address of the Unit, the Grantee’s full name(s), the name and current address of the proposed purchaser, and the terms of the proposed transaction. The Notice of Intended Sale, together with the Servicer-required information shall be personally delivered or deposited into the U.S. mail, postage prepaid, first class, certified mail, return receipt requested, addressed to:

Heritage Housing Partners
608 N. Fair Oaks Avenue, #126
Pasadena, California 91103
Attn: Executive Director

(ii) Submission of Additional Information. Representatives of the Servicer may at any time after the Servicer’s receipt of the Notice of Intended Sale, request that the Grantee or the proposed purchaser provide additional information regarding the proposed transaction for the transfer of the Unit, and the Grantee and/or purchaser shall supply such information as soon as practicable.

(iii) Determination relating to Purchase or Recapture. Upon receipt of the Notice of Intended Sale, the Lender (or its delegated representative) shall notify Grantee whether Grantor (or Grantor’s assignee) elects to exercise its Right of First Refusal to purchase the Unit. If Grantor (or Grantor’s assignee) elects not to exercise its Right of First Refusal, the Unit may be sold (subject to the affordability restrictions), in which case the Lender shall promptly determine and notify Grantee of the payoff amount (including any shared appreciation or other compensation, as provided in the County Mortgage Loan, or the Promissory Note and other Third Mortgage loan documents) relating to the Subsidy.

(iv) Assignment or Extinguishment and Release of Addendum.

(1) If the Grantor (or Grantor’s assignee) elects to exercise its Right of First Refusal to purchase the Unit for sale to a Moderate Income First Time Homebuyer, the Lender and Grantee shall execute and record such instruments as may be necessary to permit the Moderate Income First Time Homebuyer to assume Grantee’s obligations under this Addendum; or

(2) If the Grantor (or Grantor’s assignee) elects not to exercise its Right of First Refusal to purchase the Unit and the Unit is allowed to be sold (subject to the restrictions), upon the sale or other transfer of the Unit and repayment in full of the Subsidy (including the principal amount and any shared appreciation due and payable pursuant to the County Mortgage Loan and the Third Mortgage Loan documents), the Lender shall execute and record such instruments as may be necessary to extinguish and release this Addendum.

(b) Notice of Default Under Deed of Trust or Mortgage, and Lender’s Right to Enforce.

The Grantee covenants to cause to be filed in the Office of the Recorder of the County of Los Angeles a request for a copy of any notice of sale, notice of delinquency or notice of default under any deed of trust or mortgage with power of sale encumbering the Unit or any part thereof. Such request shall specify that any such notice shall be mailed to:

Heritage Housing Partners
608 N. Fair Oaks Avenue, #126
Pasadena, California 91103
Attn: Executive Director

(c) Disposition of the Unit Contrary to Agreement; Other Defaults.

If the Grantee sells, transfers, conveys or otherwise disposes of the Unit contrary to this Addendum to Grant Deed, the Promissory Note, Third Mortgage Loan Documents or the County Mortgage Loan, the Lender shall at any time thereafter, at its election, have the right to declare such disposition or other act null and void and/or seek enforcement of the terms and conditions thereof in any manner whatsoever and by law or equity.

3. Limits on Liability

Neither the Lender nor the Servicer shall be liable to Grantee or become obligated in any manner to any Grantee by reason of the enforcement of this Deed Restriction, nor shall the City or the Lender be in any way obligated or liable to Grantee or any subsequent Grantee for any failure of any person to consummate a purchase of the Unit or to comply with the terms of any agreement of escrow for the sale of the Unit. Only the purchaser executing a purchase agreement or escrow instruction shall be liable to Grantee or any subsequent Grantee pursuant to the terms of any such agreement or escrow instructions. Neither the City nor the Lender shall be liable or responsible for any defect in the condition of the Unit of whatever nature and Grantee, on behalf of itself and each subsequent Grantee, agrees to release the City and the Lender from any such liability and/or responsibility and further agrees to hold the City and the Lender harmless from any claim or cause of action brought by third parties arising out of any such defect.

4. Transfers and Conveyances

Until such time as this Addendum is released by the Lender or expires, the Unit and any interest or title thereto shall not be sold, leased, rented, assigned, or otherwise transferred to any person or entity except with the express written consent of the Lender, which consent shall be granted or denied in the sole discretion of the Lender and only if consistent with the Lender's goal of creating, preserving, maintaining, and protecting affordable Moderate Income housing in the City of Sierra Madre, and denial of which consent shall result in the Lender having the right, at its election, to declare the sale, lease, transfer, assignment or rental to be null and void and seek judicial enforcement thereof.

5. Permitted Transfers

Notwithstanding anything herein to the contrary, the transfer of the Unit: (i) to a surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant, or (ii) where a spouse becomes the owner of the Unit, or (iii) resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Unit, or (iv) by devise or inheritance solely as a result of the

incompetency or death of the Grantee or any person constituting the Grantee, when the transferee is a child of Grantor that is a qualified Moderate Income Household and First Time Homebuyer, or (v) by a transfer into an inter vivos trust in which the Grantee is and shall remain the beneficiary and occupant of the Unit shall not accelerate the Third Mortgage Loan so long as the transferee gives notice to Grantor of such event within thirty (30) days of its occurrence and the transferee assumes Grantee's obligations under the Third Mortgage Loan, by execution of an assignment and assumption agreement to be provided by Grantor. Provided, however, that the covenants contained in and the restrictions imposed upon the Grantee and the Unit by this Addendum shall continue to encumber and run with the title to the Unit following said transfers.

6. Permitted Encumbrances

This Addendum is based upon the aforementioned Third Mortgage Promissory Note which is secured by the Third Mortgage on the Unit in favor of Grantor. The Grantee shall not encumber the Unit with any mortgage, pledge, encumbrance, lien, or charge of any kind, for the purpose of securing financing either senior in priority or subordinated to said Promissory Note without the prior written approval of Grantor and the Lender. If the Unit is acquired at a foreclosure sale under any deed of trust or mortgage encumbering the Unit or by deed in lieu of foreclosure sale, title to the Unit shall be taken subject to the covenants, restrictions and terms of the Grant Deed (including, but not limited to this Addendum).

7. Runs With Land

Unless otherwise provided by the terms herein, provisions of this Addendum constitute covenants which shall run with the land, shall further and independently constitute an encumbrance upon the Unit, and shall be binding upon the Grantee, the Grantee's heirs, executors, administrators, successors, transferees and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Unit (except a deed of trust or mortgage to which the Lender has expressly agreed in writing to subordinate this Addendum). As long as this Addendum has not expired, any attempt to transfer title to any interest in the Unit in violation of this Addendum shall be voidable at the election of the Lender.

8. Acceptance of Terms by Grantee

By acceptance of the Grant Deed (including this Addendum), the Grantee accepts and agrees to be bound by all of the covenants and restrictions contained in this Addendum, and further acknowledges receipt of this Addendum.

9. Default by Grantee

Nothing contained in this Addendum shall prevent the Lender from enforcing the provisions of Civil Code Section 711.5, as amended from time to time, or from commencing foreclosure proceedings at any time if a default occurs under any deed of trust or mortgage.

10. Term of Addendum

The term of the provisions of the Grant Deed, including this Addendum, restricting the sale and resale of the Unit shall be forty-five (45) years following the date of recordation of the Grant Deed to the initial purchaser of the Unit, except if the Lender releases this Addendum sooner in accordance with this Addendum.

11. Miscellaneous Provisions

(a) Independent and Severable Provisions. In the event that any provision of this Addendum is held by a court of competent Jurisdiction to be unenforceable or invalid, such holding shall not render unenforceable any other provision hereof, each provision hereof being expressly severable and independently enforceable to the fullest extent permitted by law.

(b) Further Assurances and Recordation. The Grantee covenants that upon the request of the Lender, he, she or they will execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments and agreements and do so such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of this Addendum and other instruments required hereunder, including, but not limited to, the promissory note of indebtedness and third lien deed of trust and upon the sale or other transfer of an interest subject to said third lien deed of trust on the Unit, the Grantee shall cause the purchaser or transferee to execute and acknowledge an Addendum to Grant Deed in a form acceptable to the Lender, which shall be attached to the grant deed by which the undersigned conveys title to the Unit.

(c) Captions and Paragraph Headings. Captions and paragraph headings used herein are for convenience only and shall not be used in construing this Addendum.

(d) Waiver. No waiver by the Lender of any breach by the Grantee of any covenant, restriction or condition herein contained shall be effective unless such waiver is in writing, signed by the Lender and delivered to the undersigned. The waiver by the Lender of any such breach or breaches, or the failure by the Lender to exercise any right or remedy in any and all such breach or breaches, shall not constitute a waiver or relinquishment for the future of any such covenant or condition nor bar any right or remedy of the Lender in respect of any such subsequent breach.

(e) Enforcement. The terms and provisions of this Addendum shall, without regard to technical classification and designation, be binding on Grantee and any successor in interest to the Unit or any part thereof for the benefit and in favor of the Lender, its successors and assigns, and the City of Sierra Madre. The Lender shall have the right, if any provisions of this Addendum are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiary of this Addendum are entitled.

By signature hereinbelow the Grantee hereby accepts and approves the foregoing, agrees to be bound by the provisions of this Addendum and the deed to which this Addendum is attached, and grants to the Lender such powers and rights that are set forth in this Addendum to Grant Deed.

[SIGNATURES APPEAR ON NEXT PAGE]

“Grantee”

Date: _____

By: _____

Accepted and agreed to by the Lender this ____ day of _____, 20__.

City of Sierra Madre

By: _____

ATTACHMENT NO. 8A

[SEE ATTACHED]

**AFFORDABLE HOUSING LOAN AGREEMENT
HHP HIGHLAND, LLC**

THIS AFFORDABLE HOUSING LOAN AGREEMENT (the “Agreement”) is made as of _____, 20__, by and between **John Thomas Smith and Jane Laura Smith, Husband and Wife as Joint Tenants** (collectively, the “Borrower”) and HHP HIGHLAND, LLC, a non-profit California Corporation (“Lender”).

RECITALS

A. Borrower has entered into an agreement (the “Purchase Agreement”) to purchase improved residential property located at **186 W. Highland Avenue, Unit A**, Sierra Madre, California, as more particularly described in Exhibit “A” attached hereto and incorporated herein (the “Property”).

B. Borrower is a person or family of Moderate Income, as defined below. Borrower requires financial assistance to purchase the Property and would not be able to purchase the Property without such assistance.

C. Borrower has represented to the Lender that Borrower intends to reside in the Property as his, her or their principal place of residence at all times throughout the term of this Agreement.

D. The Lender desires to assist persons and families of Moderate Income to purchase residential property and to increase, improve and preserve moderate income housing available at affordable housing cost within the City of Sierra Madre pursuant to that certain Disposition and Development Agreement dated XX, XX 2015 between The City of Sierra Madre, The City of Sierra Madre Housing Successor Agency (individually and collectively, the “City of Sierra Madre” or “City”) and Lender (the “DDA”).

E. The City of Sierra Madre provided its Low and Moderate Income Affordable Housing Funds for financing to acquire and to improve the property at 186 W. Highland Ave, Sierra Madre, California (generally known as “Highland Mews”) pursuant to the DDA and desires that, upon completion of Highland Mews, a portion of said financing shall be converted to a loan to Borrower.

F. To promote these goals, the Lender has established its Homebuyer Program (the “Program”), under which the Lender will provide a loan to Eligible Persons and Families to be used towards the purchase of a residence. The Lender intends that the loan provided by the Program will assist first time homebuyers who are Eligible Persons and Families to purchase residential property for owner-occupancy at affordable housing cost.

G. The Lender wishes to lend and Borrower wishes to borrow funds under the Program, in the form of a loan secured by a third lien deed of trust (the “Lender Loan”), to assist Borrower to purchase the Property, subject to the terms and conditions set forth herein.

H. Pursuant to the Purchase Agreement, the Purchase Price for the Property shall be paid by Borrower by a combination of funds, including: the Borrower's down payment funds (including gifts and other financial assistance, if applicable) in the amount approved by Lender; the Lender Loan; a first mortgage loan to be made by First Mortgage Lender Company (the "First Mortgage Lender"), secured by a first priority deed of trust (the "First Mortgage Loan"); and, a second mortgage ("County Loan") to be made by the County of Los Angeles ("Second Mortgage Lender"), secured by a second priority deed of trust ("County Deed of Trust").

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. **Definitions.**

Unless otherwise defined, the following capitalized terms shall be defined in this Agreement as follows:

"Affordable Housing Cost" shall mean Housing Cost payments which are not less than 28% of the gross income of the household and which do not exceed the maximum Housing Cost for Moderate Income households as defined in California Health and Safety Code Section 50052.5(b) (3). In addition, for any Moderate-Income household that has a gross income that exceeds 110% of the area median income, affordable housing cost shall not exceed the greater of the foregoing and thirty-five percent (35%) of the gross income of the household. For purposes of this definition, the phrase "adjusted for household size appropriate for the Unit" shall mean a household size equal to the number of bedrooms in the Unit plus one.

"Affordable Sales Price" means that portion of the Sales Price of a Restricted Unit (as defined in the DDA) that is equal to the sum of a First Mortgage Loan and the Down Payment, where the total Housing Cost to be paid by the Purchaser does not exceed an Affordable Housing Cost. The Affordable Sales Price shall be established so that payments on the First Mortgage Loan (based on a 30-year fixed mortgage at prevailing interest rates) will not exceed an Affordable Housing Cost to the buyer as of the Closing Date when added to all the other components of Housing Cost, as defined in Section 6290 of title 25 of the California Administrative Code.

"Area Median Income" means the median income of the Los Angeles-Long Beach Standard Metropolitan Statistical Area, adjusted for family size, as published from time to time by the California Department of Housing and Community Development.

"Borrower's Notice of Intent" shall have the meaning given such term in the Notice of Restrictions.

"Closing Date" shall mean the date of recordation of the Lender Deed of Trust.

"DDA" shall mean that certain Disposition and Development Agreement dated XX XX, 2015 between The City of Sierra Madre and Lender.

"Disclosure Statement" means the document attached to this Agreement as Exhibit "E" which is incorporated herein by this reference.

“Displaced Homemaker” shall mean an individual who (1) is an adult; (2) has not worked full-time in the labor force for at least two (2) years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. Such individual must be able to secure first mortgage loan financing in the appropriate amount in order to qualify for the Displaced Homemaker exemption.

“Down Payment” means a cash investment funded by Borrower equal to not less than five percent (5%) of the Affordable Sales Price.

“Eligible Persons and Families” means Moderate Income Households who are First Time Homebuyers.

“Escrow” means the purchase escrow in connection with the Borrower’s acquisition of the Property and the making of the Lender Loan to the Borrower.

“Escrow Agent” means Lawyers Title Insurance Company.

“First Time Homebuyer” shall mean an individual and his or her spouse who have not owned a home during the 3-year period before the purchase of the Unit, except that:

- (a) Any individual who is a Displaced Homemaker may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse, provided that such individual is able to secure fixed-rate mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community second mortgage loans designed to protect and preserve the affordability of the Units;
- (b) Any individual who is a Single Parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse, provided that such individual is able to secure fixed-rate mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community second mortgage loans designed to protect and preserve the affordability of the Units;
- (c) An individual may not be excluded from consideration as a first-time homebuyer on the basis that the individual owns or owned, as a principal residence during the 3-year period before the purchase of the Unit, a dwelling unit whose structure is:
 - (1) Not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

- (2) Not in compliance with State, local or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

“Housing cost” of a person or family purchasing a housing unit shall include all of the following associated with that housing unit: (a) Principal and interest on a mortgage loan including any rehabilitation loans, and any loan insurance fees associated therewith; (b) Property taxes and assessments; (c) Fire and casualty insurance covering replacement value of property improvements; (d) Property maintenance and repairs; (e) A reasonable allowance for utilities, including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuels, but excluding telephone, internet or television service and any other services not specifically included in the preceding; and, (f) Homeowner association fees. Monthly housing cost of a purchaser shall be an average of estimated costs for the next twelve months.

“HUD” shall mean the U.S. Department of Housing and Urban Development.

“Lender Deed of Trust” means the deed of trust securing the Lender Loan, in the form attached to this Agreement as Exhibit “C”.

“Lender Loan” means the loan to be made by the Lender to the Borrower in accordance with this Agreement.

“Loan Documents” shall mean this Agreement, the Deed of Trust, the Note, the Notice of Restrictions and each other document executed and delivered by Borrower in connection with the Loan. The term “Loan Documents” also includes all modifications, extensions, renewals, and replacements of each document referred to above.

“Moderate Income” shall mean a household income that exceeds 80% but does not exceed 120% of the Area Median Income, adjusted for household size, as determined by HUD and published from time-to-time by the California Department of Housing and Community Development.

“Note” or “Promissory Note” means the promissory note in favor of the Lender, evidencing the Lender Loan, in the form attached to this Agreement as Exhibit “B”.

“Note Amount” means the principal amount of the Lender Loan.

“Notice of Restrictions” means the document entitled Notice of Restrictions and Right of First Refusal to Purchase Property, in the form attached to this Agreement as Exhibit “D”.

“Original Seller” means the party from whom the Borrower is purchasing the Property.

“Property” means the real property described in the legal description attached to this Agreement as Exhibit “A”.

“Purchase Price” means the Purchase Price paid by the Borrower as determined by the sum of the Affordable Sales Price, the Lender Loan and the BEGIN Loan.

“Sale” means (i) any sale, transfer, assignment or conveyance of the Property, any portion thereof or interest therein, including, without limitation, any lease, exchange, or other disposition of any interest in the Property, whether voluntary or involuntary, including a transfer upon the close of a probate estate or (ii) Prepayment of the Lender Loan.

“Single Parent” means an individual parent who is raising one or more children in a family household in which no other parent(s) of said children reside.

“Term” shall mean forty-five (45) years from the Closing Date.

2. **The Lender Loan.**

(a) The Lender agrees to lend to Borrower, and Borrower agrees to borrow from the Lender, the principal amount of **One Hundred Thousand and 00/100 DOLLARS (\$100,000.00)[TBD]**, with interest as provided in the Note, subject to the conditions and restrictions set forth herein and in the other Loan Documents.

(b) When all conditions to the close of Escrow other than payment of the Purchase Price have been satisfied, the Lender shall disburse the Note Amount in accordance with the settlement statement approved by Lender and Borrower.

(c) The Lender shall direct the Escrow Agent to apply the proceeds of the Lender Loan on behalf of Borrower towards payment to Original Seller of the Purchase Price.

(d) Concurrently with the making of the Lender Loan, Borrower shall execute and deliver to the Lender the Note in favor of the Lender, in the Note Amount, in the form of Exhibit “B” attached hereto and incorporated herein by this reference. Borrower shall also execute and deliver to the Lender the following: the Lender Deed of Trust which shall secure the Note, in the form of Exhibit “C” attached hereto and incorporated herein by this reference; the Notice of Restrictions and Right of First Refusal to Purchase Property, in the form of Exhibit “D” attached hereto and incorporated herein by this reference; and the Disclosure Statement, in the form of Exhibit “E” attached hereto and incorporated herein by this reference, and any other documents reasonably requested by Lender.

(e) The terms of repayment of the Lender Loan are set forth in the Note.

(f) Unless due and payable earlier in accordance with the terms of this Agreement and the Note, the outstanding balance of the Lender Loan together with any accrued but unpaid interest thereon shall be forgiven in full on the **45th** anniversary of the Closing Date.

3. **Financing.** As a condition to Lender’s obligation to make the Lender Loan, Borrower shall obtain first trust deed financing for the purchase of the Property from a reputable institutional lender (the “First Mortgage Lender”). Nothing in this Agreement shall be construed as a promise or guaranty by Lender that the Borrower will qualify for or receive such first trust

deed financing. In addition, Borrower must make a down payment of not less than five percent (5%) of the Affordable Sales Price. Buyer may utilize gift funds or any Lender approved down-payment assistance loan programs, such as programs provided by the California Housing Finance Agency, or some combination thereof towards down payment, provided that not less than one-percent (1%) of the total Purchase Price must be paid exclusively with Borrower's personal funds.

For example, if the theoretical Purchase Price of a residential property is four hundred thousand and 00/100th dollars (\$400,000.00) and the theoretical Affordable Sales Price of the residential property is two hundred fifty thousand and 00/100th dollars (\$250,000.00), then the minimum theoretical down payment would be twelve thousand five hundred and 00/100th dollars (\$12,500.00) with at a minimum of four thousand and 00/100th dollars (\$4,000.00) of the theoretical down payment funded exclusively by the Borrower's personal funds and resources.

Borrower's down payment may exceed the minimum required down payment, so long as (i) the Borrower's monthly Housing Cost divided by Borrower's Monthly Gross Household Income is greater than or equal to 0.28; and (ii) Borrower's monthly Housing Cost does not exceed the maximum Housing Cost for Moderate Income households.

4. **Lender's Right of First Refusal to Purchase.** Pursuant to the terms and conditions set forth in the Notice of Restrictions, the Lender shall have a right of first refusal to purchase the Property from Borrower.

5. **Maintenance of Property.** Borrower shall maintain the improvements and landscaping on the Property in a manner consistent with community standards that will uphold the value of the Property, in accordance with the Sierra Madre Municipal Code and other applicable laws and ordinances.

6. **Owner-Occupancy Requirement.** Subject to the terms and conditions set forth in the Notice of Restrictions, Borrower shall occupy the Property as his or her or their primary residence, and the Property shall be used as the principal residence of Borrower and Borrower's household for the Term of this Agreement, and for no other purpose.

7. **Moderate Income First-time Homebuyer.** Borrower represents, warrants and declares under penalty of perjury to the Lender as follows:

(a) The information relating to the Borrower's household income that has been provided by Borrower to the Lender to verify Borrower's eligibility for the Lender Loan is true, correct and complete as of the date such information was provided to the Lender and as of the date of this Agreement. Borrower acknowledges that the Lender is relying upon the information provided by Borrower to determine that Borrower is an Eligible Person or Family, and Lender would not have entered into this Agreement if Borrower did not so qualify.

(b) Borrower satisfies the criteria for a First Time Homebuyer.

