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RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Palmdale
38300 Sierra Highway, Suite C
Palmdale, CA 93550
Attn: City Clerk

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

APN: _____ - _____ - _____

DENSITY BONUS HOUSING AGREEMENT
(Name of Housing Project)
Agreement No. A-_____

THIS DENSITY BONUS HOUSING AGREEMENT (this "Agreement"), dated as of [____], 20__, is entered into by and between the City of Palmdale, a municipal corporation of the State of California (the "City"), and <Owner>, a California <form of organization> and/or its assigns (the "Owner"), as follows:

RECITALS

A. The Owner is the owner of a fee interest in certain real property located in the City of Palmdale, County of Los Angeles, State of California, identified as APN _____ - _____ - _____, located at <address/location> and legally described in Exhibit "A" attached hereto and incorporated by reference (the "Property").

B. The Owner will construct a _____-unit affordable housing development, with _____ residential building(s) and included amenities (the "Residential Development"). The project provides for units of _____. The project will provide _____ parking stalls onsite <or other project information>.

C. The Owner proposes construction of a rental housing development of _____ units for very low income and/or low income individuals and families. At least _____ percent (____%) of the units will be available to and occupied by households whose incomes do not exceed the maximum income of _____ income households in Los Angeles County as determined by the California Department of Housing and Community Development.

D. Under California Government Code Section 65915, *et seq.* and Palmdale Municipal Code ("PMC") Section 17.25.020, the City must, upon the request of an applicant, grant a density

APN: _____-_____-_____

bonus and/or certain incentives/concessions and/or waivers for any development applicant that seeks and agrees to construct a minimum number of housing units that are affordable to low and/or very low income households (the "Density Bonus Law").

E. The subject site has a General Plan Land Use Designation of _____ (_____ dwelling units per acre) and is zoned _____ (_____ dwelling units per acre) <update to zoning of project location>. The Density Bonus Law requires that, when an applicant includes at least _____% _____-income units, the City must grant a _____% density bonus over the base density, which would allow an additional _____ units per acre in the Residential Development. Therefore, the Density Bonus Law requires the City to permit the Residential Development's proposed density of _____ dwelling units per acre. Additionally, in order to provide for affordable housing cost of the _____-income units and/or to accommodate the density of the Residential Development, the Owner has requested _____ cost-saving development concession(s), _____ waiver(s), and/or state Density Bonus Parking in accordance with California Government Code Section 65915, et seq. and PMC Section 17.25.020, as follows:

- a. [An incentive or concession to PMC Section _____, which requires _____ . Instead, _____, which results in a cost savings.]
- b. [A waiver of the requirement of _____ to _____ . Instead, the project shall _____ .]
- c. [Regardless of any standard City-required parking ratio, pursuant to California Government Code 65915(p)(1), the project shall provide _____ parking spaces.]

F. The City and the Owner enter into this Agreement pursuant to and in accordance with California Government Code Section 65915, *et seq.*, and Section 17.25.020 of the PMC, in order to provide housing for lower income households.

G. The City finds that granting the concession(s), waiver(s), and/or Density Bonus Parking listed under Recital E, above, will result in actual and identifiable cost reductions to provide for affordable housing cost, will not have an adverse impact upon public health and safety, the physical environment, or any property that is listed in the California Register of Historical Resources, and is consistent with state and federal law. The City also finds that the Residential Development is consistent with the General Plan.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