8. **Title Insurance.** As a condition to disbursement of the Lender Loan, Borrower, at no cost to Lender, shall obtain and cause to be delivered to Lender a standard form ALTA Lender's policy of Title Insurance, issued by a title company approved by Lender, in an amount

not less than the Lender Loan, insuring the priority of the Lender Deed of Trust against all monetary liens and encumbrances against the Property, including but not limited to, mechanic's liens claims, and excepting only (a) the lien of any non-delinquent property taxes; (b) the deed of trust securing the First Mortgage Loan; (c) the deed of trust held by the California Housing Finance Agency in connection with a down payment assistance program (if any); (d) the Notice of Restrictions; (e) other encumbrances and exceptions to title as may be approved in writing by the Lender in the Lender's sole and absolute discretion.

9. Covenants Do Not Impair Lien. Lender's Right to Cure Default Under First Mortgage Loan.

(a) The provisions of the Promissory Note and the Lender Deed of Trust shall be subordinate to any First Mortgage Loan and any loan secured by a deed of trust held by the California Housing Finance Agency in connection with a down payment assistance program and shall not impair the rights of the First Mortgage Lender, or the California Housing Finance Agency or such First Mortgage Lender's or the California Housing Finance Agency's assignee or successor in interest, to exercise its remedies under the First Mortgage Loan in the event of default. Such remedies under the First Mortgage Loan and deed of trust held by the California Housing Finance Agency (if any) include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, the Promissory Note and the Lender Deed of Trust shall be forever terminated and shall have no further effect as to the Property or any transferee thereafter.

(b) Borrower covenants that it shall send Lender and its appointed Loan Servicer a copy of any notice of default, delinquency, breach or foreclosure received by First Mortgage Lender or the California Housing Finance Agency within 2 days of receipt by Borrower. In the event Borrower commits a default, breaches or fails to perform any obligation under the First Mortgage Note or Deed of Trust securing the First Mortgage Note or the deed of trust held by the California Housing Finance Agency (if any), then Lender and/or the appointed Loan Servicer shall have the right, but not the obligation, to advance any sums due or take any other actions necessary to stay or to cure any such default, breach or failure on Borrower's behalf. Borrower shall cooperate fully with Lender and the appointed Loan Servicer in effectuating such cure. Borrower authorizes entry upon the Property by or at the direction of Lender for such purpose upon 24-hour prior notice to Borrower by Lender. Any costs incurred by Lender in exercising this right to cure shall be added to the Note Amount (as defined in the Note) and be deemed additional sums due secured by this Deed of Trust, and shall bear interest at the rate required by the Note.

(c) Borrower shall cause a Request for Notice of Default to be recorded on the Property subsequent to the recordation of the Lender Deed of Trust requesting copies of notices of default to be sent to Lender as set forth in the California Civil Code Section 2924b (the "Request for Notice of Default"). The Request for Notice of Default shall be on the form set on Exhibit "F" attached hereto and sent to the Lender at the addresses set forth Section 25 hereof.

(d) Borrower shall cause a Request for Notice of Delinquency to be recorded on the Property subsequent to the recordation of the Lender Deed of Trust requesting copies of notices

of delinquency to be sent to Lender as set forth in the California Civil Code Section 2924e (the "Request for Notice of Delinquency"). The Request for Notice of Delinquency shall be on the form set on Exhibit "G" attached hereto and sent to the Lender at the addresses set forth Section 25 hereof.

10. **Indemnification.** Borrower shall defend, indemnify and hold harmless Lender, its' appointed Loan Servicer and their respective officers, officials, agents, employees, representatives, and volunteers from and against any loss, liability, claim, or judgment relating in any manner to the Property, this Agreement, or the Lender Loan. The Borrower shall remain fully obligated for the payment of taxes, liens and assessments related to the Property. There shall be no reduction in taxes, liens or assessments for Borrower, nor any obligation imposed on Lender or the Loan Servicer to make such payments on behalf of Borrower, by virtue of the Lender Loan.

11. **Insurance.** Borrower shall maintain, during the term of the Lender Loan, Hazard Insurance per Section 5 of the Deed of Trust.

12. **Defaults.**

(a) Subject to the further provisions of this Section 13, failure or delay by Borrower to promptly pay any and all taxes, liens and assessments levied against the Property and any and all homeowner's association fees that may be imposed against the Property, to perform any term or provision of this Agreement, the Lender Deed of Trust, the Note, the Notice of Restrictions, the First Mortgage Note, the Deed of Trust securing the First Mortgage Note, the BEGIN Loan or the BEGIN Deed of Trust constitutes a default of the Lender Loan. The Borrower must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

(b) In the event Lender gains actual knowledge of a default by Borrower that remains uncured, Lender shall give written notice of such default to the Borrower, specifying the default complained of by the Lender. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) If a monetary event of default occurs, prior to exercising any remedies hereunder, Lender shall give Borrower written notice of such default. Borrower shall have a period of seven (7) days after such notice is given within which to cure the default prior to exercise of remedies by Lender.

(d) If a non-monetary event of default occurs, prior to exercising any remedies hereunder, Lender shall give Borrower notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Borrower shall have such period to effect a cure prior to exercise of remedies by the Lender. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Borrower (1) initiates corrective action within that period, and (2) diligently, continually, and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Lender. In no event shall Lender be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any

failure to cure a default or the default is not cured within ninety (90) days after the first notice of default is given.

13. **Non Waiver.** Failure to exercise any right Lender may have or be entitled to, in the event of default hereunder, shall not constitute a waiver of such right or any other right in the event of a subsequent default. Any failures or delays by the Lender in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by the Lender in asserting any of its rights and remedies shall not deprive the Lender of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

14. **Limitation on Interest.** The Lender does not intend to contract for, charge or receive any interest or other charge which is usurious, and by execution of this Agreement, Borrower acknowledges that the Lender has no such intent. All agreements between Borrower and the Lender, whether now existing or hereafter arising and whether written or oral, are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid or reimbursed, or agreed to be paid or reimbursed, to the Lender hereunder or under the Note or Lender Deed of Trust on account of moneys advanced by the Lender or otherwise, or on account of advances for the payment or performance of any covenant or obligation contained herein or in any other document evidencing, securing or pertaining to the payment and reimbursement obligations and/or other obligations evidenced hereby, exceed the maximum amount permissible under applicable law. If from any circumstance whatsoever fulfillment of any provision hereof or other documents, at the time performance of such provision shall be due, shall involve exceeding the limit of validity prescribed by law, then, ipsofacto, the obligations to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance the Lender shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the payment and/or reimbursement obligations owing hereunder or on account of any other payment and/or reimbursement obligations or monetary obligations of Borrower to the Lender and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of payment and/or reimbursement obligations hereunder and such other monetary obligations, such excess shall be refunded to Borrower. The terms and provisions of this Section 15 shall control and supersede every other provision of all agreements between Borrower and the Lender.

15. **Nondiscrimination.** There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any part thereof, nor shall Borrower or any person claiming under or through Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property.

Borrower, its successors and assigns, shall refrain from restricting the rental, sale or lease of the Property on the basis of race, color, religion, sex, marital status, national origin or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

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

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

(c). In contracts: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

Notwithstanding the foregoing, the Borrower acknowledges and agrees that during the term of the Agreement, the Promissory Note and Deed of Trust executed pursuant thereto, Borrower shall occupy the Property as Borrower’s principal residence and shall not rent or lease the Property, as required in Section 6 of this Agreement and the Notice of Restrictions.

16. **Documents.** Borrower is aware that the Lender has prepared certain documents to implement the Program and secure repayment of the Lender Loan. Borrower has reviewed and agrees, as a condition to receiving the Lender Loan, to execute the following documents in substantially the form attached to this Agreement and any other documents or instruments

reasonably required by Lender or the Loan Servicer to complete the transaction contemplated herein:

- (a) Promissory Note (Exhibit “B”);
- (b) Lender Deed of Trust (Exhibit “C”);
- (c) Notice of Restrictions and Right of First Refusal to Purchase Property (Exhibit “D”);
- (d) Disclosure Statement (Exhibit “E”);
- (e) Request for Notice of Default (Exhibit “F”);
- (f) Request for Notice of Delinquency (Exhibit “G”); and
- (g) Addendum to Grant Deed (Exhibit “H”).

Borrower agrees and acknowledges that the Lender Deed of Trust and the Notice of Restrictions shall be recorded against the Property with the County Recorder of the County of Los Angeles and shall appear of record with respect to and as an encumbrance against the Property.

17. **Further Assurances.** The Borrower shall execute any further documents consistent with the terms of this Agreement, including documents in recordable form, as Lender shall from time to time find necessary or appropriate to effectuate its purposes in entering into this Agreement and making the Lender Loan.

18. **Compliance with Ordinances, Rules, and Regulations.** The Borrower hereby agrees to comply with all regulations of Lender, and all local, state and federal ordinances, statutes, laws, rules and regulations. Nothing in this Agreement is intended to be, nor shall it be deemed to be, a waiver of any City ordinance, rule or regulation.

19. **Governing Law.** This Agreement shall be governed by the laws of the State of California and all applicable provisions of federal law. Any legal action brought under this Agreement must be instituted in the Superior Court of the County of Los Angeles, State of California, or in an appropriate municipal court in that county or in the United States District Court for the Central District of California.

20. **Amendment of Loan Agreement.** No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement executed by the Borrower and Lender.

21. **Lender May Assign.** Lender may, at its option, assign its right to receive repayment of the Loan proceeds without obtaining the consent of the Borrower.

22. **Borrower Assignment Prohibited.** In no event shall Borrower assign or transfer any portion of the Property, or any right to or interest therein, without the prior express written consent of Lender, which consent shall be given by Lender only in the event that Lender

determines that the assignee or transferee is an Eligible Person or Family, that the assignee's or transferee's monthly housing payments are at an Affordable Housing Cost, and that the assignee or transferee has expressly assumed this Agreement by execution of a written assignment document to be provided by Lender, in accordance with the provisions of the Notice of Restrictions.

23. **Relationship of Borrower and Lender.** The relationship of Borrower and Lender pursuant to this Agreement is solely that of debtor and creditor and shall not be or be construed to be a joint venture, equity venture, partnership, or other relationship.

24. **Notices.** Any notices, requests or approvals given under this Agreement from one party to another may be personally delivered or deposited with the United States Postal Service for mailing, postage prepaid, registered or certified mail, return receipt requested to the following address:

To Borrower: *John Thomas Smith and Jane Laura Smith*
345 W. Highland Street, #101
Sierra Madre, CA 91024

To Lender: HHP HIGHLAND, LLC
608 N. Fair Oaks Avenue, Suite 126
Pasadena, California 91103

And a copy to: City Manager's Office
City of Sierra Madre
232 Sierra Madre Boulevard
Sierra Madre, California 91024
Attn: City Manager

Either party may change its address for notice by giving written notice thereof to the other party.

25. **Attorneys' Fees and Costs.** In the event that any action is instituted to enforce payment or performance under this Agreement, the parties agree the non prevailing party shall be responsible for and shall pay all costs and all attorneys' fees incurred by the prevailing party in enforcing this Agreement and collecting upon any judgment.

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

27. **Entire Agreement.** This Agreement, together with all attachments hereto, constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all prior negotiations, discussions and previous agreements between the Lender and the Borrower concerning all or any part of the subject matter of this Agreement.

28. **Captions**. The captions and headings in this Agreement are for convenience only and are not to be used to interpret or define the provisions hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth hereinabove.

“BORROWER”

John Thomas Smith

Jane Laura Smith

“LENDER”

HHP HIGHLAND, LLC, a California Limited Liability Company
BY: Heritage Housing Partners, a California Non-Profit Public Benefit Corporation, its Sole Member

By: _____
Charles E. Loveman, Jr.
Executive Director

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

[To Be Inserted]

EXHIBIT “B”

PROMISSORY NOTE

[To Be Inserted]

EXHIBIT B
PROMISSORY NOTE

\$ [TBD]
0.00%

Sierra Madre, California
January XX, 2012

FOR VALUE RECEIVED, and at the times hereinafter specified, **John Thomas Smith and Jane Laura Smith, Husband and Wife as Joint Tenants** (the "Borrower") promises to pay to HHP Highland, LLC ("Lender") located at 608 N. Fair Oaks Avenue, Suite 126, Pasadena, California 91103, or at such other address as Lender may direct from time to time in writing, the principal sum of **One Hundred Twenty Eight Thousand One Hundred Thirty Seven and 00/100 DOLLARS(\$128,137.00) [TBD]** (the "Note Amount"), as hereinafter provided. All sums hereunder shall be payable in lawful money of the United States of America.

Borrower further agrees as follows:

1. **Definitions.** For the purpose of this Promissory Note (this "Note"), the following terms shall have the meanings set forth below. Except as otherwise provided herein, any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement (as defined below).

"Capital Improvements" means physical improvements legally made on the Property by Borrower, as evidenced by building permits or other documentation acceptable to Lender that materially add to the value of the Property or considerably prolong its useful life, as determined by the Lender. Examples of Capital Improvements include, but are not limited to, adding a new bathroom, installing new plumbing or wiring, installing a new roof. Repairs, reconstruction or maintenance of the Property are not considered Capital Improvements.

"Closing Date" shall mean the date of recordation of the Lender Deed of Trust.

"Contingent Interest" means the portion of the interest to be paid to the Lender equal to the Lender's Applicable Percentage of the Equity Sharing Amount, as calculated in Section 4 of this Note.

"Default" shall mean any of the following:

- (1) if Borrower no longer occupies the Property as required by the Notice of Restrictions, subject to the hardship exception set forth therein;
- (2) an uncured default by Borrower under the Loan Agreement, this Note, the Lender Deed of Trust, the Notice of Restrictions or the Addendum to Grant Deed;
- (3) an uncured default by Borrower on the promissory note evidencing or deed of trust securing the First Mortgage Loan;

- (4) an uncured default by Borrower on the promissory note evidencing or deed of trust securing the County Loan;
- (5) any mortgage, pledge, encumbrance, lien, or charge of any kind on any of the Property, without Lender's prior express written consent, except for liens for taxes not yet delinquent;
- (6) an uncured default by Borrower on any deed of trust held by the California Housing Finance Agency (if any); or
- (7) an uncured default by Borrower on any other obligation which is secured by the Property.

"Eligible Persons and Families" shall have the meaning as provided in the Loan Agreement.

"Equity Sharing Percentage" shall have the meaning as provided in Section 4.c.

"Fixed Interest" shall mean interest on the outstanding principal balance of the Lender Loan.

"Lender Loan" shall mean the amount of this promissory note.

"Lender Deed of Trust" means the deed of trust securing the Lender Loan, in the form attached to the Loan Agreement as Exhibit "C".

"Property" means the real property described in the legal description attached to the Lender Deed of Trust as Exhibit "A".

"Purchase Price" means the price paid by the Borrower, as amount is set forth on the purchase agreement between Borrower and the owner of the Property, which is the sum of: (a) Borrower's down payment funds; (b) a first mortgage loan as secured by a first priority deed of trust; (c) a County Loan as secured by a second priority deed of trust; and (d) the Lender Loan.

"Resale Price" means (i) in the event of a Sale of the Property by the Borrower to a buyer other than to an Eligible Person and Family, the total consideration to be paid to the Borrower by such buyer, and (ii) in the event of acceleration of the Loan due to an uncured Default, the imputed amount established pursuant to Section 5(b).

"Restricted Resale Price" means the total consideration to be paid to the Borrower upon a Sale of the Property by the Borrower to an Eligible Person and Family. The Restricted Resale Price shall be determined on the date Lender receives Borrower's notice of Proposed Sale of the Property. The Restricted Resale Price shall be equal to the Borrower's Purchase Price, less the amount of any existing loans secured by the Property to be assumed by the proposed purchaser (if any), with such total amount adjusted by the percentage change in State of California Housing and Community Development (HCD) median income limits for Los Angeles County, adjusted for household size, between the year of Borrower's purchase and the current year but in any event shall not exceed the proposed purchaser's Affordable Housing Cost.

“Sale” means any sale, transfer, assignment or conveyance of the Property, any portion thereof or interest therein, including, without limitation, any lease, exchange, or other disposition of any interest in the Property, whether voluntary or involuntary, including a transfer upon the close of a probate estate.

“Term” shall mean forty-five (45) years from the Closing Date.

Unless otherwise defined in this Note, each capitalized term shall have the meaning ascribed to such term in the Loan Agreement.

2. **Loan Agreement.** This Note is made and delivered as of the date set forth above pursuant to and in implementation of that certain Affordable Housing Loan Agreement entered into by and between the Lender and the Borrower on or about the date hereof (the “Loan Agreement”). The Borrower acknowledges that but for the execution of this Note, the Lender would not enter into the Loan Agreement or make the loan contemplated therein (the “Lender Loan”). As required by the Loan Agreement, concurrently with the execution of this Note, Borrower is executing and recording the Lender Deed of Trust and Borrower and Lender are executing and recording a Notice of Restrictions and Right of First Refusal to Purchase Property (the “Notice of Restrictions”). This Note, the Lender Deed of Trust are junior and subordinate to the lien of the First Mortgage and Second Mortgage identified in the Loan Agreement, and/or any deed of trust held by the California Housing Financing Agency (if any). In the event of a foreclosure or acceptance of a deed in lieu of foreclosure under the First Mortgage, the Loan Documents and all obligations and restrictions thereunder (except for the Notice of Restrictions and any affordability restrictions and covenants) shall be forever terminated and shall have no further effect as to the Property or any transferee thereafter.

3. **Fixed Interest; No Payments for Term of Lender Loan.** The Lender Loan shall bear no Fixed Interest during the Term of the Lender Loan. There shall be no Payments during the term of the Lender Loan. Unless the Lender Loan becomes due and payable prior to the end of the Term, at the end of the Term the Lender Loan shall be forgiven in its entirety.

4. **Contingent Interest.**

a. In the event the Lender Loan becomes due and payable prior to the end of the Term as the result of any event of acceleration described in Section 5, the Lender Loan shall bear “Contingent Interest”, (except in connection with a Sale of the Property to an Eligible Person and Family as defined in the Loan Agreement at the Restricted Resale Price, in which case, no “Contingent Interest” will be due or payable) which is an amount equal to the “Applicable Percentage” multiplied by the “Equity Sharing Amount,” as hereinafter defined.

b. The “Applicable Percentage” is as follows:

- (1) If the Lender Loan becomes due prior to the fifth (5th) anniversary of the Closing Date, the Applicable Percentage is 150%.
- (2) If the Lender Loan becomes due after the fifth (5th) anniversary but prior to the tenth (10th) anniversary of the Closing Date, the Applicable Percentage is 125%.

- (3) If the Lender Loan becomes due after the tenth (10th) anniversary but prior to the fifteenth (15th) anniversary of the Closing Date, the Applicable Percentage is 100%.
- (4) If the Lender Loan becomes due after the fifteenth (15th) anniversary but prior to the twentieth (20th) anniversary of the Closing Date, the Applicable Percentage is 85%.
- (5) If the Lender Loan becomes due after the twentieth (20th) anniversary but prior to the twenty-fifth (25th) anniversary of the Closing Date, the Applicable Percentage is 70%.
- (6) If the Lender Loan becomes due after the twenty-fifth (25th anniversary but prior to the thirtieth (30th) anniversary of the Closing Date, the Applicable Percentage is 55%.
- (7) If the Lender Loan becomes due after the thirtieth (30th) anniversary but prior to the thirty-fifth (35th) anniversary of the Closing Date, the Applicable Percentage is 50%.
- (8) If the Lender Loan becomes due after the thirty-fifth (35th) anniversary but prior to the fortieth (40th) anniversary of the Closing Date, the Applicable Percentage is 25%.
- (9) If the Lender Loan becomes due after the fortieth (40th) anniversary but prior to the forty-fifth (45th) anniversary of the Closing Date, the Applicable Percentage is 10%.
- (10) If the Lender Loan becomes due on or after the forty-fifth (45th) anniversary, the Applicable Percentage is 0%.

c. The "Equity Sharing Amount" means an amount equal to a portion of the appreciation in the value of the Property determined by multiplying the Equity Sharing Percentage by the positive difference, if any, between the Resale Price and the Purchase Price. The Equity Sharing Percentage means a percentage factor calculated by dividing the amount of the Lender Loan by the Purchase Price of the Property, but in no event greater than 49%. In the event that there is no positive appreciation in the value of the Property, the Equity Sharing Amount shall equal 0.

d. Illustration. For example, if the Borrower purchases the Property for a Purchase Price of \$400,000, and sells the Property four and one half (4½) years later for a Resale Price of \$600,000, and the amount of the Lender Loan was \$100,000, the Contingent Interest would be \$75,000, calculated as follows:

- (1) The Equity Sharing Percentage would be $\$100,000/\$400,000$, or 25%;
- (2) The price differential (the difference between the Resale Price and the Purchase Price) would be \$200,000;
- (3) The Equity Sharing Amount would be 25% times \$200,000, or \$50,000;

- (4) The Contingent Interest would be 150% (which is the Applicable Percentage since the Sale occurred prior to the 5th anniversary of the Closing Date) times \$50,000 (which is the Equity Sharing Amount.), or \$75,000.

e. The cost of Capital Improvements to the Property made while Borrower owns and occupies the Property shall be added to the Purchase Price for the purposes of calculating the Equity Sharing Amount, to the extent such costs are approved by the Lender. Borrower shall submit the following to the Lender: (1) an itemized list of the Capital Improvements for Lender approval or disapproval (2) reliable proof of completion of the Capital Improvements (as evidenced, for example, by final building permits or certificate of completion), and (3) reliable evidence of the actual and reasonable cost of the Capital Improvements (as evidenced, for example, by an itemized invoice and paid receipt). Lender reserves right to review, approve, disapprove, or approve a lower Capital Improvements cost.

f. Notwithstanding anything to the contrary contained herein, the Contingent Interest payable to Lender shall not exceed forty-nine (49%) of the difference between the Resale Price and the Purchase Price.

5. **Acceleration.**

a. The outstanding principal balance of the Lender Loan, and any Contingent Interest, shall become due and immediately payable upon the occurrence of any one of the following events prior to the expiration of the Term hereof:

- (1) any Sale of the Property (as defined in Section 1), provided, however, that the transfer of the Property: (i) to a surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant, or (ii) where a spouse becomes the owner of the Property, or (iii) resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Property, or (iv) by devise or inheritance solely as a result of the incompetency or death of the Borrower or any person constituting the Borrower, when the transferee is a child of Borrower that is a qualified Moderate Income Household and First Time Homebuyer, or (v) by a transfer into an inter vivos trust in which the Borrower is and shall remain the beneficiary and occupant of the Property shall not accelerate the Lender Loan so long as the transferee gives notice to Lender of such event within thirty (30) days of its occurrence and the transferee assumes Borrower's obligations under the Loan Agreement, by execution of an assignment and assumption agreement to be provided by Lender;
- (2) any mortgage, pledge, encumbrance, lien, or charge of any kind on any of the Property, without Lender's prior express written consent, except for liens for taxes not yet delinquent.
- (3) any prepayment of the Lender Loan, other than from the proceeds of a Sale;
- (4) any refinancing of the First Mortgage Loan; provided, that Borrower, with the written consent of the Lender, may refinance the First Mortgage Loan

for a loan amount equal to or less than the original loan balance secured by the First Mortgage on the Property, without accelerating the Lender Loan;

- (5) any Default, as defined in Section 1.

b. In the event the Lender Loan becomes due and payable as the result of an uncured Default other than a Sale of the Property, the Resale Price for purposes of determining the Equity Sharing Amount shall be determined by a market rate appraisal of the Property. If the Default is the result of a refinancing by a reputable institutional lender, the imputed Resale Price shall be determined by the appraisal performed by or on behalf of such lender. Otherwise, the Lender shall appoint a certified independent appraiser to conduct an appraisal of the Property, at Borrower's expense.

6. Loan Repayment Upon Acceleration.

If there is an uncured Default prior to the expiration of the Term hereof, Borrower shall repay the Lender Loan in accordance with this Section 6.

a. Repayment Upon Sale. If there is a Sale of the Property, Borrower shall repay the Loan in accordance with this paragraph "a". After paying all costs and fees relating to the Sale (such as escrow fees, transfer taxes, recording fees, brokerage commission and similar costs), the net proceeds of any such Sale shall be distributed in the following order of priority:

- (1) Payment in full of the First Mortgage Loan to the First Mortgage Lender;
- (2) Payment in full of the County Loan.
- (3) Payment in full to the Lender of the Note Amount;
- (4) Payment to the Lender of the Contingent Interest, if any, in accordance with Section 4;
- (5) The balance of the Resale Price shall be retained by the Borrower.

b. Repayment Upon Default Other Than a Sale. In the event the Lender Loan is due and payable as the result of an uncured Default other than a Sale of the Property, Borrower shall repay the Loan in accordance with this paragraph b., as follows:

- (1) Payment in full to the Lender of the Note Amount; and
- (2) Payment to the Lender of the Contingent Interest, if any, in accordance with Section 4; provided, however, that for purposes of calculating the Equity Sharing Amount, the Resale Price shall be imputed in accordance with paragraph b. of Section 5, above.

BORROWER ACKNOWLEDGES AND AGREES THAT UPON THE ACCELERATION OF THE LENDER LOAN PRIOR TO THE EXPIRATION OF THE TERM OF THIS NOTE, BORROWER SHALL PAY TO THE LENDER:

- (1) THE PRINCIPAL AMOUNT OF THE LENDER LOAN;

- (2) CONTINGENT INTEREST EQUAL TO A PERCENTAGE OF THE EQUITY SHARING AMOUNT CALCULATED PURSUANT TO SECTION 4 OF THIS NOTE.

Initials of Borrower

Initials of Borrower

Initials of Borrower

7. **Security for Note.** This Promissory Note is secured by the Lender Deed of Trust, dated on or about the date of this Note, executed by Borrower as Trustor in favor of Lender, as Beneficiary.

8. **Lender May Assign.** Lender may, at its option, assign its right to receive payment under this Note without necessity of obtaining the consent of the Borrower, the First Mortgage Lender or the Second Mortgage Lender.

9. **Borrower Assignment Prohibited.** In no event shall Borrower assign or transfer any portion of this Note, the Lender Loan or the Loan Agreement without the prior express written consent of the Lender, which consent may be given or withheld in the Lender's sole and absolute discretion. In no event shall Borrower assign or transfer any portion of the Property or any right to or interest therein without the prior express written consent of Lender, which consent shall be given by Lender only in the event that Lender determines that the assignee or transferee is an Eligible Person or Family, that the assignee's or transferee's monthly housing payments are at an Affordable Housing Cost, and that the assignee or transferee has expressly assumed this Agreement by execution of a written assignment document to be provided by Lender, in accordance with the provisions of the Notice of Restrictions.

10. **Compliance with Laws.** The Borrower shall comply with all applicable federal, state, and local laws and ordinances pertaining to the Property and/or the Loan Documents.

11. **Joint and Several.** The undersigned, if more than one, shall be jointly and severally liable hereunder.

12. **Attorneys' Fees.** Borrower agrees to pay the following costs, expenses, and attorneys' fees paid or incurred by Lender, or adjudged by a court: (1) Reasonable costs of collection, costs, and expenses, and attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed; and (2) costs of suit and such sum as the court may adjudge as attorneys' fees in any action to enforce payment of this Note or any part of it.

In addition to the foregoing award of attorneys' fees and costs, Lender shall be entitled to its attorneys' fees incurred in any post-judgment proceedings to enforce any judgment in connection with this Note. This provision is separate and several and shall survive the merger of this provision into any judgment.

13. **Amendments.** This Note may not be modified or amended except by an instrument in writing expressing such intention executed by the parties sought to be bound thereby, which writing must be so firmly attached to this Note so as to become a permanent part thereof.

14. **Severability.** The covenants, terms and provisions of this Note are severable. Invalidation of any covenant, term or provision or any part thereof by law, judgment, or court order shall not affect any other covenant, term or provision.

15. **Borrower's Waivers.** Borrower waives any right to require the Lender to do certain things. Those things are: (a) to demand payment of amounts due (known as "presentment"); (b) to give notice that amounts due have not been paid (known as "notice of dishonor") (c) to obtain an official certification of nonpayment (known as "protest").

16. **Notices.** Except as otherwise expressly provided in this Note, in every case when, under the provisions of this Note, it shall be necessary or desirable for either party to serve any notice, request, demand, report or other communication on the other party, the same shall be in writing and shall not be effective for any purpose unless served (a) personally, (b) by independent, reputable, overnight commercial courier, or (c) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

To Borrower: **John Thomas Smith
Jane Laura Smith
186 W. Highland Ave
Sierra Madre, CA 91024**

To Lender: HHP Highland, LLC
608 N. Fair Oaks Avenue, Suite 126
Pasadena, California 91103

And a copy to: City Manager's Office
City of Sierra Madre
232 Sierra Madre Boulevard
Sierra Madre, California 91024
Attn: City Manager

Either party may change its address for notice by giving written notice thereof to the other party.

17. **Non-Waiver.** Failure or delay in giving any notice required hereunder shall not constitute a waiver of any default or late payment, nor shall it change the time for any default or payment.

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

"Borrower"

By: _____
John Thomas Smith

By: _____
Jane Laura Smith

EXHIBIT "C"

LENDER DEED OF TRUST

[To Be Inserted]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

HHP Highland, LLC
608 N. Fair Oak Avenue, Suite 126
Pasadena, California 91103

Space above this line for Recorder's use only

**THIS DEED OF TRUST CONTAINS
PROVISIONS RESTRICTING ASSUMPTIONS**

EXHIBIT C

**DEED OF TRUST
WITH ASSIGNMENT OF RENTS**

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS (this "Deed of Trust") is made as of **XXXX XX, 2016**, among the trustor, **John Thomas Smith and Jane Laura Smith, Husband and Wife as Joint Tenants** (the "Borrower"), LAWYERS TITLE COMPANY, a California corporation (the "Trustee"), and the HHP Highland, LLC, a California limited liability company (the "Lender") as Beneficiary.

The Borrower, in consideration of the promises herein recited and the trust herein created, irrevocably grants, transfers, conveys and assigns to Trustee, in trust, with power of sale, the property located in the City of Sierra Madre, State of California, described in the attached Exhibit "A" and more commonly known as **186 W. Highland Avenue, Unit A, Sierra Madre, California** (the "Property").

TOGETHER with all the improvements now or hereafter erected on the Property, and all easements, rights, appurtenances and all fixtures now or hereafter attached to the Property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Property covered by this Deed of Trust; and

TOGETHER with 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 shall be attached to said building or buildings in any manner; and 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;

TO SECURE to the Lender the performance of the covenants and agreements of Borrower contained in that certain Affordable Housing Loan Agreement, dated on or about the date hereof, executed

by and between the Lender and the Borrower (the "Loan Agreement");

TO SECURE to the Lender the performance of the covenants and agreements of Borrower contained in that certain Notice of Restrictions and Right of First Refusal to Purchase Property, dated on or about the date of this Deed of Trust, executed by and between the Lender and the Borrower (the "Notice of Restrictions");

TO SECURE to the Lender the repayment of the sums evidenced by a promissory note to the Lender executed by Borrower on or about the date of this Deed of Trust, in the principal amount of **One Hundred Thousand and 00/100 DOLLARS (\$100,000.00) [TBD]** (the "Note"); and

TO SECURE the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of the Borrower contained herein.

All undefined capitalized terms used herein shall have the meanings ascribed to them in the Loan Agreement.

THE BORROWER AND THE LENDER COVENANT AND AGREE AS FOLLOWS:

1. **The Borrower's Estate.** That the Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Security, that other than this Deed of Trust, the Security is encumbered only by: (a) That deed of trust executed by the Borrower in connection with a loan made to the Borrower by **First Mortgage Lender Company** or its successors and assigns (the "First Mortgage Lender"), securing a promissory note executed by the Borrower in favor of the First Mortgage Lender ("First Mortgage Note"), to assist in the purchase of the Property; (b) the Note; (c) the Notice of Restrictions; (d) the deed of trust executed by Borrower in connection with the County Loan from the County of Los Angeles ("Second Mortgage") securing a promissory note executed by the Borrower in favor of the County of Los Angeles ("Second Mortgage Note"); and (e) any deed of trust held by the California Housing Finance Agency in connection with down payment assistance (if any). The Borrower agrees to warrant and defend generally the title to the Security against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring the Lender's interest in the Security. (As used in this Deed of Trust, the term "First Mortgage Lender" shall include all successors and assigns of the First Mortgage Lender.)

2. **Repayment of the Loan.** The Borrower will promptly repay, when due, the principal and interest required by the Note and will observe and perform all of the covenants and agreements of the Note.

3. **The Loan Agreement and Notice of Restrictions.** The Borrower will observe and perform all of the covenants and agreements of the Loan Agreement, the Note, and the Notice of Restrictions and each other document executed and delivered by Borrower in connection with the Loan, including all modifications, extensions, renewals, and replacements of each document referred to above.

4. **Charges; Liens.** The Borrower will pay all taxes, assessments and other charges, fines and impositions attributable to the Security which may attain a priority over this Deed of Trust, by the Borrower making any payment, when due, directly to the payee thereof. The Borrower will promptly furnish to the Lender all notices of amounts due under this paragraph, and in the event the Borrower makes payment directly, the Borrower will promptly discharge any lien which has priority over this Deed of Trust; provided that the Borrower will not be required to discharge the lien of the Deed of Trust securing the First Mortgage Note, the Second Mortgage, or any other lien described in this paragraph so long as the Borrower will, in good faith, contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Security or any part thereof.

5. **Hazard Insurance.** The Borrower will keep the Security insured by a standard fire and extended coverage insurance policy in at least such amounts and for such periods as the Lender may require, which amounts shall be the lesser of: (a) The sum of the loan amounts under the Note, the First Mortgage Note, and the Second Mortgage Note, or (b) the replacement cost of the Security, but in no event less than (c) the amount necessary to prevent the Borrower from becoming a co-insurer under the terms of the policy.

The insurance carrier providing this insurance shall be licensed to do business in the State of California and be chosen by the Borrower subject to approval by the Lender; provided that such approval will not be withheld if the insurer is also approved by the First Mortgage Lender, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or successors thereto.

All insurance policies and renewals thereof will be in a form acceptable to the Lender and will include a standard mortgagee clause with standard lender's endorsement in favor of the holder of the First Mortgage Note, the holder of the Second Mortgage Note ("Second Mortgage Lender") and the Lender as their interests may appear and in a form acceptable to the Lender. The Lender shall have the right to hold, or cause its designated agent to hold, the policies and renewals thereof, and the Borrower shall promptly furnish to the Lender, or its designated agent, the original insurance policies or certificates of insurance, all renewal notices and all receipts of paid premiums. In the event of loss, the Borrower will give prompt notice to the insurance carrier and the Lender or its designated agent. The Lender, or its designated agent, may make proof of loss if not made promptly by the Borrower. The policy shall contain a statement of obligation on behalf of the insurance carrier to notify the Lender of any material change, cancellation or termination of coverage at least thirty (30) days in advance of the effective date of such material change, cancellation, or termination. Borrower shall deliver a copy of the certificate of insurance and endorsement to the Lender within thirty (30) days of the effective date of this Deed of Trust, and Borrower shall annually deliver a copy of the certificate of insurance and loss payee endorsement to the Lender, signed by an authorized agent of the insurance carrier and setting forth the general provisions of coverage. The copy of the certificate of insurance and endorsement shall be delivered to the Lender as follows:

To Lender:	HHP Highland, LLC 608 N. Fair Oaks Avenue, Suite 126 Pasadena, California 91103
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With a copy to:	City Manager's Office City of Sierra Madre 232 Sierra Madre Boulevard Sierra Madre, California 91024 Attn: City Manager
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Unless the Lender and the Borrower otherwise agree in writing, insurance proceeds, subject to the rights of the First Mortgage Lender and Second Mortgage Lender, will be applied to restoration or repair of the Security damaged, provided such restoration or repair is economically feasible and the security of this Deed of Trust is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Deed of Trust would be impaired, the insurance proceeds will be used to repay the obligations secured by this Deed of Trust, with the excess, if any, paid to the Borrower. If the Security is abandoned by the Borrower, or if the Borrower fails to respond to the Lender, or its designated agent within thirty (30) days from the date notice is mailed by either of them to the Borrower that the insurance carrier offers to settle a claim for insurance benefits, the Lender, or its designated agent, is authorized to collect and apply the insurance proceeds at the Lender 's option either to restoration or repair of the Security or to repay the loan.

If the Security is acquired by the Lender, all right, title and interest of the Borrower in and to any

insurance policy and in and to the proceeds thereof resulting from damage to the Security prior to the sale or acquisition will pass to the Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition subject to the rights of the First Mortgage Lender and Second Mortgage Lender.

6. **Preservation and Maintenance of Security.** The Borrower will keep the Security in good repair in a manner consistent with community standards which will uphold the value of the Property, in accordance with the Sierra Madre Municipal Code and other applicable laws and ordinances, and will not commit waste or permit impairment or deterioration of the Security.

7. **Protection of the Lender's Security.** If the Borrower fails to perform the covenants and agreements contained in this Deed of Trust or if Borrower encumbers in anyway the Security without the prior express written consent of Lender or if any action or proceeding is commenced which materially affects the Lender's interest in the Security, including, but not limited to, default under the Deed of Trust securing the First Mortgage Note, a default under the Second Mortgage, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then the Lender, at the Lender's option, upon notice to the Borrower, may make such appearances, disburse such sums and take such action as it determines necessary to protect the Lender's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Security to make repairs.

Any amounts disbursed by the Lender pursuant to this paragraph, with interest thereon, will become an indebtedness of the Borrower secured by this Deed of Trust. Unless the Borrower and the Lender agree to other terms of payment, such amount will be payable upon notice from the Lender to the Borrower requesting payment thereof, and will bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts will bear interest at the highest rate permissible under applicable law. Nothing contained in this paragraph will require the Lender to insure any expense or take any action hereunder.

8. **Inspection.** The Lender may make, or cause to be made, reasonable entries upon and inspections of the Security; provided that the Lender will give the Borrower reasonable notice of inspection.

9. **Forbearance by the Lender Not a Waiver.** Any forbearance by the Lender in exercising any right or remedy will not be a waiver of the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by the Lender will not be a waiver of the Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.

10. **Remedies Cumulative.** All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or any other document, or afforded by law or equity, and may be exercised concurrently, independently or successively.

11. **Successors and Assigns Bound.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the Lender and the Borrower subject to the provisions of this Deed of Trust.

12. **Joint and Several Liability.** All covenants and agreements of the Borrower shall be joint and several.

13. **Notice.** Except for any notice required under applicable law to be given in another manner, in every case when, under the provisions of this Deed of Trust, it shall be necessary or desirable for one party to serve any notice, request, demand, report or other communication on the other party, the same shall be in writing and shall not be effective for any purpose unless served (a) personally, (b) by independent, reputable, overnight commercial courier, or (c) by deposit in the United States mail, postage

and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

To Borrower: **John Thomas Smith**
 Laura Jane Smith
 186 W. Highland Ave
 Sierra Madre, CA 91024

To Lender: HHP Highland, LLC
 608 N. Fair Oaks Avenue, Suite 126
 Pasadena, California 91103

With a copy to: City Manager's Office
 City of Sierra Madre
 232 Sierra Madre Boulevard
 Sierra Madre, California 91024
 Attn: City Manager

Either party may change its address for notice by giving written notice thereof to the other party.

14. **Governing Law.** This Deed of Trust shall be governed by the internal laws of the State of California, without giving effect to the principles governing the conflict of laws.

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

16. **Captions.** The captions and headings in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

17. **Defaults.**

(a) Subject to the further provisions of this Section 17, failure or delay by Borrower to perform any term or provision of this Deed of Trust, the Loan Agreement, the Note, the Notice of Restrictions, the Addendum to Grant Deed, the First Mortgage Note, the Deed of Trust securing the First Mortgage Note, the Second Mortgage, the Second Mortgage Note, or any deed of trust held by the California Housing Finance Agency (if any) constitutes a default. The Borrower must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

(b) The Lender shall give written notice of default to the Borrower, specifying: (1) the default complained of by the Lender; (2) the action required to cure such breach; (3) a date consistent with this Section 17, by which such breach is to be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Security. The notice will also inform the Borrower of the Borrower's right to reinstate after acceleration and the right to bring a court action to assert the non-existence of default or any other defense of the Borrower to acceleration and sale. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by the Lender in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by the Lender in asserting any of its rights and remedies shall not deprive the Lender of its right to institute and

maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs, prior to exercising any remedies hereunder, Lender shall give Borrower written notice of such default. Borrower shall have a period of seven (7) days after such notice is given within which to cure the default prior to exercise of remedies by Lender.

(e) If a non-monetary event of default occurs, prior to exercising any remedies hereunder, Lender shall give Borrower notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Borrower shall have such period to effect a cure prior to exercise of remedies by the Lender under the Note, the Notice of Restrictions or this Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Borrower (1) initiates corrective action within said period, and (2) diligently, continually, and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Lender. In no event shall Lender be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the first notice of default is given.

18. **Acceleration; Remedies.** Upon the Borrower's breach of any covenant or agreement of the Borrower in this Deed of Trust, including, but not limited to, the covenants to pay, when due, any sums secured by this Deed of Trust, which remains uncured after the applicable period of time after notice of default specified in Section 17, above, the Lender, at the Lender's option, may: (a) Declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by California law; (b) 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 Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of the Trustee, and do any acts which 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 breach hereunder or invalidate any act done in response to such breach and, notwithstanding the continuance in possession of the Security, the Lender shall be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any uncured breach, including the right to exercise the power of sale; (c) commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof; (d) deliver to the Trustee a written declaration of default and demand for sale, pursuant to the provisions for notice of sale found at California Civil Code Sections 2924, et seq., as amended from time to time; or (e) exercise all other rights and remedies provided herein, in the instruments by which the Borrower acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the obligations secured hereby, or provided by law. The Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorneys' fees.

19. **The Borrower's Right to Reinstate.** Notwithstanding the Lender's acceleration of the sums secured by this Deed of Trust, the Borrower will have the right to have any proceedings begun by the Lender to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Security pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of a judgment enforcing this Deed of Trust if: (a) The Borrower pays the Lender all sums which would be then due under this Deed of Trust and no acceleration under the Note has occurred; (b) the Borrower cures all breaches of any other covenants or agreements of the Borrower contained in this Deed of Trust; (c) the Borrower pays all reasonable expenses incurred by the Lender and the Trustee in enforcing the covenants

and agreements of the Borrower contained in this Deed of Trust, and in enforcing the Lender's and the Trustee's remedies, including, but not limited to, reasonable attorneys' fees; and (d) the Borrower takes such action as the Lender may reasonably require to assure that the lien of this Deed of Trust, the Lender's interest in the Security and the Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by the Borrower, this Deed of Trust and the obligations secured hereby will remain in full force and effect as if no acceleration had occurred.

20. **Due on Sale and Encumbrance; Restriction Against Assignment.**

(a) Due on Sale and Encumbrance. Sections 5(a)(1) and (2) of the Note contain the following language (unless otherwise defined in this Deed of Trust, all capitalized terms in this Section 20(a) shall have the meaning set forth in the Note):

"The outstanding principal balance of the Lender Loan, and any Contingent Interest, shall become due and immediately payable upon the occurrence of any one of the following events prior to the expiration of the Term hereof:

- (1) any Sale of the Property (as defined in Section 1), provided, however, that the transfer of the Property: (i) to a surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant, or (ii) where a spouse becomes the owner of the Property, or (iii) resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Property, or (iv) by devise or inheritance solely as a result of the incompetency or death of the Borrower or any person constituting the Borrower, when the transferee is a child of Borrower that is a qualified Moderate Income Household and First Time Homebuyer, or (v) by a transfer into an inter vivos trust in which the Borrower is and shall remain the beneficiary and occupant of the Property shall not accelerate the Lender Loan so long as the transferee gives notice to Lender of such event within thirty (30) days of its occurrence and the transferee assumes Borrower's obligations under the Loan Agreement, by execution of an assignment and assumption agreement to be provided by Lender;
- (2) any mortgage, pledge, encumbrance, lien, or charge of any kind on any of the Property, without Lender's prior express written consent, except for liens for taxes not yet delinquent."