AGREEMENT

1. Recitals. The Recitals set forth above are true and correct, and incorporated herein.

2. Definitions. For purposes of this Agreement, the terms listed below shall have the meanings thereafter specified:

- a. “Adjusted for Household Size Appropriate for the Unit” means a household of two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, and four persons in the case of a three-bedroom unit.
- b. “Affordable Rent” means a rent that, when added to the Utility Allowance, does not exceed thirty percent (30%) of _____ percent (____%) of the Los Angeles County median income as determined annually by the California Department of Housing and Community Development, Adjusted for Household Size Appropriate for the Unit.
- c. “Affordable Unit” means a dwelling unit that will be offered for rent exclusively to an Income Eligible Household at an Affordable Rent pursuant to this Agreement.
- d. “Director” means City’s Department of Neighborhood Services Director, or his or her designee.
- e. “Income Eligible Household” means a _____ Income Household which is eligible to rent a particular Affordable Unit.
- f. [“Low Income Household” shall have the meaning ascribed to it under California Health and Safety Code Section 50079.5. The upper income limit for Low Income Households shall be the income limits for such households published annually by the California Department of Housing and Community Development with adjustments for household size.]
- g. “Management Plan” means a plan prepared by the Owner and approved by the Director describing in detail the management of the Affordable Units, including marketing of the Affordable Units, tenant selection criteria and process, waiting list management, application of Utility Allowances in setting Affordable Rents, and similar details of the operation, annual monitoring inspections and file review, and a schedule of initial rents.
- h. “Occupancy Date” means the earlier to occur of (i) issuance of a Certificate of Occupancy by the City or (ii) issuance of a Temporary Certificate of Occupancy by the City.
- i. “Owner” means the person or entity defined as such in the introductory paragraph of this Agreement, and includes all successors and assigns of that person or entity.

- j. “Property” shall have the meaning defined in Recital A, as more particularly described in Exhibit “A” attached hereto and incorporated herein.
- k. “Residential Development” shall have the meaning given in Recital B.
- l. “Utility Allowance” means an amount designated annually by the City as a reasonable estimate of the cost of utilities for the Affordable Unit, for purposes of calculating the applicable Affordable Rent.
- m. [“Very Low Income Household” shall have the meaning ascribed to it under California Health and Safety Code Section 50105. The upper income limit for Very Low Income Households shall be the income limits for such households published annually by the California Department of Housing and Community Development with adjustments for household size.]

3. Approvals. The Residential Development shall be developed in accordance with all applicable provisions of the PMC.

4. Affordable Units. The Owner hereby covenants and agrees that at least _____ percent (____%) of the units in the Residential Development (at least _____ units) shall be rented exclusively to _____ Income Households at an Affordable Rent.

5. Affordable Rents. Affordable Rents for Affordable Units, including Utility Allowances, shall be based on the Los Angeles County Area Median Income published in Title 25, California Code of Regulations, Section 6932 by the California Department of Housing and Community Development, as may be amended from time to time. Affordable Rents may not be increased more frequently than annually to reflect increases in Area Median Income.

6. Term of Affordability Covenants. The covenants to restrict the rental of the Affordable Units in accordance with this Agreement shall remain in effect for a term commencing on the Occupancy Date and continuing for fifty-five (55) years (the “Term”). Prior to recording of this Agreement, the Owner must deliver to the City a Lenders Consent and Subordination Agreement (“Lender Consent”), in the form appended to this Agreement, from each existing lender that will continue to hold a security interest in the Property. Such Lender Consents shall be recorded as a substantive part of this Agreement.

7. Management Plan. The Owner shall submit the Management Plan for the Director’s consideration and approval at least one hundred eighty (180) days prior to the date that the Owner applies for a Certificate of Occupancy for the Residential Development. Such approval shall not be unreasonably withheld. In addition to other components, the Management Plan shall contain the following:

- i. Whenever an Affordable Unit becomes available, the Director shall be notified promptly in writing.

- ii. The Owner shall conduct affirmative marketing of the Affordable Units, as they become available from time to time, including wide circulation of information and public notice of the availability of Affordable Units for rent during the marketing period required by the Management Plan.
- iii. The Owner shall determine eligibility of _____ Income Households that may lease the Affordable Units in accordance with the Management Plan.