(b) **Assignment Prohibited.** In no event shall Borrower assign or transfer any portion of this Deed of Trust, Note, the Lender Loan or the Loan Agreement without the prior express written consent of the Lender, which consent may be given or withheld in the Lender's sole and absolute discretion. In no event shall Borrower assign or transfer any portion of the Property or any right to or interest therein without the prior express written consent of Lender, which consent shall be given by Lender only in the event that Lender determines that the assignee or transferee is an Eligible Person or Family, that the assignee's or transferee's monthly housing payments are at an Affordable Housing Cost, and that the assignee or transferee has expressly assumed this Deed of Trust by execution of a written assignment document to be provided by Lender, in accordance with the provisions of the Notice of Restrictions.

21. **Reconveyance.** Upon payment or forgiveness of all sums secured by this Deed of Trust, the Lender will request the Trustee to reconvey the Security and will surrender this Deed of Trust and the

Note to the Trustee. The Trustee will reconvey the Security without warranty and without charge to the person or persons legally entitled thereto. Such person or persons will pay all costs of recordation, if any.

22. **Substitute Trustee.** The Lender, at the Lender's option, may from time to time remove the Trustee and appoint a successor trustee to any Trustee appointed hereunder. The successor trustee will succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

23. **Superiority of First Mortgage Loan Documents; Lender's Right to Cure Default Under First Mortgage Loan; Superiority of Loan Secured by a Deed of Trust held by the California Housing Finance Agency**

Notwithstanding any provision herein, this Deed of Trust shall not diminish or affect the rights of the First Mortgage Lender under that certain deed of trust dated _____, executed by the Borrower in favor of the First Mortgage Lender and recorded in the County of Los Angeles concurrently herewith (the "First Mortgage"). Lender and Borrower acknowledge and agree that this Deed of Trust is subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage and to all advances heretofore made or which may hereafter be made pursuant to such First Mortgage including all sums advanced for the purpose of (a) protecting or further securing the lien of the First Mortgage, curing defaults by the Borrower under the First Mortgage for any other purpose expressly permitted by the First Mortgagor (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Property and they supersede any other terms and provisions hereof in conflict therewith.

Borrower covenants that it shall send Lender and The City of Sierra Madre a copy of any notice of default, delinquency, breach or foreclosure received by First Mortgage Lender or the Second Mortgage Lender within 2 days of receipt by Borrower. In the event Borrower commits a default, breaches or fails to perform any obligation under the First Mortgage Note or Deed of Trust securing the First Mortgage Note, the Second Mortgage Note, Second Mortgage, or the deed of trust held by the California Housing Finance Agency (if any), then Lender and/or the appointed Loan Servicer shall have the right, but not the obligation, to advance any sums due or take any other actions necessary to stay or to cure any such default, breach or failure on Borrower's behalf. Borrower shall cooperate fully with Lender and its appointed Loan Servicer in effectuating such cure. Borrower authorizes entry upon the Property by or at the direction of Lender for such purpose upon 24-hour prior notice to Borrower by Lender. Any costs incurred by Lender in exercising this right to cure shall be added to the Note Amount (as defined in the Note) and be deemed additional sums due secured by this Deed of Trust, and shall bear interest at the rate required by the Note.

Further, if the First Mortgage Lender acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Deed of Trust shall automatically terminate upon the First Mortgage Lender's acquisition of title, provided that (i) the Lender has been given written notice of a default under such First Mortgage(which requirement shall be satisfied by recordation of a notice of default under California Code Section 2924, if applicable), and (ii) The lender shall not have cured the default under such First Mortgage within 90 days of such notice.

24. **Request for Notice.** The Borrower requests that copies of any notice of delinquency, notice of default and notice of sale be sent to the Borrower at the address set forth in Section 13 above.

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

"BORROWER"

John Thomas Smith

Jane Laura Smith

EXHIBIT "A"

PROPERTY DESCRIPTION

[To be added.]

EXHIBIT “D”

NOTICE OF RESTRICTIONS AND RIGHT OF FIRST REFUSAL TO PURCHASE
PROPERTY

[To Be Inserted]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

HHP HIGHLAND, LLC
608 N. Fair Oak Avenue, Suite 126
Pasadena, California 91103

Space above this line for Recorder's use only

**NOTICE OF RESTRICTIONS
AND RIGHT OF FIRST REFUSAL TO PURCHASE PROPERTY**

WHEREAS, as of _____ ____, 20__, HHP HIGHLAND, LLC, herein called "Lender," acting to make financial assistance available to assist persons and families of moderate income to obtain housing at an affordable housing cost, is making a loan (the "Lender Loan") to **John Thomas Smith and Jane Laura Smith, Husband and Wife as Joint Tenants** (the "Borrower"), evidenced by the Promissory Note dated concurrently herewith ("Note"), and pursuant to the terms of a certain Affordable Housing Loan Agreement dated on or about the date hereof (the "Loan Agreement"), for the purpose of assisting Borrower to purchase residential property located at **186 W. Highland Street, Unit A, Sierra Madre, California 91024** (the "Property") as described on the attached Exhibit "A" which is incorporated herein by this reference; and

WHEREAS, the financial assistance being made available by the Lender to the Borrower is conditioned on the residential use of the Property by Borrower for owner-occupancy; and

WHEREAS, the financial assistance being made available by the Lender to the Borrower is conditioned on the use of the Property for housing affordable to Moderate Income Households (as those terms are defined in Section 1.c.3 below) for the term of the Lender Loan; and

WHEREAS, the financial assistance being made available by the Lender to the Borrower is also conditioned on the right, but not the obligation, of the Lender to purchase the Property from Borrower on the same terms and for the same price as any bona fide offer made to Borrower to purchase the Property during the term of the Lender Loan.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Lender and the Borrower hereby agree and NOTICE IS HEREBY GIVEN that the Property shall be subject to this NOTICE OF RESTRICTIONS AND RIGHT OF FIRST REFUSAL TO PURCHASE PROPERTY (the "Notice").

All undefined capitalized terms used herein shall have the meanings ascribed to them in the Loan Agreement.

1. **Owner-Occupancy Requirement.**

a. Except as otherwise provided in subsection 1.c., below, Borrower shall occupy the Property as his or her or their primary residence, and the Property shall be used as the principal residence of Borrower and Borrower's household and for no other purpose. Except as provided in the "hardship" exemption described in subsection 1.c., below, the Property shall not be leased or rented by Borrower to any person or entity. The maximum occupancy of the Property shall not exceed the maximum occupancy allowed by the Sierra Madre Municipal Code.

b. The Lender shall have the right to monitor whether the Property is owner-occupied by requesting that Borrower provide the Lender, no more frequently than annually, with a written certification under penalty of perjury that the Property is owner-occupied, accompanied by supporting documentation reasonably satisfactory to the Lender. In the event of a breach or threatened breach of this paragraph b., the Lender or its successors or assigns shall be entitled to institute legal action to enforce performance of this paragraph b. and to obtain an injunction requiring Borrower to occupy the Property and/or requiring Borrower to sell the Property to an Eligible Person and Family who will occupy the Property as his or her or their primary residence.

c. The Lender acknowledges and agrees that there may be limited circumstances in which the application of this Section 1 would be an unreasonable hardship to Borrower, inconsistent with the intentions of the parties hereto. Such circumstances may include, by way of example and without limitation, situations in which Borrower is forced to move from the Property for employment purposes, or the size of the Borrower's household has increased so as to outgrow the size of the improvements on the Property. The Property shall not be leased or rented by Borrower to any person or entity except in accordance with the following provisions:

(1) Subject to the provisions of this Section 1.c., Borrower may lease or rent the Property only upon notice to the Lender that the owner-occupancy restriction is working a hardship on the Borrower (including an explanation of such hardship), and only during the period that such Property is being offered for sale, provided that such lease or rental period shall not exceed twelve (12) months and such lease or rental agreement shall terminate upon sale of the Property in accordance with the terms of this Notice.

(2) A written lease agreement shall be executed between the Borrower and the lessee or renter. The Borrower shall obtain from the lessee or renter a lease application, in a form provided by the Lender, and shall submit it to the Lender for approval together with the written lease agreement. If the explanation of the hardship described in clause (1), the lease application and the written lease are approved, the Lender shall execute an instrument to be entitled "Consent to Lease" in a form that is acceptable to the Lender, and shall deliver such Consent to Lease to the Borrower. The lease agreement between Borrower and lessee or renter shall provide that the terms of the lease shall be subject in all respects to the provisions of any conditions, covenants and restrictions that may apply to the Property, including the Loan

Documents and the Addendum to Grant Deed, and to any articles of incorporation, bylaws and rules and regulations of any homeowners' association that may apply to the Property, and that any failure by the lessee or renter to comply with the terms of such documents shall be a default under the lease agreement.

(3) Subject to this Section 1, Borrower may rent the Property to a person or family who qualifies as a Moderate Income Household for a monthly rental amount not to exceed the State defined affordable rent for Moderate Income Household, provided that, to the extent such monthly rental exceeds the sum of (A) the Borrower's debt service on all deeds of trust secured by the Property, (B) any assessments imposed by any homeowners' or condominium association, if and as applicable, (C) property taxes on the Property and (D) homeowner's insurance, the excess shall be paid to the Lender on a monthly basis and applied toward the principal balance of the Lender Loan. The Lender shall have the right to monitor compliance with this Section 1.c. by requesting that the Borrower provide the Lender, no more frequently than annually, with the following:

(A) A written certification under penalty of perjury that the Property is owner-occupied, accompanied by supporting documentation reasonably satisfactory to the Lender; or

(B) If the Property is not owner-occupied, a copy of the lease agreement then in effect and the Lender's Consent to Lease pertaining to that lease; a written certification under penalty of perjury stating when the Property was last owner-occupied, accompanied by supporting documentation reasonably satisfactory to the Lender, and stating the amount of monthly rent collected under the lease; the income of the tenant; and documentation reasonably satisfactory to the Lender that the Borrower is making a reasonable effort to sell the Property.

(4) In the event of a breach or threatened breach of this Section 1, the Lender, or its successors or assigns shall be entitled to institute legal action to enforce performance of this Section 1, to enjoin any actions which are violative of this Section 1, and to seek to recover any rent that should have been paid to the Lender under subsection 1.c (3) above. In the event that the Lender approves a lease on the basis of a materially false application, or if a lease is consummated without a Consent to Lease having been obtained from the Lender, the Lender shall be entitled to an injunction prohibiting anyone but the Borrower from occupying the Property and/or requiring the Borrower to occupy the Property and the Lender shall not be obligated to consider or approve another lease of the Property by that Borrower.

d. These owner-occupancy restrictions may be modified or terminated only upon the approval of the Lender. Any modification must be in writing and signed by Lender and Borrower.

2. **Maintenance of Property.**

a. Borrower shall maintain the interior and exterior of the improvements and the landscaping on the Property in a manner consistent with community standards that will uphold the value of the Property, in accordance with this Notice and the Sierra Madre Municipal Code.

b. Not later than thirty (30) days prior to a Sale of the Property (as defined in Section 3), Borrower shall give notice of the impending sale to the Lender in accordance with Section 3, and shall permit the Lender to inspect the Property prior to the Sale (as defined in the Note), upon reasonable prior notice from the Lender. Following such inspection, if the Lender determines that the Property is not in compliance with this Section 2, the Lender shall deliver to the Borrower a list of repairs that are required to be made to the Property to comply with this Section 2. At his, her or their sole cost and expense, Borrower shall complete such repairs, or provide for such repairs to be completed, to the reasonable satisfaction of the Lender prior to the Sale. With the consent of the Lender, Borrower may provide for such repairs to be paid out of the portion of net Sale proceeds to be paid to Borrower.

3. **Borrower's Notice of Intent; Lender's Right of First Refusal; Eligible Persons and Families; Restricted Resale Price.**

a. If there is a Sale of the Property at any time during the term of the Lender Loan to an Eligible Person and Family, the Resale Price shall not exceed the Restricted Resale Price. As used herein, "Restricted Resale Price" means the total consideration to be paid to the Borrower upon a Sale of the Property by the Borrower to an Eligible Person and Family. The Restricted Resale Price shall be determined on the date Lender receives Borrower's notice of Proposed Sale of the Property. The Restricted Resale Price shall be equal to the Borrower's Purchase Price, less the amount of any existing loans secured by the Property to be assumed by the proposed purchaser (if any), with such total amount adjusted by the percentage change in State of California Housing and Community Development (HCD) median income limits for Los Angeles County, adjusted for household size, between the year of Borrower's purchase and the current year but in any event shall not exceed the proposed purchaser's Affordable Housing Cost. As used herein, "Affordable Housing Cost" means Housing Cost payments which are not less than 28% of the gross income of the household and which do not exceed the maximum Housing Cost for Moderate Income households as defined in California Health and Safety Code Section 50052.5(b)(4). In addition, for any Moderate-Income household that has a gross income that exceeds 110% of the area median income, affordable housing cost shall not exceed the greater of the foregoing and thirty-five percent (35%) of the gross income of the household. For purposes of this definition, the phrase "adjusted for household size appropriate for the Unit" shall mean a household size equal to the number of bedrooms in the Unit plus one.

b. Borrower shall notify the Lender in writing not less than thirty (30) days prior to the following (each such notice, a "Borrower's Notice of Intent"): (1) prior to placing the Property for sale or lease, or otherwise soliciting offers in connection with a Sale (which includes a lease, exchange or other dispositions of any interest in the Property or Prepayment of the Lender Loan) (a "Marketing of the Property"); and (2) except within sixty (60) days after a Marketing of the Property for which Borrower previously provided a Borrower's Notice of Intent as required hereunder, unconditionally accepting an offer for the Sale of the Property, such Borrower's Notice of Intent shall be accompanied by a copy of a bona fide offer to purchase the Property (the "Offer") and Borrower's conditional acceptance, specifying all the terms of such proposed Sale. Every Borrower's Notice of Intent shall include copies of any Offers or specify all the terms of any Marketing of the Property (the "Sale Terms").

c. Upon receipt of a Borrower's Notice of Intent, the Lender shall have the right of first refusal, but not the obligation, in its sole discretion, to purchase the Property, or to cause the sale of the Property by Borrower to a third party who is an Eligible Person and Family, for an amount equal to the Restricted Resale Price ("ROFR"). If the Lender decides to exercise its ROFR, it shall, within seventy-five (75) days after receipt of Borrower's Notice of Intent, notify the Borrower in writing that it is exercising its ROFR in accordance with this Section 3 (the "Lender's Election").

d. If the Lender exercises its ROFR but does not immediately assign its right to an Eligible Person and Family with the intent of having the Eligible Person and Family close the purchase in lieu of Lender, the outstanding principal amount of the Lender Loan and any interest due and payable to the Lender under the Note shall be paid to the Lender in the form of a credit against the price to be paid by the Lender to the Borrower at the closing of the purchase. An escrow shall be established to close within sixty (60) days after the date of the notice of Lender's Election, and the Borrower's obligations under the Lender Loan and the Note shall be discharged upon such closing. After such closing, Lender shall only be permitted to resell the Property to an Eligible Person and Family at the Restricted Resale Price.

e. If Lender exercises its ROFR and arranges for the purchase of the Property by an Eligible Person and Family concurrent with the closing with the intent that the Eligible Person and Family purchase the Property in lieu of Lender, an escrow shall be established to close within sixty (60) days after the date of the notice of Lender's Election, and the purchase price shall equal the Restricted Resale Price. In the event that the sale of the Property to such Eligible Person and Family does not close within such sixty (60) day period despite the good faith efforts of Lender and such Eligible Person and Family, the closing date shall be extended for an additional thirty (30) day period to allow the parties to close the sale of the Property. Concurrently with the sale of the Property to an Eligible Person and Family, such Eligible Person and Family shall enter into an assumption agreement and shall expressly assume in form and substance satisfactory to Lender, all obligations of Borrower under the Loan Documents with the same degree of recourse liability as Borrower.

In the event Lender fails to provide the Lender's Election within the period provided above for exercise of its ROFR, Borrower may consummate a Sale of the Property, within sixty (60) days after the expiration of Lender's 75-period to provide a notice of Lender's Election ("Borrower's Resale Window"), either (1) to an Eligible Person and Family at no more than the Restricted Resale Price, in which event Borrower shall not be required to pay Contingent Interest (as defined in the Note) upon such closing, or (2) to (i) in the case Borrower's Notice of Intent related to a Marketing of the Property, to any other party on substantially the same Sale Terms, or (ii) in the case of Borrower's Notice of Intent related to an Offer, to the party who made the Offer on substantially the same terms as the Offer. Upon such Sale of the Property, Borrower shall be required to pay the Contingent Interest and all other amounts due as provided in the Note and/or Loan Agreement. In the event Borrower does not consummate a Sale of the Property in accordance with this paragraph within Borrower's Resale Window, then Borrower's Notice of Intent shall be void and deemed never given and Borrower shall again be subject to the terms of this Section 3, including Lender's ROFR and Borrower's notice obligations. Any attempted Sale of the Property in breach of this Section 3 or any other term of this Notice shall be void and of no force and effect.

4. **Notices.**

Except as otherwise expressly provided in this Notice, in every case when, under the provisions of this Notice, it shall be necessary or desirable for one party to serve any notice, request, demand, report or other communication on another party, the same shall be in writing and shall not be effective for any purpose unless served (a) personally, (b) by independent, reputable, overnight commercial courier, or (c) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

To Borrower: ***John Thomas Smith and Jane Laura Smith
186 W. Highland Avenue
Sierra Madre, California 91024***

To Lender: HHP HIGHLAND, LLC
608 N. Fair Oaks Avenue, Suite 126
Pasadena, California 91103

With a copy to: City Manager's Office
The City of Sierra Madre
232 Sierra Madre Boulevard
Sierra Madre, California 91024
Attn: City Manager

Either party may change its address for notice by giving written notice thereof to the other party.

5. **Nondiscrimination.** There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, sex, marital status, disability, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any part thereof, nor shall Borrower or any person claiming under or through Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property.

Borrower, its successors and assigns, shall refrain from restricting the rental, sale or lease of the Property on the basis of race, color, religion, sex, marital status, disability, national origin or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein

conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

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

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

a. (c) In contracts: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

No violation or breach of this Notice shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other security instrument permitted by the Loan Agreement or any other Loan Document and made in good faith and for value.

Notwithstanding any other provision of law, this Notice shall run with the land and shall be enforceable against the Borrower and successors in interest by the Lender. Except for the nondiscrimination provisions set forth in Section 5, above, which shall remain in effect in perpetuity, the requirements of this Notice shall remain in effect until the earlier of (a) 45 years from the date hereof, or (b) repayment in full of the Lender Loan together with any applicable Contingent Interest.

6. This Notice, without regard to technical classification or designation, shall be binding for the benefit of the Lender, and such covenants shall run in favor of the Lender for the entire period during which such covenants shall be in force and effect, without regard to whether the Lender is or remains an owner of any land or interest therein to which such covenants relate. The Lender, in the event of any breach of any such covenants, shall have the right to exercise all

the rights and remedies, and to maintain any action at law or suits in equity or other proper proceedings to enforce the curing of such breach. If Borrower is more than one person, the obligations of Borrower hereunder are joint and severable as to each person comprising the Borrower.

7. Only the Lender, its successor, and assigns, and the Borrower and the successors and assigns of the Borrower in and to the Property shall have the right to consent and agree to changes in, or to eliminate in whole or in part, this Notice or to subject the Property to additional covenants, easements, or other restrictions without the consent of any tenant, lessee, easement holder, licensee, trustee, beneficiary under a deed of trust (other than the the Lender Loan) or any other person or entity having an interest less than a fee in the Property. This Notice shall not benefit or be enforceable by any person, or firm, or corporation, public or private, except the Lender and the Borrower and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Notice as of the day and year written below.

“BORROWER”

John Thomas Smith

Jane Laura Smith

“LENDER”

HHP HIGHLAND, LLC a California limited liability company

BY: Heritage Housing Partners, a California Non-Profit Public Benefit Corporation,
It's Sole Member

BY: _____
Charles E. Loveman, Jr.
Executive Director

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

[To Be Inserted]

EXHIBIT “E”

DISCLOSURE STATEMENT

[To Be Inserted]

Exhibit E

**HHP HIGHLAND, LLC
DISCLOSURE STATEMENT**

I/we, **John Thomas Smith and Jane Laura Smith, Husband and Wife as Joint Tenants** ("Borrower") understand and agree that the provision of financial assistance (the "Lender Loan") from HHP Highland, LLC ("HHP Highland") is conditional on a number of factors, including, but not limited to:

- I/we must qualify for a fixed-rate home loan from an institutional lender acceptable to HHP Highland.
- I/we must pay at least five percent (5%) of the Affordable Sales Price as a down payment, from my/our own funds, gift funds, or any Lender approved down-payment assistance loan programs, such as programs provided by the California Housing Finance Agency. I/we must pay at least one percent (1%) of the total purchase price, from my/our own funds, as a down payment.
- I/we must purchase a property located at **186 W. Highland Avenue**, Sierra Madre, CA (the "Property").
- I/we must not have or have had a present ownership interest in a principal residence at any time during all or any part of the past three (3) tax years.

I/we further understand and agree that:

■ I/we will be responsible for repaying the principal amount of the Note, with interest as described in the Note. The Note (and any interest as described therein) will become all due and payable, at the option of HHP Highland, upon the occurrence of any one of the following events prior to the expiration of the term thereof:

(a) any Sale of the Property, provided, however, that the transfer of the Property: (i) to a surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant, or (ii) where a spouse becomes the owner of the Property, or (iii) resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Property, or (iv) by devise or inheritance solely as a result of the incompetency or death of the me/us or any person constituting me/us, when the transferee is a child of me/us that is a qualified Moderate Income Household and First Time Homebuyer, or (v) by a transfer into an inter vivos trust in which I/we shall remain the beneficiary and occupant of the Property shall not accelerate the payment under the Note so long as the transferee gives notice to HHP Highland of such event within thirty (30) days of its occurrence and the transferee assumes my/our obligations under the Note and other documents evidencing the Lender Loan, by execution of an assignment and assumption agreement to be provided by HHP Highland;

(b) any mortgage, pledge, encumbrance, lien, or charge of any kind on any of the Property, without HHP Highland's prior express written consent, except for liens for taxes not yet delinquent;

(c) any prepayment of the Lender Loan, other than from the proceeds of a sale;

(d) any refinancing of the mortgage loan having first priority over the Lender Loan (the "First Mortgage Loan"); provided, that I/we, with the written consent of the HHP Highland, may refinance the First Mortgage Loan for a loan amount equal to or less than the original loan balance secured by the First Mortgage Balance, without accelerating the Lender Loan;

(e) if I/we are in default under the Lender Loan; or

(f) if I/we are in default under the second mortgage in favor of the County of Los Angeles (the "County Loan") or any other document evidencing the County Loan.