8. Changes in Tenant Income. A tenant who initially qualified as a _____ Income Household, but who, due to an increase in income, no longer qualifies as a _____ Income Household shall pay as rent an amount that is the least of the amount that would be payable by the tenant under (i) low income housing tax credit regulations, (ii) State or local law, or (iii) thirty percent (30%) of the household's adjusted gross income.

9. Utilization of Affordable Rental Units. All Affordable Units required by this Agreement shall be leased or rented and fully utilized in accordance with this Agreement; notwithstanding any other provision of law to the contrary, no Affordable Unit shall be withdrawn from the market or otherwise held vacant.

10. No Sublease. A tenant occupying an Affordable Unit may not sublet the unit without the written permission of both the Owner and the City. The City shall not grant permission to lease, rent, or sublet the unit if it finds that the prospective tenant or occupant is not an Income Eligible Household. Any individual who subleases an Affordable Unit in violation of the provisions of this Agreement shall be required to forfeit to the City all monetary amounts so obtained.

11. Lease Agreement. A fully executed copy of the lease agreement for each Affordable Unit, which shall comply with the provisions of this Agreement, shall be delivered to the City's Department of Neighborhood Services, Housing Division within ten (10) days after the date of its execution.

12. Maintenance of Units. The Owner shall: (a) maintain and operate all units on the Property so as to provide decent, safe, and sanitary housing consistent with federal housing quality standards and the PMC; (b) make any required repairs or provide any required cleanup; and (c) provide the Affordable Units with the same levels of services and maintenance as are provided to any of the other dwelling units on the Property.

13. Annual Report. The Owner shall maintain complete and accurate records pertaining to the Affordable Units and shall prepare and provide the Director with a written annual report commencing one year after the Occupancy Date and continuing every year for fifty-five (55) years, regarding the rental status of the units. The report shall include information regarding the name, address, and income of each resident of the Affordable Units, identify the number of bedrooms of the unit and the monthly rent paid by the tenant. So long as permitted by law, including, without limitation, California Government Code Section 65915.3 (which prohibits the

City from collecting monitoring fees) concurrently with the submittal of each annual report to the City, the Owner shall pay a monitoring fee to the City in the amount of _____ (\$_____) [based on number of units] with a maximum increase of two percent (2%) per year to defray the City's cost of monitoring the Owner's compliance with this Agreement. The Owner's failure to make such required payment shall be a default under this Agreement but only to the extent the Owner is required to make such a payment under California Government Code Section 65915.3.

14. Right of First Refusal. In accordance with PMC Section 17.25.020(D)(5)(b), the Owner hereby grants the City the continuing right of first refusal to purchase or lease any or all of the Affordable Units at their fair market value upon the terms and conditions set forth in Exhibit "B", attached hereto and incorporated herein by this reference.

15. Federal and State Laws. Notwithstanding the above provisions, nothing contained herein shall require the Owner or the City to do anything contrary to or refrain from doing anything required by Federal and State laws and regulations promulgated thereunder applicable to the construction, management, maintenance, and rental of Affordable Units in the City of Palmdale.

16. Prohibition Against Discrimination. The Owner shall not discriminate against any tenant or potential tenant on the basis of sex, color, race, ethnicity, religion, ancestry, national origin, age, pregnancy, marital status, family composition, sexual orientation, or the potential or actual occupancy of minor children. The Owner further agrees to take affirmative action to ensure that no such person is discriminated against for any of the above-mentioned reasons.

17. Indemnification. The Owner shall defend, indemnify, and hold harmless the City of Palmdale and its officers, agents, employees, representatives, and volunteers from and against any loss, liability, claim, or judgment relating solely to this Agreement, including those claims that arise out of: (a) a breach of this Agreement by the Owner; (b) related in any manner to the Owner's administration of this Agreement; or (c) arising out of the City's interest in this Agreement or Affordable Units. This indemnification shall not apply to claims arising out of the negligence or willful misconduct of the City, its officers, agents, employees, representatives, or volunteers.

18. City's Right to Inspect Units and Documents. The City may inspect the Affordable Units (subject to the tenant's privacy rights and lease provisions) and any documents or records relating thereto, at any reasonable time in order to determine the Owner's compliance with this Agreement.

19. Successors and Assigns. This Agreement and its covenants and conditions shall run with the land and be binding upon and inure to the benefit of the City and the Owner, and their respective successors, owners by deed, deed in-lieu of foreclosure, foreclosure or otherwise, and assigns. The City reserves the right to designate another public agency within the City of Palmdale to perform the City's obligations or to exercise the City's rights under this Agreement.

20. Notices. All notices required herein shall be sent by certified mail, return receipt requested, or express delivery service with a delivery receipt and shall be deemed to be effective on the date received or the date delivery was refused as indicated on the return receipt, as follows:

To Owner: Owner
 Address
 Address
 Attn: Name

with a copy to: Attorney
 Address
 Address
 Attn: Name

To City: City of Palmdale
 38250 Sierra Highway
 Palmdale, California 93550-4798
 Attn: Director of Housing

with a copy to: City of Palmdale
 38300 Sierra Highway
 Palmdale, California 93550-4798
 Attn: City Attorney

The parties hereto may subsequently change addresses by providing written notice of the change in address to the other party hereto in accordance with this Section.

21. Governing Law. The laws of the State of California shall govern this Agreement. Any legal action brought under this Agreement must be instituted in the Superior Court of the County of Los Angeles, State of California, in an appropriate municipal court in that County, or in Federal District Court in the Central District of California.

22. Default. Failure or delay by either party hereto to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of notice from the other party, constitutes a default under this Agreement. The party who so fails or delays must immediately commence to cure, correct, or remedy such failure or delay, and shall complete such cure, correction, or remedy with due diligence. The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Except as required to protect against further damages, the injured party may not initiate proceedings against the party in default until thirty (30) days after giving such notice. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. If applicable, the City agrees to accept cures tendered by the Investor Limited Partner of the Owner within the cure periods provided in this Agreement.

23. Remedies.

- a. Any individual who rents (including subleasing) an Affordable Unit in violation of the provisions of this Agreement shall be required to forfeit to the City all monetary amounts so obtained.
- b. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Agreement, including, but not limited to, actions for injunctive relief or damages.
- c. It is agreed and understood that the covenants to maintain the Affordable Units as set forth herein are a requirement of the PMC and as a condition to receiving zoning and parking concessions/incentives under the PMC, the Owner agrees that a breach of the covenants to maintain the Affordable Units as affordable housing for the Term specified herein constitutes a violation of the PMC, subject to enforcement by all legally available means.

24. 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 reasonable attorneys' fees and costs in an amount determined by the court.

25. Non-Waiver. Failure to exercise any right either party hereto 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.

26. Further Assurances and Recordation. The parties hereto shall cause this Agreement to be recorded in the Official Records of the County of Los Angeles. The Owner shall execute any further documents consistent with the terms of this Agreement, including documents in recordable form and do such further acts as may be necessary, desirable, or proper as the City shall from time to time find necessary or appropriate in order to effectuate its purpose in entering into this Agreement.

27. Entire Agreement. This Agreement, including any Lender's Consent and Subordination Agreements, and all attached Exhibits, constitutes the entire agreement between the parties hereto. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement, statement, or promise not contained in this Agreement shall not be valid or binding. This Agreement may be amended only by written instrument signed by both the City and the Owner.

28. Third Party Beneficiaries. There are no third party beneficiaries of or to this Agreement.

29. Amendment of Agreement.

- a. Generally. This Agreement may be amended from time to time in whole or in part by mutual consent of the original parties hereto or their successors in interest, in accordance with this Agreement, the PMC, and the Density Bonus Law.
- b. Administrative Amendments. Notwithstanding subdivision (a) of this Section, any amendment to this Agreement, whether requested by the Owner or by the City, which does not relate to the Term; the number, percentage, or type of Affordable Units; or the number or type of any incentives or concessions given by the City, may be determined by the Director to be an administrative amendment and, if so, the Director shall approve the administrative amendment without notice or hearing, and this Agreement and its pertinent exhibits shall be automatically amended without further action by the parties hereto. A memorandum of the amendment shall be executed and recorded in order to reflect such administrative amendment.