- In addition, upon Sale of the Property or any other event that accelerates the obligation to repay the Note, including but not limited to refinancing or prepayment within forty-five (45) years after the Closing Date, I/we shall pay Contingent Interest equal to a percentage of the appreciation of the Property as defined in the Promissory Note.
- During the term of the HHP Highland Loan, I/we will continuously occupy the Property and I/we shall not rent or lease the Property, except with the consent of HHP Highland under the hardship circumstances described in the Notice of Restrictions.
- Certain restrictions govern the resale of this property as described in Section 3 of the Notice of Restrictions.
- An appraisal fee may be payable upon the following: (i) the Lender Loan becomes due upon sale, (ii) the Property is refinanced, (iii) I/we no longer occupy the Property, (iv) I/we am/are in default of any provision of the Loan Agreement, the Deed of Trust, or the Notice of Restrictions for the Lender Loan, or (v) I/we am/are in default of any provisions of the County Loan.
- HHP Highland shall not be held responsible for any costs associated with the home I/we purchase with such assistance including, but not limited to, any loan fees or charges, any charges for appraisals, or any escrow costs or other costs relating to the transfer of the Property.
- HHP Highland cannot ensure that information provided by or on my/our behalf will be kept confidential.
- HHP Highland shall not be responsible for the selection of a lender providing funds assisting in the purchase of the home, providing information concerning other public or private sources of loans, or the competitiveness of the terms of the First Mortgage Loan. I/we assume all responsibility for determining whether I/we will inform myself/ourselves as to the availability and terms of other public or private loans.
- HHP Highland shall not be charged with the knowledge of the contents of the documents of the First Mortgage Lender.

- All loans and funding requests must be approved by HHP Highland's Executive Director.

John Thomas Smith Date

Jane Laura Smith Date

EXHIBIT “F”

REQUEST FOR NOTICE OF DEFAULT

[To Be Inserted]

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

NAME:

ADDRESS:

CITY:

STATE/ZIP:

Title Order No.: _____ Space Above This Line For Recorder's Use Escrow No.: _____

**REQUEST FOR NOTICE UNDER
CALIFORNIA CIVIL CODE SECTION 2924b**

In accordance with California Civil Code Section 2924b, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under the Deed of Trust recorded on _____, _____, as Instrument No. _____, in Book _____, Page _____, of Official Records of _____ County, California, describing the real property therein as follows (Assessor's Parcel No. _____):

Executed by _____, _____,
as _____ Trustor, _____ in _____ which
_____,
is _____ named _____ as _____ Beneficiary, _____ and
_____ , as Trustee, be mailed to:

(Name)

(Address)

NOTICE: A copy of any Notice of Default and Notice of Sale will be sent to the address contained in this recorded request. If your address changes, a new request must be recorded.

Dated: _____

Dated: _____

State of California)
County of)

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

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

WITNESS my hand and official seal,

Signature _____ (Seal)

EXHIBIT "G"

REQUEST FOR NOTICE OF DELINQUENCY

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO

Name:
Address:
City:
State & Zip:

Title Order No.

Escrow No.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

REQUEST FOR NOTICE OF DELINQUENCIES UNDER SECTION 2924e CIVIL CODE

In accordance with Section 2924e, California Civil Code, request is hereby made that a written notice of any or all delinquencies of four months or more, in payments of principal or interest on any obligation secured under the Deed of Trust recorded as Instrument Number: _____ on: _____
Official Records of _____ County, California, loan number _____
Wherein _____ is the trustor, and describing land therein as:

1. The ownership or security interest of the requester, is the beneficial interest under that certain deed of trust recorded as instrument Number: _____ on _____ of the Official Records of: _____ County, California.

Wherein _____ is the trustor.

2. _____ is the date on which the interest of the requester will terminate as evidenced by the maturity date of the note of the trustor in favor of the requester.

3. _____ is the name of the current owner of the security property described above.

4. The street address of the security property as described above is: _____

5. Said notice of delinquency and the amount thereof shall be sent to: _____
(Requester Beneficiary)

at _____
(Address) (City)

(State) (Zip)

Dated: _____

(Requester Beneficiary)

CONSENT BY TRUSTOR/OWNER

I _____ AUTHORIZE _____
(Trustee) (Senior Lienholder)

TO DISCLOSE IN WRITING TO _____
(Requesting Beneficiary)

NOTICE OF ANY AND ALL DELINQUENCIES OF FOUR MONTHS OR MORE, IN PAYMENT OF PRINCIPAL OR INTEREST ON ANY OBLIGATION SECURED BY THAT SENIOR LIEN MORE PARTICULARLY DESCRIBED AS INSTRUMENT NUMBER _____ RECORDED ON _____

IN OFFICIAL RECORDS OF _____ COUNTY, CALIFORNIA.

DATED _____

EXHIBIT “H”

ADDENDUM TO GRANT DEED

[To Be Inserted]

**FORM OF ADDENDUM TO GRANT DEED
FROM DEVELOPER TO PURCHASER**

A. Purpose of this Addendum. This Addendum to Grant Deed (this “*Addendum*”) is attached to and made part of that certain Grant Deed between HHP Highland, LLC, a California limited liability company (“*Grantor*” herein) and _____ (“*Grantee*” herein) and provides that the property which is the subject of the Grant Deed (“*Unit*”) is conveyed by Grantor subject to the deed restrictions (collectively the “*Deed Restriction*”) set forth below. Words and phrases used in this Addendum shall have the same meanings as in the Grant Deed unless specifically provided otherwise. If there is any conflict between the provisions of this Addendum and the provisions of the Grant Deed, the provisions of this Addendum will prevail.

B. Subsidy. In accepting said Deed Restriction, the undersigned Grantee understands and acknowledges that the Unit is being sold to the Grantee because Grantee is a Moderate Income First Time Homebuyer; that the Unit is being sold to Grantee for a sales price that results in an Affordable Housing Cost to Grantee as the result of the following subsidies (collectively, the “*Subsidy*”) (i) a subsidy provided to Grantor by the City of Sierra Madre (“*City*”) in accordance with a certain Disposition and Development Agreement (the “*DDA*”) by and between the City and Grantor, dated as of July [___], 2015 which DDA is a public record on file in the office of the City, and passed along and made available to Grantee by means of the third mortgage purchase money loan made by the Grantor to Grantee and secured by a third lien on the Unit (the “*Third Mortgage*”) and (ii) an additional subsidy from the County of Los Angeles made available to Grantee by means of a mortgage loan secured by a second priority lien on the Unit); and that without the Subsidy, the sales price of the Unit would exceed the amount that is affordable to Grantee. Provided, however, that nothing contained herein is intended to prohibit Grantee from benefiting from additional financing subsidies, if available, including, without limitation, subsidies made from the County of Los Angeles (which is anticipated to be made available to Grantee by means of a mortgage loan secured by a junior lien on the Unit) and similar programs.

C. Heritage Housing Partners to act as Loan Servicer. So long as Grantor is the beneficiary of the Third Mortgage, Heritage Housing Partners shall act as loan servicer on behalf of Grantor.

D. Deed Restrictions. In return for and in consideration of the opportunity for the Grantor to sell and the Grantee to purchase the Unit under the above-referenced circumstances and for other good and valuable consideration, the receipt and legal sufficiency of which the undersigned hereby acknowledge, the Grantee, on behalf of himself, herself, or themselves and with the express intent to bind all those defined as “*Grantee*” in Paragraph 1 below, hereby agrees as follows:

1. Definitions

“Affordable Housing Cost” shall mean Housing Cost payments which are not less than 28% of the gross income of the household and which do not exceed the maximum Housing Cost for Moderate Income households as defined in California Health and Safety Code Section 50052.5(b)(4). In addition, for any Moderate-Income household that has a gross income that exceeds 110% of the area median income, affordable housing cost shall not exceed the greater of the foregoing and thirty-five

percent (35%) of the gross income of the household.

“Area Median Income” means the median income of the Los Angeles-Long Beach Standard Metropolitan Statistical Area, adjusted for family size, as published from time to time by the California Department of Housing and Community Development.

“County Mortgage Loan” means the second priority purchase money loan of County Funds made by the County of Los Angeles to Grantee.

“DDA” shall mean the Disposition and Development Agreement entered by and between the City and HHP Highland, LLC, a California limited liability company, dated as of July [____], 2015.

“Displaced Homemaker” shall mean an individual who (1) is an adult; (2) has not worked full-time in the labor force for at least two (2) years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. Such individual must be able to secure first mortgage loan financing in the appropriate amount in order to qualify for the Displaced Homemaker exemption.

“First Time Homebuyer” shall mean an individual and his or her spouse who have not owned a home during the 3-year period before the purchase of the Unit, except that:

(a) Any individual who is a Displaced Homemaker may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse, provided that such individual is able to secure a 30-year fixed-rate fully amortizing mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community second mortgage loans designed to protect and preserve the affordability of the Units;

(b) Any individual who is a Single Parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse, provided that such individual is able to secure a 30-year fixed-rate fully amortizing mortgage loan financing from a traditional mortgage lender able to approve any subordinate mortgage loans or community second mortgage loans designed to protect and preserve the affordability of the Units;

(c) An individual may not be excluded from consideration as a first-time homebuyer on the basis that the individual owns or owned, as a principal residence during the 3-year period before the purchase of the Unit, a dwelling unit whose structure is:

(1) Not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

(2) Not in compliance with State, local or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

“Grantee” shall mean and include the undersigned Grantee and any or all successors in interest (whether voluntary or involuntary), transferees, assigns, heirs, executors, or administrators of the undersigned.

“Housing Cost” shall have the meaning set forth in Title 25 California Administrative Code Section 6920.

“Moderate Income” shall mean a household income that exceeds 80% but does not exceed 120% of the Area Median Income, adjusted for household size, as determined by the United States Department of Housing and Urban Development and published from time-to-time by the California Department of Housing and Community Development.

“Program” shall mean the rules and regulations adopted by and form of documents approved by Lender’s Executive Director to carry out the Lender’s Third Mortgage Loan program.

“Right of First Refusal” shall mean Grantor’s right of first refusal to purchase the Unit pursuant to that certain “Notice of Restrictions and Right of First Refusal to Purchase Property” of approximately even date herewith by and between Grantor (“Lender” therein) and Grantee (“Borrower” therein). The Right of First Refusal shall be freely assignable by Grantor to the Lender, Servicer, or to a Moderate Income First Time Homebuyer.

“Single Parent” means an individual parent who is raising one or more children in a family household in which no other parent(s) of said children reside.

“Subsidy” shall mean the Third Mortgage Loan and the County Mortgage Loan.

“Third Mortgage” shall mean the third deed of trust securing the Third Mortgage Loan Promissory Note.

“Third Mortgage Loan” means a purchase money loan made by Grantor to Grantee in an original principal amount approximately equal to the positive difference between (a) the estimated sales price of the Unit determined as if the Unit was not subject to any affordability restrictions, less the County Mortgage Loan on that Unit, and (b) the affordable sales price for which the Grantee purchased the Unit.

“Third Mortgage Loan Promissory Note” shall mean a promissory note initially in favor of Grantor, evidencing the Grantee’s obligations with respect to the Third Mortgage Loan. Grantor shall have the right, with or without Grantee’s consent, to assign all of its rights in and to the Third Mortgage Loan Promissory Note.

2. Method of Resale or Recapture

(a) Procedures to Notify Lender

(i) Notice of Proposed Resale. Grantee shall not sell or otherwise transfer the Unit except in accordance with this Addendum and the Third Mortgage loan

documents. If the Grantee of the Unit desires to sell or otherwise transfer the Unit, the Grantee shall notify the Lender in writing (hereinafter referred to as the “Notice of Intended Sale”) and provide such information as the Servicer shall reasonably request regarding the proposed sale or transfer. The Notice of Intended Sale shall state the street address of the Unit, the Grantee’s full name(s), the name and current address of the proposed purchaser, and the terms of the proposed transaction. The Notice of Intended Sale, together with the Servicer-required information shall be personally delivered or deposited into the U.S. mail, postage prepaid, first class, certified mail, return receipt requested, addressed to:

Heritage Housing Partners
608 N. Fair Oaks Avenue, #126
Pasadena, California 91103
Attn: Executive Director

(ii) Submission of Additional Information. Representatives of the Servicer may at any time after the Servicer’s receipt of the Notice of Intended Sale, request that the Grantee or the proposed purchaser provide additional information regarding the proposed transaction for the transfer of the Unit, and the Grantee and/or purchaser shall supply such information as soon as practicable.

(iii) Determination relating to Purchase or Recapture. Upon receipt of the Notice of Intended Sale, the Lender (or its delegated representative) shall notify Grantee whether Grantor (or Grantor’s assignee) elects to exercise its Right of First Refusal to purchase the Unit. If Grantor (or Grantor’s assignee) elects not to exercise its Right of First Refusal, the Unit may be sold (subject to the affordability restrictions), in which case the Lender shall promptly determine and notify Grantee of the payoff amount (including any shared appreciation or other compensation, as provided in the County Mortgage Loan, or the Promissory Note and other Third Mortgage loan documents) relating to the Subsidy.

(iv) Assignment or Extinguishment and Release of Addendum.

(1) If the Grantor (or Grantor’s assignee) elects to exercise its Right of First Refusal to purchase the Unit for sale to a Moderate Income First Time Homebuyer, the Lender and Grantee shall execute and record such instruments as may be necessary to permit the Moderate Income First Time Homebuyer to assume Grantee’s obligations under this Addendum; or

(2) If the Grantor (or Grantor’s assignee) elects not to exercise its Right of First Refusal to purchase the Unit and the Unit is allowed to be sold (subject to the restrictions), upon the sale or other transfer of the Unit and repayment in full of the Subsidy (including the principal amount and any shared appreciation due and payable pursuant to the County Mortgage Loan and the Third Mortgage Loan documents), the Lender shall execute and record such instruments as may be necessary to extinguish and release this Addendum.

(b) Notice of Default Under Deed of Trust or Mortgage, and Lender’s Right to Enforce.

The Grantee covenants to cause to be filed in the Office of the Recorder of the County of Los Angeles a request for a copy of any notice of sale, notice of delinquency or notice of default under any deed of trust or mortgage with power of sale encumbering the Unit or any part thereof. Such request shall specify that any such notice shall be mailed to:

Heritage Housing Partners
608 N. Fair Oaks Avenue, #126
Pasadena, California 91103
Attn: Executive Director

(c) Disposition of the Unit Contrary to Agreement; Other Defaults.

If the Grantee sells, transfers, conveys or otherwise disposes of the Unit contrary to this Addendum to Grant Deed, the Promissory Note, Third Mortgage Loan Documents or the County Mortgage Loan, the Lender shall at any time thereafter, at its election, have the right to declare such disposition or other act null and void and/or seek enforcement of the terms and conditions thereof in any manner whatsoever and by law or equity.

3. Limits on Liability

Neither the Lender nor the Servicer shall be liable to Grantee or become obligated in any manner to any Grantee by reason of the enforcement of this Deed Restriction, nor shall the City or the Lender be in any way obligated or liable to Grantee or any subsequent Grantee for any failure of any person to consummate a purchase of the Unit or to comply with the terms of any agreement of escrow for the sale of the Unit. Only the purchaser executing a purchase agreement or escrow instruction shall be liable to Grantee or any subsequent Grantee pursuant to the terms of any such agreement or escrow instructions. Neither the City nor the Lender shall be liable or responsible for any defect in the condition of the Unit of whatever nature and Grantee, on behalf of itself and each subsequent Grantee, agrees to release the City and the Lender from any such liability and/or responsibility and further agrees to hold the City and the Lender harmless from any claim or cause of action brought by third parties arising out of any such defect.

4. Transfers and Conveyances

Until such time as this Addendum is released by the Lender or expires, the Unit and any interest or title thereto shall not be sold, leased, rented, assigned, or otherwise transferred to any person or entity except with the express written consent of the Lender, which consent shall be granted or denied in the sole discretion of the Lender and only if consistent with the Lender's goal of creating, preserving, maintaining, and protecting affordable Moderate Income housing in the City of Sierra Madre, and denial of which consent shall result in the Lender having the right, at its election, to declare the sale, lease, transfer, assignment or rental to be null and void and seek judicial enforcement thereof.

5. Permitted Transfers

Notwithstanding anything herein to the contrary, the transfer of the Unit: (i) to a surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant, or (ii) where a spouse becomes the owner of the Unit, or (iii) resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Unit, or (iv) by devise or inheritance solely as a result of the incompetency or death of the Grantee or any person constituting the Grantee, when the transferee

is a child of Grantor that is a qualified Moderate Income Household and First Time Homebuyer, or (v) by a transfer into an inter vivos trust in which the Grantee is and shall remain the beneficiary and occupant of the Unit shall not accelerate the Third Mortgage Loan so long as the transferee gives notice to Grantor of such event within thirty (30) days of its occurrence and the transferee assumes Grantee's obligations under the Third Mortgage Loan, by execution of an assignment and assumption agreement to be provided by Grantor. Provided, however, that the covenants contained in and the restrictions imposed upon the Grantee and the Unit by this Addendum shall continue to encumber and run with the title to the Unit following said transfers.

6. Permitted Encumbrances

This Addendum is based upon the aforementioned Third Mortgage Promissory Note which is secured by the Third Mortgage on the Unit in favor of Grantor. The Grantee shall not encumber the Unit with any mortgage, pledge, encumbrance, lien, or charge of any kind, for the purpose of securing financing either senior in priority or subordinated to said Promissory Note without the prior written approval of Grantor and the Lender. If the Unit is acquired at a foreclosure sale under any deed of trust or mortgage encumbering the Unit or by deed in lieu of foreclosure sale, title to the Unit shall be taken subject to the covenants, restrictions and terms of the Grant Deed (including, but not limited to this Addendum).

7. Runs With Land

Unless otherwise provided by the terms herein, provisions of this Addendum constitute covenants which shall run with the land, shall further and independently constitute an encumbrance upon the Unit, and shall be binding upon the Grantee, the Grantee's heirs, executors, administrators, successors, transferees and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Unit (except a deed of trust or mortgage to which the Lender has expressly agreed in writing to subordinate this Addendum). As long as this Addendum has not expired, any attempt to transfer title to any interest in the Unit in violation of this Addendum shall be voidable at the election of the Lender.

8. Acceptance of Terms by Grantee

By acceptance of the Grant Deed (including this Addendum), the Grantee accepts and agrees to be bound by all of the covenants and restrictions contained in this Addendum, and further acknowledges receipt of this Addendum.

9. Default by Grantee

Nothing contained in this Addendum shall prevent the Lender from enforcing the provisions of Civil Code Section 711.5, as amended from time to time, or from commencing foreclosure proceedings at any time if a default occurs under any deed of trust or mortgage.

10. Term of Addendum

The term of the provisions of the Grant Deed, including this Addendum, restricting the sale and resale of the Unit shall be forty-five (45) years following the date of recordation of the Grant Deed to the initial purchaser of the Unit, except if the Lender releases this Addendum sooner in accordance with this Addendum.

11. Miscellaneous Provisions

(a) Independent and Severable Provisions. In the event that any provision of this Addendum is held by a court of competent Jurisdiction to be unenforceable or invalid, such holding shall not render unenforceable any other provision hereof, each provision hereof being expressly severable and independently enforceable to the fullest extent permitted by law.

(b) Further Assurances and Recordation. The Grantee covenants that upon the request of the Lender, he, she or they will execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments and agreements and do so such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of this Addendum and other instruments required hereunder, including, but not limited to, the promissory note of indebtedness and third lien deed of trust and upon the sale or other transfer of an interest subject to said third lien deed of trust on the Unit, the Grantee shall cause the purchaser or transferee to execute and acknowledge an Addendum to Grant Deed in a form acceptable to the Lender, which shall be attached to the grant deed by which the undersigned conveys title to the Unit.

(c) Captions and Paragraph Headings. Captions and paragraph headings used herein are for convenience only and shall not be used in construing this Addendum.

(d) Waiver. No waiver by the Lender of any breach by the Grantee of any covenant, restriction or condition herein contained shall be effective unless such waiver is in writing, signed by the Lender and delivered to the undersigned. The waiver by the Lender of any such breach or breaches, or the failure by the Lender to exercise any right or remedy in any and all such breach or breaches, shall not constitute a waiver or relinquishment for the future of any such covenant or condition nor bar any right or remedy of the Lender in respect of any such subsequent breach.

(e) Enforcement. The terms and provisions of this Addendum shall, without regard to technical classification and designation, be binding on Grantee and any successor in interest to the Unit or any part thereof for the benefit and in favor of the Lender, its successors and assigns, and the City of Sierra Madre. The Lender shall have the right, if any provisions of this Addendum are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiary of this Addendum are entitled.

By signature hereinbelow the Grantee hereby accepts and approves the foregoing, agrees to be bound by the provisions of this Addendum and the deed to which this Addendum is attached, and grants to the Lender such powers and rights that are set forth in this Addendum to Grant Deed.

[SIGNATURES APPEAR ON NEXT PAGE]

“Grantee”

Date: _____

By: _____

Accepted and agreed to by the Lender this ____ day of _____, 20__.

City of Sierra Madre

By: _____

ATTACHMENT NO. 8B

[SEE ATTACHED]

Order No.
Escrow No.
Loan No.

WHEN RECORDED MAIL TO:

DOCUMENTARY TRANSFER TAX \$ _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Computed on the consideration or value of property conveyed, OR

Computed on the consideration or value less liens or encumbrances remaining at time of sale.

Signature of Declarant or Agent determining tax – Firm Name

APN _____

Highland Mews
GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged, **HHP HIGHLAND, LLC**, a California limited liability company ("*Grantor*"), hereby grants to _____

 ("*Grantee*"), the real property in the City of Sierra Madre, Los Angeles County, California, described in *Exhibit 1* attached hereto and incorporated in this Grant Deed by this reference.

THIS GRANT IS SUBJECT TO ALL MATTERS DESCRIBED IN EXHIBIT 1 AND EXHIBIT 2 ATTACHED HERETO.

Dated: _____, 20 _____

"Grantor"

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

HHP Highland, LLC, a California Limited Liability Company

On _____, _____, before me, _____

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

BY: Heritage Housing Partners, a California
Non-Profit Public Benefit Corporation,
Its Sole Member

By: _____

Charles E. Loveman, Jr.

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

WITNESS my hand and official seal.

Signature _____

MAIL TAX STATEMENTS TO: _____

EXHIBIT 1
TO
GRANT DEED
LEGAL DESCRIPTION OF THE LOT

PARCEL NO. 1

Fee title to Unit __ of Lot 1 of Tract X (the “*Lot*”), as per Map (“*Map*”) recorded in Book X, at Pages X through X, inclusive, of Maps, in the Office of the Los Angeles County Recorder.

TOGETHER WITH, an undivided interest in the Common Area located within the building in which the Unit is situated, as shown on the Condominium Plan for Highland Mews(the “*Condominium Plan*”), recorded on XX XX, 2016, as Instrument No. X and the Declaration of Covenants, Conditions, Restrictions for Highland Mews Homeowners Association recorded on XX XX, 2015, as Instrument No. X (and any amendments thereto, the “*Declaration*”), all in the Official Records of Los Angeles County, California (“*Official Records*”), (d) an undivided interest in the portion of the Common Area in which the parking spaces are located, as shown on the Condominium Plan, Declaration, (c) a membership in the Highland Mews Homeowners Association, a California nonprofit mutual benefit association (the “*Association*”), as described in the Declaration, and (d) subject to the terms of the Declarations, any Bylaws and any later amendments duly enacted by the Association, and Rules and Regulations as may be adopted by the Board of Directors of the Association (collectively, the “*Governing Documents*”), any exclusive or non-exclusive easement or easements appurtenant to such Condominium over the Common Area as described in this Declaration, the Condominium Plan, and the deed to the Condominium, and (e) the rights of certain Owners to Exclusive Use Outdoor Areas (including, without limitation, the Exclusive Use Patio Areas, Exclusive Use Balcony Areas, Exclusive Use Entry/Porch Areas and Exclusive Use Entry/Stairway Areas), as applicable. Capitalized terms used herein shall have the meanings given them in the Declaration, unless otherwise defined herein.

RESERVING THEREFROM, for the benefit of Grantor, its successors in interest and assignees, together with the right to transfer all or a portion of the same, nonexclusive easements for access, ingress, egress, encroachment, enforcement, support, maintenance, drainage, repair, and for other purposes, all as may be shown on the Map, and as described in the Declaration.

FURTHER RESERVING THEREFROM, for the benefit of Grantor, its successors in interest and assignees, the right to enter the Lot and Unit (i) to inspect the Project, (ii) to complete and repair any Improvements it determines necessary or proper, in its sole discretion, (iii) to perform any warranty work it determines necessary or proper, (iv) to comply with requirements for the recordation of subdivision maps or lot line adjustments in the Project or the Annexable Territory, as those terms are defined in the Declaration, (v) for repair of Improvements in accordance with the provisions of the “Right to Repair Act” at California Civil Code Sections 895 through 945.5, (vi) to accommodate grading or construction activities, and (vii) to comply with requirements of applicable governmental agencies. Any damage to the Lot or Unit caused by entry under this reservation shall be repaired by the Grantor. Grantor shall

provide reasonable notice to Grantee before such entry, except in emergency situations which shall not require prior notice. For purposes of this paragraph, an emergency situation is a situation where there is an imminent risk of injury to persons or damage to property. The term of this reservation of right of entry shall automatically expire on the date that is twelve (12) years following the date on which this Grant Deed is recorded in Official Records.

FURTHER RESERVING THEREFROM, for the benefit of the Association and its successors in interest, (i) nonexclusive easements for maintenance of the Common Areas on the Lot and as described or depicted in the Declaration, together with nonexclusive easements over the Lot for access reasonably necessary in connection therewith, and (ii) nonexclusive easements for access, enforcement, ingress, egress, enforcement, encroachment, support, maintenance, drainage, repair, and for other purposes, all as may be described and reserved in the Declaration, and as may be shown on the Map.

SUBJECT TO:

1. **Taxes and Assessments.** Nondelinquent general and special real property taxes, supplemental taxes and public and private assessments and bonds;
2. **Addendum to Grant Deed.** All covenants, conditions, terms and restrictions set forth on the Addendum to Grant Deed attached as *Exhibit 2* to this Grant Deed;
3. **Matters of Record.** All covenants, conditions, restrictions, easements, reservations, rights and rights-of-way of record, including without limitation those described and reserved in the Declaration, and the Map;
4. **Matters Discoverable or Approved by Grantee.** All (i) matters discoverable or ascertainable by inspection or survey of the Lot and Unit, (ii) zoning ordinances and regulations and any other laws, ordinances or governmental regulations restricting or regulating the use, occupancy or enjoyment of the Lot and Unit, and (iii) any other matters created, permitted or approved by Grantee;
5. **Grantor's Recorded Notice of Restrictions and Right of First Refusal to Purchase Property.** That certain Notice of Restrictions and Right of First Refusal to Purchase Property, recorded on _____, as Instrument No. _____ of Official Records and any amendments thereto now of record or which will be of record prior to the recordation of this Grant Deed (collectively, the "*Right of First Refusal*"), which provide record notice of the certain restrictions regarding the use and sale of the Unit, together with Grantor's right of first refusal to purchase the Unit under certain conditions set forth therein, all of which are incorporated herein by reference with the same effect as though fully set forth herein;
6. **Grantor's Recorded Notice of Non-Adversarial Procedure.** That certain Notice of Non-Adversarial Procedure Under Civil Code Section 912(f), recorded XX XX, 2015, as Instrument No. X of Official Records and any amendments thereto now of record or which will be of record prior to the recordation of this Grant Deed (collectively, the "*Notice of Election*"), which provide record notice of the Grantor's election of non-adversarial procedures for the resolution of certain claims governed by the Right to Repair Act (defined below), all of which are incorporated herein by reference with the same effect as though fully set forth herein;

7. **Right to Repair Provisions.** The following provisions (the “*Right to Repair Provisions*”) pertaining to matters concerning Title 7 – Requirements for Actions for Construction Defects, of Part 2 of Division 2 of the California Civil Code (the “*Right to Repair Act*”):

7.1 **Notice of Election of Statutory Prelitigation Procedures.** Grantor advises Grantee of the existence of the “prelitigation” and “non-adversarial” procedures set forth in Chapter 4 of the Right to Repair Act at California Civil Code Sections 910 to 938, inclusive (collectively, the “*Prelitigation Procedures*”), and that such procedures impact the legal rights of Grantee. Grantee acknowledges that (a) Grantor has elected to use the Prelitigation Procedures to attempt to resolve any Right to Repair Act claims concerning the Lot, and (b) if the Prelitigation Procedures fail to resolve a dispute governed by the Right to Repair Act, Grantor and Grantee agree to have such dispute resolved in accordance with the neutral, binding arbitration procedures set forth in the Notice of Election.

7.2 **Acknowledgment of Receipt; Obligation to Deliver to Successors.** Grantee acknowledges that Grantor has provided and Grantee has received, the following:

(a) **Right to Repair Act.** Grantee has been provided a written copy of the Right to Repair Act. Grantor instructs Grantee to, and Grantee acknowledges that Grantee shall, provide such documents to any subsequent purchaser of the Unit from Grantee

(b) **Maintenance Recommendations.** A maintenance manual and all other maintenance recommendations, manufactured products maintenance and limited warranty information provided by Grantor to Grantee (collectively, the “*Maintenance Recommendations*”) pertaining to Grantee’s Residence as of the date this Grant Deed is recorded (the “*Deed Recordation Date*”). Notwithstanding the foregoing, Grantor may, by written notice to Grantee, supplement or amend the Maintenance Recommendations from time to time. Grantee shall faithfully follow all of the Maintenance Recommendations and Grantee shall cause any tenant of Grantee to follow them as well.

(c) **Limited Warranty.** Grantor shall provide to Grantee the limited express one-year fit and finish warranty specified in California Civil Code Section 900 (the “*Limited Warranty*”). Nothing in the Limited Warranty diminishes any rights or obligations that Grantor or Grantee may have under the Right to Repair Act. The Limited Warranty is not and shall not be deemed to be an “Enhanced Protection Agreement” as that term is defined in California Civil Code Section 901.

(d) **Delivery to Successors.** Grantee shall provide the Right to Repair Act, Maintenance Recommendations and Limited Warranty to any person who purchases the Unit from Grantee.

7.3 **Grantee Indemnity of Grantor.** Grantee shall indemnify, defend and hold Grantor harmless from any loss, cost or damages arising from Grantee’s failure to carry out Grantee’s obligations under the terms of this Deed.

7.4 **Covenants to Run With the Land.** The Unit shall be held, conveyed, encumbered, and used subject to the Right to Repair Provisions. The Right to Repair Provisions

are intended and shall be construed as covenants and conditions running with and binding the Unit and as equitable servitudes. The Right to Repair Provisions are binding on and burden all persons having or acquiring any right, title or interest in the Unit (during their ownership of such interest), or any part thereof, and their successors and assigns. The Right to Repair Provisions shall inure to the benefit of Grantor and its successors and assigns. The Right to Repair Provisions shall automatically terminate and be of no further effect upon the expiration of all applicable statutes of limitations or repose for the filing of a complaint or suit or other legal remedies against Grantor under the Right to Repair Act (including any tolling periods).

8. Obligation to Refrain from Discrimination. Grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against, or segregation of, any person or group of persons on account of race, color, religion, sex, marital status, disability, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Lot, or any part thereof, nor shall Grantee or any person claiming under or through Grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Lot.

Grantee, its successors and assigns, shall refrain from restricting the rental, sale or lease of the Lot on the basis of race, color, religion, sex, marital status, disability, national origin or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

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

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor

shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

(c) In contracts: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

**EXHIBIT 1
TO
GRANT DEED, CONT.**

GRANTEE ACKNOWLEDGMENT, ACCEPTANCE AND AGREEMENT

Grantee, by acceptance and recordation of this Grant Deed, (a) accepts and approves this Grant Deed, including the Right to Repair Provisions, (b) accepts, covenants, and agrees to be bound by all provisions of the Declaration and the Notice of Election, including the dispute resolution procedure specified in the Notice of Election (including without limitation the binding arbitration provisions specified therein), and (c) understands that this grant is subject to and expressly conditioned upon the performance of such provisions and requirements to be performed by Grantee thereunder. Grantee has read, understood and agreed to the provisions of the Declaration and the Notice of Election, and they are incorporated into this Grant Deed by this reference. Grantee further grants to Grantor such powers and rights which are set forth in the Declaration and the Notice of Election, this _____ day of _____, 20____.

Grantee

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

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

personally appeared _____

_____ who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

(SEAL)

EXHIBIT 2
ADDENDUM TO GRANT DEED

ATTACHMENT NO. 9

[SEE ATTACHED]

ATTACHMENT NO. 9

DEVELOPMENT FEE WAIVERS AND ACKNOWLEDGMENT

Project: HIGHLAND MEWS PROJECT
186 W. HIGHLAND AVENUE, SIERRA MADRE

Fee Waivers: The following fees are waived with respect to the above referenced Project:

- A. Conditional Use Permit. A conditional use permit is not required for projects located in an R-3 zone district with all deed-restricted units such as in this Project (Affordable Housing Section 17.34.050G).
- B. Building Permit and Plan Check Fees. Pursuant to Section 17.82.060 of the Historic Preservation Code, if the building is landmarked, the City of Sierra Madre (as current owner of the Project) will have the city building permit and plan check fees waived.
- C. Development Impact Fee (or Public Facilities Fee). Pursuant to Affordable Housing Section of the Municipal Code Section 17.35.060 (C), “The City may offer an equivalent financial incentive in lieu of granting a density bonus and an additional incentive(s).” Because Developer is not requesting a density bonus, a waiver of the Development Impact Fee applies and is necessary to keep the Affordable Sales Price at a reasonable price. Furthermore, the 2014-2021 Housing Element states on V-21, section 12 that these costly Development Impact fees constrain the construction of lower-priced units, which would then affect the price of the three (3) Moderate-Income housing units at Highland Mews. The Housing Element demonstrates that there is a precedent by the City for lessening this burden. Lastly, Highland Mews is a rehabilitation project, not a new construction project. This Development Impact Fee relates to the impact a development may have on public facilities. The existing building at the Property is currently connected to public facilities (water, sewer, etc.) and has been since construction of the building in 1921. The 1950’s addition along the west elevation contains kitchen facilities and bathrooms. The building serviced a church congregation of families for Sunday service, weekly events, and a public reading room until 1995. The structure was also used for a youth activity center from 1998 to 2005. The impact of the proposed development is considered minimal, given that its redevelopment will not cause any additional burden on public facilities.

THE CITY OF SIERRA MADRE and THE CITY OF SIERRA MADRE SUCCESSOR AGENCY HOUSING AUTHORITY hereby acknowledge and agree that they will take any and all actions necessary to waive the above listed fees for the Project.

THE CITY OF SIERRA MADRE SUCCESSOR
AGENCY

Dated: _____

By: _____

CITY OF SIERRA MADRE

Dated: _____

By: _____

APPROVED AS TO FORM:

By: _____
City Attorney/General Counsel

ATTACHMENT NO. 10

[SEE ATTACHED]

Marketing & Sales Plan

I. PURPOSE OF DOCUMENT

This document presents a Marketing & Sales Plan ("Plan") for Highland Mews ("Project"), creating a strategy and implementation process to:

- generate awareness and interest in home-buying opportunities at Highland Mews;
- drive prospective homebuyers to register with the project interest list;
- facilitate on-going communication with interest list members to provide project updates and educate prospective buyers on the Highland Mews application process and general home-buying process;
- describe the application review and homebuyer selection process;

The Plan will be executed by Heritage Housing Partners ("HHP") in coordination with the City of Sierra Madre ("City"). The Plan will evolve and adapt to market conditions and the level of prospective buyer demand experienced during the first half of 2016. HHP will evaluate the marketing response on an on-going basis and take necessary steps to revise and/or increase marketing efforts to insure a sufficiently large pool of prospective buyers.

II. MARKETING TARGETS

The primary goal of the Plan is to generate awareness and interest in home-buying opportunities at Highland Mews, with a specific focus on reaching priority targets in the primary market area through an affirmative action marketing effort.

A. Qualified Homebuyers

The Project's 3 restricted units will be sold exclusively to income-qualified households who are first time homebuyers. These households must be able to secure a 30-year fixed rate interest first mortgage from a reputable mortgage lender; this lender must be able to approve all Down Payment Assistance (DAP) programs within 45 days of receiving DAP program parameters and documentation. First mortgage lenders must be able to meet all timelines outlined in a purchase and sale agreement.

Marketing & Sales Plan

B. Priority Targets

Priority targets are defined as qualified homebuyers that are from one of the following groups:

- RDA & Housing Authority Displacees
- Sierra Madre Residents
- Employees of Sierra Madre-based Businesses

Priority targets will be given preference over qualified homebuyers that are not priority targets.

C. Other Targets

Qualified homebuyers from outside the priority target group will also be considered, and referred to as “other targets”. Other targets will be marketed to after priority targets and will likely serve as a back-up population of potential homebuyers. If there are an insufficient number of qualified homebuyers from the priority target population, qualified homebuyers from other targets will be considered for home buying opportunities at the Project.

D. Market Area Definition

For purposes of sizing and planning of outreach efforts, the following market area definitions will be utilized, in the following order of priority:

1. Primary Market Area (PMA): City of Sierra Madre
2. Secondary Market Area (SMA): Adjacent municipalities located with 5-miles of City of Sierra Madre boundaries
3. Tertiary Market Area (TMA): Areas in Los Angeles County not contained in the PMA or SMA.

III. PRE-SALES MARKETING

The goal of the Pre-Sales Marketing period is to utilize a variety of marketing outreach tactics to communicate with the broadest array of qualified homebuyers who are interested to become homeowners at Highland Mews. This section describes that outreach process.

A. Interest List Management

The primary method of registering and maintaining a record of marketing contact with qualified homebuyers is through an on-line Interest List. The primary "call-to-action" for all Project marketing efforts will be to direct all interested parties to register with the on-line Interest List.

Marketing & Sales Plan

Potential homebuyers who register with our Interest List are referred to as "prospects".

Benefits of the on-line Interest List management system include:

- System availability 24/7/365
- Interest list members can access, edit & update their records
- Auto-translate into multiple languages
- Auto-log of all transactions
- Easy un-subscribe
- Direct integration with email marketing platform (see below)

B. Email Marketing

The primary means of on-going communication with prospects (i.e., registered Interest List members) will be via email campaigns. These campaigns will be attractively and professionally designed HTML-based emails sent on throughout the Pre-Sales Marketing period. The email system will also send plain-text messages to Interest List members whose email software does not support HTML email.

Email campaigns will be scheduled based on when a person registers with the Interest List, sending a new email every 4- to 8-weeks on a variety of key messages, such as:

1. Project re-cap
2. Project updates
3. Invite to join HHP Facebook page
4. Project details
5. Application process overview
6. First Time Homebuyer Education & Certificate
7. Key Announcements
 - a) Education reminders
 - b) Application availability
 - c) Application reminders

Marketing & Sales Plan

C. Web-based Social Media Marketing

In addition to email marketing, HHP will utilize web-based marketing strategies, including social media. HHP will post key announcements regarding application milestones on its web site (www.heritagehousingpartners.org).

Other incremental updates and marketing messages based on the same content as the email marketing campaigns will be posted on HHP's Facebook page. Interest list members will be encouraged to "friend" or "like" the HHP Facebook page as an additional optional means of keeping abreast of project updates.

Given the unique capabilities and community-based user experience associated with social media platforms, it is anticipated that Facebook content will be updated more often by HHP, could include content from a broader range of associated topics than what might be easily supported on the main HHP web page, and allow for comments and other interactions from the growing Facebook community of members interested in Highland Mews and HHP's other affordable homeownership projects.

A link to the HHP Facebook page is provided on the HHP web site and an email message encouraging Interest List members to follow us on Facebook is one of the planned email campaigns.

Web-based marketing efforts are directed at both maintaining contact with *prospects* and generating new *leads* (i.e., potential homebuyers who are not yet registered with the Interest List).

D. Affirmative Marketing Outreach and Lead Generation

To drive leads (i.e., potential homebuyers who are not yet registered with the Interest List) to register with the Interest List and become a prospect, a number of affirmative marketing outreach efforts are planned.

1. On-site Signage

HHP will maintain marketing signage at the Project site directing potential homebuyers to the HHP web site for more information and to register with the Interest List.

2. Off-site Signage

To the extent that public service announcement (PSA) placements are available in locations in the City (i.e., bus shelters; mall kiosk; etc.), HHP will produce appropriate graphics for such locations.

Marketing & Sales Plan

3. Print Advertising

HHP will place an advertisement in local newspapers of general circulation announcing the availability of applications for homeownership at the Project. HHP will coordinate with City on selecting the local newspapers best suited to marketing to a variety of local communities, including considerations of language and cultural diversity. For each selected newspaper, HHP will place a minimum of a 1/4 page advertisement a minimum of one time during a two-week run. Examples of newspapers may include:

- Mountain View News
- Sierra Madre Weekly
- La Opinion

4. Local Community Outreach

In coordination with the City, HHP will outreach to community-based organizations to provide basic information about the Project and how to apply. Primary collateral pieces to be used as "leave-behind" with groups will be: (a) 11x17 mini bulletin-board or window poster; and/or, (b) an 8x11 flyer. Examples of community groups may include:

- Churches
- Neighborhood Associations
- Civic and/or Fraternal Groups, such as the YWCA, the Sierra Madre Woman's Club, the Sierra Madre Senior Center

5. Employer Outreach

In coordination with the City, HHP will outreach to local Sierra Madre employers and business groups to provide basic information about the Project and how to apply. Primary collateral pieces to be used as "leave-behind" with groups will be: (a) 11x17 mini bulletin-board or window poster; and/or, (b) an 8x11 flyer. Examples of employer outreach may include:

- Chamber of Commerce presentation
- Large Employer HR Meetings
- Other Employers as directed by City Staff

Marketing & Sales Plan

6. City Lists and other City Placement

HHP will incorporate any potential leads available from waiting and/or interest lists maintained by the City or its departments.

E. Summary of Collateral Material Utilized

1. HTML Email Blasts
2. Project 1-sheet flyer
3. 11x17 mini-poster
4. Door hanger

IV. LANGUAGE AVAILABILITY OF MARKETING MATERIALS

HHP has focused on email marketing as a primary means of communication in part because of the ease of automated on-line translation capability.

Printed marketing materials will be provided primarily in English.

Project Application and all sales contract and disclosure materials will be provided in English.

V. EDUCATION PROCESS

HHP will coordinate with sponsors of first time homebuyer education seminars (i.e., City of Sierra Madre; Los Angeles County CDC; New Economics for Women; LA Neighborhood Housing; Clearpoint Credit Counseling Solutions, etc.) to publish a combined schedule of such seminars for distribution to prospective home buyers.

Prospects that choose to submit an application for homeownership at the Project will need to have completed (or be scheduled to complete) a first time homebuyer education seminar conducted by an approved sponsor.

In addition, HHP staff is certified with Neighborworks to provide pre-purchase counseling and will provide applicants with one-on-one pre-purchase education.

VI. SALES PROCESS

The Sales Process will integrate with, and over-lap with, the Pre-sales Marketing Process and the Education Process. Marketing messages and educational content is oriented to preparing prospects to successfully complete and submit an application for homeownership at the Project.

Marketing & Sales Plan

The following section describes the homebuyer selection process that will culminate in selecting of Project homebuyers, sales contracting, mortgage underwriting and closing of escrow.

A. Homebuyer Selection Process

Please note that, while the entire marketing process described above is oriented to driving potential homebuyers to register with the HHP Interest List (i.e., become a prospect), Project homebuyer applications will be available to all interested parties, regardless of the previous status with HHP.

1. Prescreening/Application Phase

The Project homebuyer application window period will be two months.

Applications can be downloaded off HHP's website. Applicants without personal computers will be encouraged to take advantage of community resources to complete the application online (i.e., libraries, community centers). Should an applicant be unable to complete the application due to disability or inability to access community resources will be able to request a hard copy.