30. Counterparts. This Agreement may be executed by each party hereto on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

[signatures follow]

APN: _____-_____-_____

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement as of the date set forth above.

CITY

CITY OF PALMDALE,
a municipal corporation

By: _____
Salvador Mendez
City Manager

Dated: _____

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Alexandra Severino
City Attorney

KANE, BALLMER & BERKMAN
City Special Counsel

By: _____
Todd C. Mooney

OWNER

owner

type of organization

By: Owner,
type of organization,
its Administrative General Partner

By: _____
Name
Title

Dated: _____

By: Organization,
type of company,
its Managing General Partner

By: _____
Name
Title

Dated: _____

APN: _____ - _____ - _____

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, _____, a 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 _____

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, _____, a 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 _____

FORM OF
LENDER'S CONSENT AND SUBORDINATION AGREEMENT

NOTICE: THIS LENDER'S CONSENT AND SUBORDINATION RESULTS IN YOUR SECURITY INTERESTS IN THE PROPERTY BECOMING SUBJECT TO AND OF A LOWER PRIORITY THAN THIS DENSITY BONUS HOUSING AGREEMENT

The undersigned (the "Lender"), as owner and holder of security interests ("Security Interests") evidenced by that certain [Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing] made by the Owner as trustor in favor of _____ as beneficiary, dated as of _____ and recorded on _____ as Instrument No. _____ in the Official Records of the County of Los Angeles, State of California, hereby acknowledges its consent to the terms and provisions of this Density Bonus Housing Agreement. The undersigned further agrees that its Security Interests are and shall unconditionally be and remain at all times junior, subordinate, and subject to the terms, covenants, conditions, and restrictions of this Density Bonus Housing Agreement, provided that in consideration of the Lender's covenants and agreements contained in this Agreement, the City and its designated agencies hereby agree for the benefit of the Lender that concurrently with any notice from the City to the Owner that a default or breach exists under the terms of this Density Bonus Housing Agreement, the City shall send a copy of such notice to the Lender, and the Lender shall have the right, but not the obligation, to cure any defaults within thirty (30) days after the expiration of any cure period set forth in the notice from the City to the Owner regarding such Owner default. The provisions of this consent are intended to supplement, and not to limit, waive, modify, or replace those provisions of law pertaining to notice and cure rights of junior lenders including, without limitation, those set forth in California Civil Code Sections 2924b and 2924c. The Lender intentionally and unconditionally waives, relinquishes, and subordinates the lien or charge of the Security Interests in favor of this Density Bonus Housing Agreement.

AGREED AND ACKNOWLEDGED:

Dated as of: _____

"LENDER"

By. _____

Name: _____

Title: _____

[notarized signature required]

APN: _____ - _____ - _____

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, _____, a 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 _____

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, _____, a 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 _____

APN: _____-_____-_____

EXHIBIT A

Legal Description of Property

Real property in the City of Palmdale, County of Los Angeles, State of California, described as follows:

<LEGAL DESCRIPTION>

APN: _____-_____-_____

EXHIBIT "B"

Terms and Conditions of Right of First Refusal

a. Right of First Refusal. The Owner hereby grants to the City a right of first refusal to purchase or lease any or all of the Affordable Units from the Owner (the "**Right of First Refusal**") under the following terms and conditions. In the event of a proposed sale of any or all of the Affordable Units, the City shall have the right, at its option, but not the obligation, to exercise the Right of First Refusal and purchase or lease such Affordable Unit(s) for fair market value.