In addition to HHP's 4-page application form, which includes basic information such as contact information, household size, and current household income, applicants will also be required to submit current paycheck stubs and/or the past three years' worth of tax returns (for income verification), a current credit report with FICO score (Vantage, etc scores are not acceptable), asset account statements (for down payment verification), and proof of completion for a first-time homebuyer course (or scheduled).

Complete applications will be reviewed for income verification and homebuyer selection criteria. Depending on application volume, applicants who fail to submit a completed application will be given a seven-day window in which to furnish missing items. Failure to do so will result in an incomplete determination and rejection of application.

Based on past experience, we expect between 8 — 16 applications per available unit. If volume of applications exceeds this expected ratio, HHP reserves the right to not process incomplete applications and/or work with applicants to provide missing materials and such incomplete applications will be deemed incomplete.

2. Income Verification/Homebuyer Selection Criteria

As applications are received, they are immediately screened for program eligibility by HHP staff.

Marketing & Sales Plan

HHP staff has evaluated over 700 completed applications for program eligibility and is well versed in scrutinizing applications to detect any errors or omissions.

At this stage, typically about 50% of the applicants pass the minimum eligibility threshold requirements and will move forward to mortgage prequalification. Applicants not deemed program eligible will receive a letter explaining HHP's determination and a period of seven days to appeal the determination by providing updated documentation and/or new information in connection with their appeal.

3. Mortgage Loan Pre-Approval

Once the applicants meet the minimum threshold requirements, HHP begins the mortgage loan pre-approval/pre-qualification review, using at least two preferred lenders familiar with HHP and with affordable homeownership programs.

HHP staff expects that approximately 1/3 of program eligible applicants will be able to obtain mortgage prequalification/preapproval.

While applicants are ultimately able to work with the first mortgage lender of their choice, provided that lender is a reputable lender and able to approve all DAP programs within 45 days of receiving DAP program parameters and documentation, HHP requires that applicants receive a pre-approval through a preferred lender. First mortgage lenders must also be able to meet all timelines outlined in a purchase and sale agreement.

4. Application Scoring

Those that meet this threshold will be scored based on a predetermined scoring sheet approved by HHP and the City of Sierra Madre. Sample sheet is attached.

HHP staff will score each program eligible, pre-qualified/preapproved applicant. Priority to purchase will be offered based on applicant score. Upon request, HHP will furnish a copy of an applicant's scoring sheet to the City of Sierra Madre for the City's review purposes only. HHP does not release scoring information to applicants nor discuss any applicant's score with applicants.

5. Lottery for Ties

If ties in scoring remain after mortgage pre-qualification/preapproval, a lottery will be used as a tiebreaker to select primary and back-up buyers.

6. Next Steps/Close of Escrow

Once the primary homebuyers have been selected, purchase contracts will be signed and escrow opened.

Heritage Housing Partners
Highland Mews (Sierra Madre, CA)

Marketing & Sales Plan

ATTACHMENT NO. 11

[SEE ATTACHED]

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

Sierra Madre Housing Authority
13230 Highland Street
Sierra Madre, California 90602
Attn: _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AFFORDABLE HOUSING COVENANT AND REGULATORY AGREEMENT
(Owned Units)

THIS AFFORDABLE HOUSING COVENANT AND REGULATORY AGREEMENT (this "Agreement") is entered into as of _____, 2015, by and between the CITY OF SIERRA MADRE/SIERRA MADRE SUCCESSOR AGENCY, a public entity (the "Agency"), and HHP Highland, LLC, a California limited liability company (the "Owner").

RECITALS

- A. Owner is the owner of the land in the City of Sierra Madre, California that is legally described in Exhibit "A" attached hereto, and all improvements thereon (collectively, the "Property").
- B. Owner is developing a residential project consisting of three (3) residential units (the "Project") on the Property in accordance with that certain Disposition and Development Agreement dated XX, 2015 between the Agency and Owner ("DDA"). Pursuant to the DDA, Agency is making a land donation to Owner to facilitate the development of the Project; the Property was purchased by the Agency in 1995 using former redevelopment agency low- and moderate-income housing set-aside funds.
- C. The DDA further requires the Owner to enter into this Agreement to restrict three (3) units (the "Affordable Units") to Moderate Income Households at an Affordable Sales Price. Owner is executing this Agreement to ensure that the Affordable Units on the Property designated on Exhibit "B" attached hereto shall be sold to and remain affordable to such income qualified households for forty-five (45) years after the recording of a Certificate of Completion issued by Agency under the DDA.
- D. This Agreement is intended to bind Owner and all future owners of Affordable Units.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. **Definitions.** For purposes of this Agreement, the terms listed below shall have the meanings hereinafter specified.

(a) Affordable Sales Price means a housing cost which does not exceed the limits set forth in California Health and Safety Code Section 50052.5, as amended from time to time and the applicable regulations for such statute, and for the purposes hereof, the term “housing cost” shall have the meaning ascribed to such term in such statute and regulations and in Title 25 of the California Code of Regulations Section 6920, as such regulations may be amended from time to time, and the term “Gross Income” shall have the meaning ascribed to such term in Title 25 of the California Code of Regulations Section 6914, as such regulations may be amended from time to time, or other applicable regulations. (Under current law, the affordable housing cost for Moderate Income Households cannot exceed 35% of 110% of the area median income.). The Affordable Sales Price is equal to affordable housing costs plus a reasonable down payment amount that will be established solely for purposes of determining the Affordable Sales Price.

(b) Third Mortgage Loan means a subordinate mortgage loan to a Homeowner from the Owner in the amount of the difference between the fair market value of the Affordable Unit (without regard to this Agreement) in the Project on the date a Homeowner enters into a purchase agreement for the Affordable Unit (as determined reasonably by the Owner) and the Affordable Sales Price.

(c) Homeowner means any person (or persons) who has (have) purchased an Affordable Unit.

(d) Moderate Income Household means a household whose Gross Income does not exceed the standards defined in Title 25 of the California Code of Regulations Section 6932, and by the HSC Section 50093. The maximum household income amount for Moderate Income Households shall be the amount published by the California Department of Housing and Community Development as adjusted to reflect the Household size of the purchaser of a home restricted by the Regulatory Agreement to Moderate Income households.

2. **Restrictions on Transfer.** The Owner and each Homeowner shall not sell, convey, transfer, lease, assign, encumber, mortgage, or hypothecate the Affordable Units, described on Exhibit “B”, or enter into an agreement to sell, convey, lease, assign, transfer, encumber, mortgage, or hypothecate the Affordable Units, except as expressly permitted by the terms of this Agreement.

3. **Covenants to Maintain Affordability and Maintain Owner Occupancy.** Owner agrees that during the Term, the sale of each Affordable Unit will not exceed an Affordable Sales Price for the buyer.

4. **Term.** The term of the restrictive covenants described herein (the “Term”) shall commence upon the recordation of this Agreement and shall remain in effect until the date that is forty-five (45) years after the recording of a Certificate of Completion issued by the Agency under the DDA; provided, however, the covenants against discrimination set forth in Section 6 hereof shall remain in effect in perpetuity. The Agency has determined that this is the longest period feasible for continuing the Term of this Agreement.

5. **Nondiscrimination Covenants.**

(a) Owner and each Homeowner covenants and agrees that it shall not discriminate against or segregate 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, nor shall 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.

(b) Notwithstanding paragraph (a), with respect to familial status, paragraph (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (a).

(c) All deeds, leases or contracts made or entered into by the Owner or a Homeowner, its successors or assigns, as to any portion of the Property shall contain therein the following language:

(1) In deeds:

“(A) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) 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.

(B) Notwithstanding paragraph (A), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (A).”

(2) In contracts with respect to the sale, transfer, use, or occupancy, of the Property:

“(A) There shall 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 nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.

(B) Notwithstanding paragraph (A), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (A).”

6. **Successors and Assigns; Covenants to Run With the Land.** The covenants and restrictions contained herein shall run with the land for the term of this Agreement and shall be a burden upon the Property and each Affordable Unit and shall be enforceable against the Owner, each Homeowner and their successors-in-interest, successors and assigns, by the Agency, its successors-in-interest and assigns. The Owner shall furnish a copy of this instrument to each buyer of an Affordable Unit who proposes to buy an Affordable Unit from Owner.

7. **Administration.** The Agency may administer the terms hereof or may, from time to time, assign its rights hereunder or designate another entity, person, licensed real estate broker or organization to administer the terms hereof.

8. **Independent and Severable Provisions.** In the event that any provision of this instrument is held by a court of competent jurisdiction to be unenforceable or invalid, such holding shall not render unenforceable any other provision hereof, each provision hereof being expressly severable and independently enforceable to the fullest extent permitted by law.

9. **Further Assurances and Recordations.** The Owner covenants that upon request of the Agency, the Owner, its successors-in-interest, or its successors or assigns, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments and agreements and do such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of this instrument.

10. **Captions and Section Headings.** Captions and section headings used herein are for convenience only and shall not be used in construing this instrument.

11. **No Waiver.** No waiver by the Agency of its rights hereunder, or of any breach by the Owner of any covenant, restriction, or condition herein contained, shall be effective unless such waiver is in writing, signed by the Agency and delivered to the Owner. Any waiver by the Agency of its power to terminate any covenant, restriction, or condition herein contained, or the

failure by the Agency to exercise any right or remedy with respect to any breach or breaches, shall not constitute a waiver or relinquishment for the future of any rights regarding subsequent sales, or of any such covenant or condition nor bar any right or remedy of the Agency in respect of any subsequent breach.

12. **Notices.** All notices to be delivered to the parties pursuant to the terms hereof shall be in writing and shall be delivered in person or by certified mail, return receipt requested, or by reputable overnight delivery service (such as Federal Express) to the addresses listed below.

Any of the following addresses may be changed by written notice given in accordance with this Section, and the change will be effective 3 business days after such notice is so given.

If to Owner: HHP-Highland, LLC

If to the Agency: Sierra Madre Successor Agency
232 W. Sierra Madre Boulevard
Sierra Madre, California 91024
Attention: City Manager

13. **Entire Agreement.** This instrument constitutes the entire agreement of the parties hereto, and the provisions hereof may be modified or amended only by a written instrument signed by the party to be charged.

14. **Attorneys' Fees.** In any action brought to declare the rights granted herein or to enforce or to interpret any of the terms of this Agreement, the prevailing party shall be entitled to an award of its attorneys' fees and costs.

OWNER

AGENCY

HHP Highland, LLC

SIERRA MADRE HOUSING AUTHORITY

By: _____
Print Name: _____
Title: _____

By: _____
Elaine Aguilar
City Manager

Attest:

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

EXHIBIT "B"

SITE MAP SHOWING LOCATIONS
OF AFFORDABLE UNITS

(Attached.)

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 Los Angeles)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

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

State of California)
County of Los Angeles)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Sierra Madre Housing Successor Agency
13230 Highland Street
Sierra Madre, California 90602
Attn: _____

APN(s): _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

FREE RECORDING REQUESTED PURSUANT TO GOVERNMENT CODE §6103

NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY

IMPORTANT NOTICE TO OWNERS, PURCHASERS, TENANTS, LENDERS, BROKERS, ESCROW AND TITLE COMPANIES, AND OTHER PERSONS, REGARDING AFFORDABLE HOUSING RESTRICTIONS ON THE REAL PROPERTY DESCRIBED IN THIS NOTICE: RESTRICTIONS HAVE BEEN RECORDED WITH RESPECT TO THE PROPERTY DESCRIBED BELOW WHICH RESTRICT THE RENT AND TERMS FOR WHICH THE PROPERTY MAY BE SOLD. THESE RESTRICTIONS MAY LIMIT THE SALES PRICE OF THE PROPERTY TO AN AMOUNT THAT IS LESS THAN FAIR MARKET VALUE. THESE RESTRICTIONS LIMIT THE INCOME OF PERSONS AND HOUSEHOLDS WHO ARE PERMITTED TO BUY AND PROHIBIT RENTING THE PROPERTY.

This NOTICE OF AFFORDABILITY RESTRICTIONS (the "Notice"), is dated as of _____, 2015, and is executed by _____, a California _____ ("Owner"), whose address is _____, and by the CITY OF SIERRA MADRE HOUSING SUCCESSOR AGENCY (the "Agency") in connection with that certain Disposition, Development and Loan Agreement dated XX, 2015, between Owner and the Agency, and that certain Regulatory Agreement dated _____, 2015 (the "Regulatory Agreement") between Owner/Borrower and the Agency in connection therewith.

RECITALS

- A. Owner owns the land described on Exhibit "A" in the City of Sierra Madre, State of California and the improvements thereon (the "Land").
- B. Owner and Agency are entering into the Regulatory Agreement substantially concurrently herewith.
- C. Capitalized terms used herein but not defined shall have the meaning set forth as described in the Regulatory Agreement.

TERMS OF NOTICE

1. Requirement for Recorded Notice. This Notice is being executed and recorded pursuant to California Health and Safety Code Section 33334.3(f)(3)(B).

2. Regulatory Agreement. This Notice is being recorded substantially concurrently with the recordation of the Regulatory Agreement, which is incorporated herein by reference.

3. Recitation of Affordability Restrictions. The Regulatory Agreement restricts the sale, ownership and occupancy of three (3) of the dwelling units on the Land to sale and to ownership and occupancy by Moderate Income Households as their primary residence and at an Affordable Sales Price (as required by the Regulatory Agreement) for a term for each unit commencing on the date of the first sale of such unit and continuing for 45 years thereafter.

4. Address. The street address of the affected Land is _____, and its assessor parcel numbers are _____.

IN WITNESS WHEREOF, this Notice has been executed and made effective on the day and year first above written.

OWNER:

_____,
a _____

By: _____
Print Name: _____
Title: _____

Agency:

SIERRA MADRE HOUSING SUCCESSOR AGENCY

By: _____
Elaine Aguilar
City Manager

Attest:

_____, _____

APPROVED AS TO FORM:

By: _____

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 Los Angeles)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

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

State of California)
County of Los Angeles)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

ATTACHMENT NO. 12

[SEE ATTACHED]

SERVICING AGREEMENT

Between

City of Sierra Madre,
a public body, corporate and politic
(Owner)
and

HHP-Highland
a California limited liability company
(Servicer)

Dated as of _____
DDA (HHP Highland)

SERVICING AGREEMENT

This **SERVICING AGREEMENT**, dated and effective as of XX XX, XXXX, between **the City of Sierra Madre**, a public body, corporate and politic, as “Owner”, and **HHP-Highland, LLC**, a California limited liability company, as “Servicer”.

PRELIMINARY STATEMENT

WHEREAS, pursuant to that certain Disposition and Development Agreement between Servicer and Owner, dated as of XX XX, XXXX (the “DDA”) Owner or its affiliates sold certain real property to Servicer or its affiliates. In connection with the development described in the DDA, the Servicer developed the real property situated at 186 W. Highland Avenue, Sierra Madre, California 91024 (the “Property”) into a for-sale housing project (the “Project”). The DDA contains certain covenants on the use of the Property for moderate-income for-sale housing. Servicer has commenced selling the individual homes comprising the Project and in connection therewith Owner is providing seller-financing in the form of certain subordinate Mortgage Loans (defined below). Each Mortgage Loan is issued in connection with a Mortgage Loan Covenant (as defined below) in favor of Owner which effects a continuation of the affordability restrictions set forth in an affordable housing agreement with respect to the subdivided portions of the Property. In addition, the parties contemplated at the time of execution of the DDA that Servicer, or its affiliates, would provide servicing for certain aspects of the Mortgage Loans.

WHEREAS, the parties have agreed that Servicer as an independent contractor and pursuant to the terms of this Agreement, shall act as Servicer and service all of the Mortgage Loan Covenants for the Owner.

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

ARTICLE 1

DEFINITIONS

Whenever used herein, the following words and phrases, unless the context otherwise requires, shall have the following meanings:

Acceptable Servicing Procedures: The procedures, including customary and reasonable collection and loan administration procedures, and standard of care employed by mortgage servicers in full compliance with all federal, state and local laws, ordinances, rules and regulations as more particularly set forth in Schedule 2 attached hereto.

Account: The account or accounts created and maintained pursuant to Section 2.4 of this Agreement.

Agreement: This Servicing Agreement, including all exhibits and schedules hereto, and all amendments hereof and supplements hereto.

Applicable Requirements: The (i) terms of the Mortgage Loan Covenant and Mortgage Note related to each Mortgage Loan, (ii) the federal, state, local or foreign laws, statutes, rules, regulations, ordinances, standards, requirements, administrative rulings, orders or processes pertaining to Mortgage Loans, including but not limited to those pertaining to the processing, origination and servicing of the Mortgage and (ii) the requirements of the Owner as set forth in this Agreement.

Business Day: Any day on which banking or savings and loan institutions in the State or California are authorized or obligated by law or executive order to be open, other than a Saturday or Sunday.

Default: Any condition or circumstance which is, or with notice or the lapse of time or both, would become, an Event of Default.

Event of Default: Any breach of the terms of this Agreement after written notice thereof.

FDIC: The Federal Deposit Insurance Corporation or any successor thereto.

Fannie Mae: Fannie Mae (formerly known as the Federal National Mortgage Association) or any successor thereto.

Freddie Mac: The Federal Home Loan Mortgage Corporation or any successor thereto.

Maturity Date: With respect to any Mortgage Loan, the maturity date of the related Mortgage Note and Mortgage as specified therein.

Monthly Payment: The scheduled monthly payment of principal and interest on a Mortgage Loan which is payable by a Mortgagor from time to time under the related Mortgage Note and which Servicer shall have no liability or responsibility to collect, if such a monthly payment is to be collected.

Mortgage: The mortgage, mortgage deed, deed of trust or other instrument creating a subordinate lien on or subordinate priority ownership interest in an estate in fee simple in real property securing a Mortgage Note including any riders, addenda, assumption agreements or modifications relating thereto.

Mortgage Loan: A Mortgage Loan subject to the terms of this Agreement and identified on the related Mortgage Loan Schedule attached hereto as Schedule 1, which shall be updated from time to time to include not less than 37 Mortgage Loans issued by the Owner in connection with the Mortgaged Properties comprising the Project.

Mortgage Loan Covenant: The covenant and restrictions required to be obtained by Owner from each Mortgagor in connection with each Mortgage Loan, substantially in the form of Exhibit A attached hereto.

Mortgage Note: The note or other evidence of the indebtedness of a Mortgagor secured by a Mortgage, including any riders, addenda, assumption agreements or modifications relating thereto.

Mortgaged Property: The property securing a Mortgage Note pursuant to the related Mortgage.

Mortgagor: The obligor on a Mortgage Note.

Owner: The City of Sierra Madre, and any successor owner of any of the Mortgage Loans.

Person: Any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or an agency or political subdivision thereof.

Prepayment Charges or First Refusal Rights: The rights of Owner set forth in the Mortgage Loan Covenant, in Section 3 thereof, to acquire the Mortgaged Property as set forth therein.

Servicer: HHP-Highland, or its permitted successor in interest or any successor to the Servicer under this Agreement appointed as herein provided.

ARTICLE 2

ADMINISTRATION AND SERVICING OF MORTGAGE LOANS

Section 2.1 Servicer to Act as Servicer. The Servicer, as independent contract servicer, shall commence servicing and administering each Mortgage Loan Covenant on behalf of the Owner as of the date hereof. Such servicing shall be in accordance with this Agreement and Acceptable Servicing Procedures, and, except as otherwise expressly provided in this Agreement, the Servicer shall have full power and authority, acting alone, to do any and all things in connection with such servicing and administration that the Servicer may deem necessary or desirable and consistent with the terms of this Agreement. In servicing and administering the Mortgage Loan Covenants, the Servicer shall employ Acceptable Servicing Procedures, except that the Servicer shall employ the procedures set forth in this Agreement whenever the Acceptable Servicing Procedures conflict with the requirements under this Agreement. The Servicer shall at all times act in the best interests of the Owner in performing hereunder. The Servicer is expressly authorized by the Owner to enforce the Mortgage Loan Covenants in accordance with their terms.

The documents comprising each Mortgage Loan Covenant and all related documents which come into the possession of the Servicer and are so held by the Servicer shall be segregated from the other books and records of the Servicer and shall be appropriately marked to clearly reflect the ownership interest of the Owner therein until the Transfer Date. The Servicer shall release its custody of any such documents only in accordance with written instructions from the Owner, unless such release is required as incidental to the Servicer's servicing of the Mortgage Loan Covenants.

Consistent with the terms of this Agreement, the Servicer may not waive, modify or vary any term of any Mortgage Loan Covenant or consent to the postponement of strict compliance with any such term or in any manner grant indulgence to any Mortgagor without the prior written

consent of the Owner, including, without limitation, the Prepayment Charges or First Refusal Rights. Without the prior written consent of the Servicer, Owner agrees that it shall not waive any rights under any Mortgage Loan Covenant. Without limiting the generality of the foregoing, the Servicer is hereby authorized and empowered to execute and deliver on behalf of itself and the Owner all instruments of satisfaction, cancellation, full release, or, with the prior written consent of Owner, partial release or discharge, and all other comparable instruments with respect to the Mortgage Loan Covenant. The Servicer may request the consent of the Owner in writing by facsimile (confirmed by telephone, or by overnight courier and deemed received the day following facsimile notice) or by such other means as may be agreed to by the parties to a course of action that the Servicer proposes to take under this Agreement, whether or not the Owner's consent is required with respect thereto under the terms of this Agreement. Unless the Owner shall give written notice to the Servicer that it agrees to any recommended course of action within five (5) Business Days immediately following the day on which the Owner received the Servicer's recommendations (together with supporting documentation), the Owner shall be deemed to have rejected such recommended course of action, and the Servicer shall be relieved of any liability for its failure to take the action it recommended to the Owner.

If the Owner shall give the Servicer written instruction to take a different course of action, the Servicer shall take such action as is required in writing by the Owner, and the Servicer shall have no liability therefor if it is not negligent in performing such action. The Servicer shall not request the Owner's consent to a waiver of the Prepayment Charges or First Refusal Rights in order to allow the Owner to repurchase the Mortgaged Property set forth in the Mortgage Loan Covenant and the Servicer shall administer the enforcement and collection of the same in accordance with the express terms of the Mortgage Loan Covenant and all applicable laws.