b. Notice of Sale. In the event that the Owner intends to sell any or all of the Affordable Units, the Owner shall notify the City in writing not less than 30 days prior to such proposed sale (the "**Notice of Proposed Sale**"). The Notice of Proposed Sale shall specify all the terms of such proposed sale, and the Owner shall provide promptly such information as the City shall reasonably request regarding the proposed sale. The Notice of Proposed Sale shall also state the street address(es) of the Affordable Unit(s), the name(s) and existing address(es) of the proposed purchaser(s), and the terms of the proposed transaction(s). The Notice of Proposed Sale, together with the City-required information shall be personally delivered or deposited into the U.S. mail, postage prepaid, first class, certified mail, return receipt requested, addressed to:

City of Palmdale
38250 Sierra Highway, 2nd Floor
Palmdale, California 93550-3609
Attention: Director of Housing

c. Exercise of Right of First Refusal. The Right of First Refusal may be exercised by the City delivering to the Owner written notice of such exercise. Upon the City's receipt of a Notice of Proposed Sale from the Owner, the City shall have 45 days to give written notice to the Owner (the "**City's Notification**") of its decision to exercise the Right of First Refusal.

d. Escrow. Promptly following the exercise of the City's Right of First Refusal, the City shall either (i) enter into a fair market value lease for the Affordable Unit(s) or (ii) open an escrow with a title insurance company or such other escrow agent selected by the City (the "**Escrow Agent**") and the parties agree to execute escrow instructions with the Escrow Agent as may be required by the Escrow Agent, or to implement or give effect to the terms and conditions of this Agreement. If the parties disagree as to the fair market value of the Affordable Unit(s), then all lease or sale deadlines shall be paused while the value is determined by an independent residential appraiser selected (and paid for) by the Owner and reasonable acceptable to the City. The parties agree to the following escrow terms and conditions:

(i) The escrow shall be for a period of 90 days or sooner if mutually agreed by the parties;

(ii) The City agrees that it will pay the fair market value upon the close of escrow or as otherwise mutually agreed to by the parties;

(iii) The Owner agrees that it shall pay the premium for a standard C.L.T.A. policy of owner's title insurance issued by the Escrow Agent or title insurance company reasonably acceptable to the City, insuring title to the Affordable Unit(s) in the City's name, subject only to those matters approved by the City in writing. In the event the City requests an A.L.T.A. policy of owner's insurance and/or any title endorsements, the additional costs associated with the issuance of an A.L.T.A. policy or the endorsements shall be paid by the City;

(iv) The Owner and the City agree that all costs and fees charged in connection with the closing and escrow shall be borne by the Owner;

(v) The Owner agrees that it shall deposit in escrow for delivery to the City an executed grant deed to the City (in such form as may be reasonably acceptable to the City Manager in his or her sole discretion);

(vi) Taxes and assessments shall be prorated at the close of escrow with the Owner paying all such taxes and assessments due and payable prior to the close of escrow and the City paying all such taxes and assessments due and payable following the close of escrow;

(vii) The Owner agrees that title shall be conveyed by the Owner at the close of escrow to the City free and clear of all mortgages, deeds of trust, liens and encumbrances. The Owner agrees that any costs to remove or satisfy any mortgages, deeds of trusts, liens or encumbrances shall be the responsibility of the Owner, at the Owner's sole cost and expense; and

(viii) Any other terms or conditions mutually agreed to by the parties.

e. Sale of the Affordable Unit(s). If the City fails to provide the City's Notification within the period provided above for exercise of its Right of First Refusal, then the Owner may consummate a sale of the Affordable Unit(s). In the event the Owner does not consummate a sale of the Affordable Unit(s) in accordance with this paragraph within a reasonable time, then the Notice of Proposed Sale shall be void and deemed never given and the Owner shall again be subject to the City's Right of First Refusal and the Owner's notice obligations. Any attempted sale of the Affordable Unit(s) in breach of this Agreement shall be void and of no force and effect.