Section 2.2 Collection of Mortgage Loan Payments. During the term of this Agreement, Servicer is not expected to collect any payments due under each of Mortgage Loans if and when the same shall become due and payable. The only responsibility of Servicer shall be to administer and service the Mortgage Loan Covenants. If Servicer receives any payments in respect of the Mortgage Loans, it shall promptly turn such payments over to Owner.

Section 2.3 Omitted.

Section 2.4 Omitted.

Section 2.5 Insurance Policies; Collections Thereunder. The Servicer shall not take any action or fail to take any action which is inconsistent with Acceptable Servicing Practices or this Agreement and would result in non-coverage under any applicable insurance policy of any loss which, but for the actions of the Servicer, would have been covered thereunder.

Section 2.6 Inspections. The Servicer shall conduct inspections of Mortgaged Properties at such times and in a manner consistent with Acceptable Servicing Procedures to determine compliance with the Mortgage Loan Covenants.

Section 2.7 Reports. Not more than 30 days after the end of each calendar month, if and only to the extent there has been any servicing activity with respect to any Mortgage Loan

Covenants, the Servicer shall furnish such information with respect to the Mortgage Loan Covenants and the transactions contemplated hereby as shall from time to time be reasonably required by Owner.

ARTICLE 3

GENERAL SERVICING PROCEDURE; COVENANTS; REPRESENTATIONS AND WARRANTIES

Section 3.1 Assumption Agreements. Subject to all Applicable Requirements, the Servicer will use its best efforts to enforce any “due-on-sale” provision contained in any Mortgage Loan Covenant and the Prepayment Charges and First Refusal Rights and to deny assumption by the person to whom the Mortgaged Property has been or is about to be sold, whether by absolute conveyance or by contract of sale, and whether or not the Mortgagor remains liable on the Mortgage and the Mortgage Note. When the Mortgaged Property has been conveyed by the Mortgagor, the Servicer will exercise its rights to accelerate the maturity of such Mortgage Loan under the “due-on-sale” clause applicable thereto and the Prepayment Charges and First Refusal Rights. If an assumption is allowed pursuant to this Section only with the consent of the Owner, the Servicer is authorized to enter into a substitution of liability agreement with the purchaser of the Mortgaged Property pursuant to which the original Mortgagor is released from liability and the purchaser of the Mortgaged Property is substituted as Mortgagor and becomes liable under the Mortgage Note and Mortgage Loan Covenant. Any such substitution of liability agreement shall be in lieu of an assumption agreement and shall be acceptable to Owner (prior to the Transfer Date). Notwithstanding anything to the contrary herein, Servicer’s obligation to purchase the Mortgaged Property from a Mortgagor following exercise of Owner’s right of first refusal is conditioned upon Owner providing Servicer with financing in the form of an interest free loan in an amount sufficient to purchase the Mortgaged Property from Mortgagor.

The Servicer shall follow Acceptable Servicing Procedures (including underwriting standards) with respect to any such assumption or substitution of liability.

Section 3.2 Satisfaction of Mortgages and Release of Files. Upon the payment in full of any Mortgage Loan, or the receipt by the Servicer of a notification that payment in full will be escrowed in a manner customary for such purposes, the Servicer shall prepare the appropriate documents and instruments required to satisfy or release the lien of the Mortgage Loan Covenant in accordance with Applicable Requirements, and shall promptly and within the time periods appropriate to process the satisfaction or release within the applicable legal deadlines notify the Owner of such event.

Except as otherwise provided by this Agreement, the Servicer shall not grant a satisfaction or release of a Mortgage Loan Covenant without the written consent of the Owner (prior to the Transfer Date). If the Servicer grants a satisfaction or release of a Mortgage Loan Covenant without having obtained the consent of the Owner, the Servicer shall be fully liable for all losses, costs and damages suffered by or on behalf of the Owner, including without limitation all actual and consequential damages and loss of benefits. The Servicer shall maintain the

Fidelity Bond as provided for in Section 2.12 protecting and insuring the Owner against losses sustained with respect to any Mortgage Loan Covenant satisfied or released other than in accordance with the procedures set forth herein.

Section 3.3 Servicing Compensation. Servicer hereby agrees to perform all work necessary to acquire the Affordable Properties at a purchase price which shall be the lesser of the current affordable sales price as calculated by the City pursuant to the Restricted Resale Price and the fair market value to be based upon an appraisal. Servicer shall market any acquired Affordable Property and resell it to an Eligible Household in accordance with the Notice of Restrictions and Right of First Refusal. As compensation for its services hereunder, the Servicer shall be to collect resale transaction costs that shall not exceed six percent (6.00%) of the affordable sales price. The Servicer shall be required to pay all expenses incurred by Servicer in connection with its servicing activities hereunder and shall not be entitled to reimbursement therefor by Owner.

Section 3.4 Statements as to Compliance. Not later than March 15 of each year (or if such day is not a Business Day, the next succeeding Business Day), the Servicer will deliver to the Owner an officer's certificate for the prior calendar year, beginning with the calendar year ending December 31, [XXXX], stating (i) the Servicer has fully complied with the provisions of this Agreement, (ii) a review of the activities of the Servicer during the preceding year and of performance under this Agreement has been made under such officer's supervision, and (iii) to the best of such officer's knowledge, based on such review, the Servicer has fulfilled all of its obligations under this Agreement throughout such year or, if there has been a default in the fulfillment of any such obligation, specifying each such default known to such officer and the nature and status thereof and the action being taken by the Servicer to cure such default.

Section 3.5 Delivery of Information and Reports. The Servicer will deliver to the Owner: (i) Notice of Default or Event of Default - immediately and in no event later than one Business Day upon becoming aware of the existence of any Default or Event of Default under this Agreement, a notice describing its nature and the action the Servicer is taking with respect thereto; (ii) Report on Proceedings - promptly after receipt of written notice to the Servicer of the filing of a civil action or administrative proceeding by any governmental authority or agency which will in the Servicer's opinion materially and adversely affect the ability of the Servicer to perform its obligations under this Agreement, the Servicer shall provide a notice to the Owner specifying the nature of such proceedings and the action the Servicer is taking with respect thereto; (iii) Notice of Change in Law, etc. - promptly upon the Servicer having learned of the enactment or promulgation of any federal, state or local law or regulation applicable to the Servicer or the Servicer's business which will in the Servicer's opinion materially and adversely affect the ability of the Servicer to perform its obligations under this Agreement, the Servicer shall provide a notice to the Owner identifying such law or regulation and the action the Servicer is taking with respect thereto; (iv) Notice of Regulatory Action - promptly upon receipt of an order or ruling which will in the Servicer's opinion materially and adversely affect the ability of the Servicer to perform its obligations under this Agreement the Servicer shall provide a notice to the Owner identifying order or ruling and the action the Servicer is taking with respect thereto; and (v) Requested Information - with reasonable promptness and at the Owner's cost, any other data and information not provided for herein which may be reasonably requested from time to

time by the Owner, including, without limitation, information with respect to the Mortgage Loan Covenants.

Section 3.6 Owner's Right to Examine Servicer Records, etc. The Owner shall have the right to examine and audit the Servicer's books of account, records, reports, and other papers relating to (i) the performance by the Servicer of its obligations and duties under this Agreement or (ii) to the Mortgage Loan Covenants, to make copies and extracts therefrom, and to discuss the affairs, finances, and accounts of the Servicer relating to such performance with its officers and employees, all at such reasonable times and places and as often as may be reasonably requested.

Section 3.7 Cooperation. The Servicer and the Owner shall cooperate fully with one another and their respective counsel and other representatives and advisors in connection with the steps required to be taken as part of their respective obligations under this Agreement.

Section 3.8 Consents and Approvals. Each party shall timely obtain, at its sole cost and expense, the consents and approvals required by law or pursuant to contract to consummate the transactions contemplated hereby. All such consents will be obtained without any cost or expense to the other party and will be obtained without any adverse modification in the terms of any of the agreements relating to the Mortgage Loans or the imposition of any burdensome provisions or conditions on the other party.

Section 3.9 No Solicitation Rights. Subject to the provisions set forth in this Section, from and after the date hereof, neither the Servicer nor any of its affiliates shall solicit, by means of direct mail, or telephonic or personal solicitation, the Mortgagors of any Mortgage Loans for purposes of prepayment of such Mortgage Loans. Solicitations for optional insurance products or other bank products (not including mortgage loans), and solicitations undertaken by the Servicer or any affiliate of the Servicer that are directed to the general public at large (as opposed to directed specifically at the Mortgagors), including without limitation mass mailings or other contacts based on commercially acquired mailing lists, statements on, or "stuffers" in, a Mortgagor's monthly billing statement referencing the Servicer's mortgage lending business (including its refinance business) and newspaper, radio, internet, website and television advertisements, shall not constitute solicitation under this Section.

ARTICLE 4

THE SERVICER

Section 4.1 Indemnification; Third Party Claims. The Servicer shall indemnify and hold harmless the Owner against any and all third party claims, losses, penalties, fines, forfeitures, legal fees and related costs, judgments and any other costs, fees and expenses that the Owner may sustain and which result from the (a) Servicer collecting any Monthly Payments and failing to remit such payments to Owner, (b) Servicer waiving any Prepayment Charges or First Refusal Rights in violation of this Agreement, or (c) Servicer's willful misfeasance, bad faith or gross negligence in connection with its performance of its duties under this Agreement.

Section 4.2 Servicer Covenants; Merger or Consolidation of the Servicer. The Servicer covenants that it will keep in full force and effect its existence, and rights as a public body, corporate and politic and will obtain and preserve its qualification to do business as such qualification is or shall be necessary to protect the validity and enforceability of this Agreement and to perform its duties under this Agreement. The Servicer covenants that it will not waive any Prepayment Charges or First Refusal Rights in connection with any Mortgage Loan except in accordance with the provisions of Section 2.1.

Section 4.3 Limitation on Liability of the Servicer and Others. The Servicer and the directors, officers, employees or agents of the Servicer shall not be under any liability to the Owner for any action taken or for refraining from the taking of any action in good faith pursuant to this Agreement, or for errors in judgment or for any action or inaction in accordance with the direction or consent of the Owner except as otherwise provided herein, or any inaction resulting from the Owner's failure to respond to a request by the Servicer by certified mail or overnight courier for direction or consent in accordance with Section 2.1; provided, however, this provision shall not protect the Servicer against any breach of warranties or representations made herein or failure to perform its obligations in accordance with any standard of care set forth in this Agreement (unless in accordance with the direction or consent of the Owner), or any liability which would otherwise be imposed by reason of willful misfeasance, bad faith or negligence in the performance of duties.

Section 4.4 Servicer May Resign. The Servicer may resign from the obligations and duties hereby imposed on upon 90 days prior written notice to Owner.

Section 4.5 No Transfer of Servicing. The Servicer acknowledges that the Owner has entered into this Agreement with the Servicer in reliance upon the adequacy of the Servicer's procedures, its integrity, reputation, and financial standing and the continuance thereof and under no circumstances shall the Servicer either assign this Agreement or the servicing hereunder without the prior written approval of the Owner in its sole discretion.

Section 4.6 Representations and Warranties of the Servicer. The Servicer hereby makes to the Owner as of the date hereof and the date a new Mortgage Loan Covenant is made subject to each Closing Date (and as of each reconstitution date, if any) each of the representations and warranties set forth below.

The Servicer is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of California, and has all licenses necessary to carry on its business as now being conducted and is licensed, qualified and in good standing in the State of California; the Servicer has the corporate power and authority to enter into, execute and deliver this Agreement and all documents and instruments executed and delivered pursuant hereto and to perform its obligations in accordance therewith; the execution, delivery and performance of this Agreement by the Servicer and the consummation of the transactions contemplated hereby; this Agreement evidences the valid, binding and enforceable obligations of the Servicer; and all requisite corporate action has been taken by the Servicer to make this Agreement valid and binding upon the Servicer in accordance with its terms.

No consent, approval, authorization, or order of any court or governmental agency or body relating to the transactions contemplated by this Agreement is required as to the Servicer or, if required, such consent, approval, authorization, or order has been or will, before the date such consent, approval, authorization or order is required, be obtained.

The consummation of the transactions contemplated by this Agreement, including without limitation the fulfillment of or compliance with the terms and conditions of this Agreement, are in the ordinary course of business of the Servicer and will not result in the breach of any term or provision of the articles of incorporation or by-laws of the Servicer or result in the breach of any term or provision of, or conflict with or constitute a default under, or result in the acceleration of any obligation under, any agreement, indenture, loan or credit agreement, or other instrument to which the Servicer or its property is subject, or result in the violation of any law, rule, regulation, order, judgment, or decree to which the Servicer or its property is subject.

There is no action, suit, proceeding or investigation pending or threatened against the Servicer which, either in any one instance or in the aggregate, is in the Servicer's judgment, likely to result in any material impairment of the right or ability of the Servicer to carry on its business substantially as now conducted, or which would draw into question the validity of this Agreement, or of any action taken or to be taken in connection with the obligations of the Servicer contemplated herein or therein, or which would be likely to impair materially the ability of the Servicer to perform its obligations hereunder or thereunder.

ARTICLE 5

DEFAULT

Section 5.1 Events of Default. In case one or more of the following Events of Default by the Servicer shall occur and be continuing:

5.1.1 any failure by the Servicer to remit to the Owner when due any payment required to be made under the terms of this Agreement; (ii) any failure by the Servicer to duly observe or perform, in any material respect, any other covenant, obligation or agreement of the Servicer as set forth in this Agreement; (iii) a decree or order of a court or agency or supervisory authority having jurisdiction for the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshaling of assets and liabilities, or similar proceedings, or for the winding-up or liquidation of its affairs, shall have been entered against the Servicer; (iv) the Servicer shall consent to the appointment of a conservator, receiver or liquidator in any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings of or relating to the Servicer or relating to all or substantially all of the Servicer's property; or (v) the Servicer shall admit in writing its inability to pay its debts as they become due, file a petition to take advantage of any applicable insolvency or reorganization statute, make an assignment for the benefit of its creditors, or voluntarily suspend payment of its obligations

5.1.2 Upon receipt by the Servicer of written notice from the Owner stating the intent to terminate the Servicer as servicer under this Agreement as a result of an Event of Default, all authority and power of the Servicer under this Agreement, whether with respect to the Mortgage Loan Covenants or otherwise, shall pass to and be vested in a successor appointed

by Owner pursuant to this Agreement. Upon written request from the Owner, the Servicer shall, at its sole expense, prepare, execute, and deliver to a successor any and all documents and other instruments, and do or cause to be done all other acts or things necessary or appropriate to effect the purposes of such notice of termination, all of which shall be undertaken immediately and shall be completed as soon as possible and in all events by not later than thirty (30) days following Owner's request therefor. The Servicer shall cooperate with the Owner and such successor in effecting the termination of the Servicer's responsibilities and rights hereunder, including, without limitation, the transfer to such successor for administration by it of all cash amounts which shall at the time be credited by the Servicer to the Account, or thereafter be received with respect to the Mortgage Loan Covenants and to which the Servicer is not entitled pursuant to the terms of this Agreement together with any and all files, documents and records in connection with the Mortgage Loan Covenants. Before any termination of this Agreement for an Event of Default by Servicer, Owner shall first give Servicer 30 days prior written notice and if such Event of Default is cured before the end of such 30 day period, the termination of this Agreement shall be rescinded.

Section 5.2 Waiver of Defaults. The Owner may waive any default by the Servicer in the performance of its obligations hereunder and its consequences in writing. No such waiver shall extend to any subsequent or other default or impair any right consequent thereto except to the extent expressly so waived.

ARTICLE 6

TERMINATION & TRANSFER

Section 6.1 Termination of Agreement. Unless sooner terminated as a result of a Servicer default or as otherwise provided herein this Agreement shall terminate upon mutual consent of the parties in writing, or without cause upon 90 days prior written notice by either party.

Section 6.2 Termination of the Servicer. (a) The Owner may, at its sole option, terminate any rights the Servicer may have hereunder, with cause, as a result of an uncured Servicer Event of Default. If the Servicer is terminated with cause (in such instance, the "Terminated Servicer") as a result of an uncured Event of Default, the Owner shall arrange for the transfer of servicing to itself or to another party and the Terminated Servicer shall continue servicing the Mortgage Loan Covenants under this Agreement until the Owner gives the Terminated Servicer notice of the transfer. The Owner shall use its best efforts to arrange for the transfer of servicing to be effective no later than the 30th day after notice of termination to the Servicer. Notwithstanding the termination of the Servicer, the Terminated Servicer shall be entitled to reimbursement or payment, in accordance with the terms of this Agreement, for all accrued and unpaid servicing fees made before the servicing transfer date. The Terminated Servicer agrees to cooperate with the Owner and such successor in effecting the termination of the Terminated Servicer's responsibilities and rights hereunder, including, without limitation, the transfer to such successor for administration by it of all cash amounts which shall at the time be credited by the Terminated Servicer to the Account or thereafter be received with respect to the Mortgage Loan Covenants and to which the Terminated Servicer is not entitled pursuant to the terms of this Agreement.

Section 6.3 Successor to the Servicer. Before termination of the Servicer’s responsibilities and duties under this Agreement, the Owner shall either (i) succeed to and assume all of the Servicer’s responsibilities, rights, duties, and obligations under this Agreement from and after the date of such succession, or (ii) appoint a successor that shall succeed to all rights and assume all of the responsibilities, duties, and liabilities of the Servicer under this Agreement. The resignation or removal of the Servicer pursuant to this Agreement shall not become effective until a successor shall have been appointed pursuant to this Section and shall in no event relieve the Servicer of its non-servicing duties, obligations, covenants, representations and warranties. The Servicer shall promptly deliver to the successor all funds other funds to which the Owner is entitled pursuant to the terms of this Agreement and all documents and statements held by it hereunder and the Servicer shall account for all funds and shall execute and deliver such instruments and do such other things as may reasonably be required to more fully and definitively vest in the successor all such rights, powers, duties, responsibilities, obligations, and liabilities of the Servicer.

ARTICLE 7

MISCELLANEOUS PROVISIONS

Section 7.1 Miscellaneous. This Agreement may only be amended by mutual written agreement. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California, without reference to the choice of law doctrine of such state. This Agreement supersedes all prior agreements and all understandings related to the subject matter hereof; provided, however, that the Servicer and the Owner shall retain any rights or remedies that have accrued to them under such prior agreements on or before the date of this Agreement.

Section 7.2 Further Assurances. The Servicer agrees to execute or cause to be executed such documents and take or cause to be taken such actions as may be necessary to effect the intent of this Agreement, including without limitation the execution and delivery of instruments of further assurance and the execution and delivery of such other documents, and the taking of such other actions as may be reasonably requested by the Owner.

Section 7.3 General Interpretive Principles. The terms defined in this Agreement include the plural as well as the singular, and the use of any gender herein shall be deemed to include the other gender. References herein to “Articles,” “Sections,” “Subsections,” “Paragraphs,” and other subdivisions without reference to a document are to designated Articles, Sections, Subsections, Paragraphs, and other subdivisions herein. The headings in this Agreement are for reference only and do affect the meaning hereof.

Section 7.4 Notices. All demands, notices, consents, waivers and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail, postage prepaid, to:

If to Servicer:
HHP-Highland, LLC
C/O Heritage Housing Partners
608 N. Fair Oaks Ave, #126

With a copy to:
City of Sierra Madre
232 Sierra Madre Boulevard
Sierra Madre, California 91024

Pasadena, California 91103
Attn: Executive Director
Ph. No.: (626) 403-4663, x 114
Fax No.: (626) 403-9139

Attn: City Manager
Ph. No.: (626) 355-7135

If to Owner:
City of Sierra Madre
232 Sierra Madre Boulevard
Sierra Madre, California 91024
Attn: City Manager
Ph. No.: (626) 355-7135

With a copy to:
HHP-Highland, LLC
C/O Heritage Housing Partners
608 N. Fair Oaks Ave, #126
Pasadena, California 91103
Attn: Executive Director
Ph. No.: (626) 403-4663, x 114
Fax No.: (626) 403-9139

Section 7.5 Severability of Provisions. If any provision of this Agreement is held invalid for any reason whatsoever, then such provision shall be deemed severable from the remaining provisions and shall in no way affect the validity or enforceability of the other covenants, agreements, provisions or terms of this Agreement or the rights of the Owner hereunder.

Section 7.6 Counterparts; Successors and Assigns. This Agreement may be executed in one or more counterparts and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed to be an original; such counterparts, together, shall constitute one and the same agreement. This Agreement shall inure to the benefit of and be binding upon the Servicer, the Owner and their respective successors and assigns.

[SIGNATURE PAGES S-1 and S-2 ATTACHED]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

“SERVICER”

City of Sierra Madre,
a public body, corporate and politic

Name:
Title:

“OWNER”

HHP-Highland, LLC,
a California limited liability company

By: HERITAGE HOUSING PARTNERS,
its sole member

By: _____
Charles E. Loveman, Jr.
Executive Director

By: _____
Name:
Title:

SCHEDULE 2
SERVICING TASKS

SERVICER shall:

1. Monitor all loans listed in Schedule 1 for compliance with the Notice of Restrictions.
2. Notify Owner verbally and in writing of any non-compliance noted within the Notice of Restrictions for any loan within 24 hours of receipt/knowledge of non-compliance.
3. Notify Owner verbally and in writing within 24 hours of any notice received showing or stating a default for any loan.
4. Reject any and all payments attempted to be submitted on any of the loans in Schedule 1 relating to Owner loans. Immediately notify Owner verbally and in writing of the attempted payment. In no event shall the Servicer accept any payment whether partial or in full against the Mortgage Loan.
5. Send Owner monthly reports on the status of any and all Mortgage Loans in default in respect to the Notice of Restrictions. If there are no defaults to report, no monthly reports will be required.
6. Process any Mortgagor's Notice of Intended Sale (as defined in the Mortgage Loan Covenant) to sell the Mortgaged Property and take all reasonable steps necessary to identify a qualified Moderate-Income First-Time Homebuyer to purchase the Mortgaged Property and facilitate the resale of such Mortgaged Property in a manner consistent with the Owner's Affordable Housing Covenant and Regulatory Agreement.

EXHIBIT A
FORM OF MORTGAGE LOAN COVENANT

[To be attached]