

RECORDING REQUESTED BY:

City of Chula Vista

WHEN RECORDED MAIL TO:

City of Chula Vista
City Clerk's Office
Attn: City Clerk
276 Fourth Avenue
Chula Vista CA 91910

(Space above for Recorder's Use)

**AMENDED AND RESTATED
HOUSING COOPERATION AGREEMENT
(For Sale with Option to Rent Until Sold)**

THIS AMENDED AND RESTATED HOUSING COOPERATION AGREEMENT (the "Amended and Restated Agreement" or "Agreement") is entered into this ____ day of _____, 2019, between the CITY OF CHULA VISTA, a municipal corporation ("City"), and Hamilton Plaza LTD., a California Limited Partnership, ("Property Owner") and/or its successors or assignees.

ARTICLE 1– Recitals

- 1.1 **Authority.** City is authorized to enter into binding agreements for the purpose of protecting public health, safety, and welfare.
- 1.2 **Property Owner.** Property Owner is the legal owner of the fee title to the real property described as 54 through 94 Kingswood Drive. Said real property is referred to in this Agreement as "the Real Property" and as further described in the attached Exhibit "A," which is hereby incorporated by reference herein.
- 1.3 **Density Bonus.** Property Owner submitted to City a proposal for the development of ten (10) additional three-bedroom units for low income households on the Real Property pursuant to Government Code Section 65915. The project is known as Kingswood Manor Apartments.
- 1.4 **Project.** Property Owner proposes to construct ten (10) additional units to an existing forty (40) unit residential development, with any three (3) three bedroom units affordable to low income households at or below 80 percent of the Area Median Income ("AMI") and fourteen (14) three bedroom units affordable to moderate income households at or below 120 percent of AMI for sale (referred to as "for sale" units), at the site west of the intersection of Tobias and Kingswood Drive, also known as 54 through 94 Kingswood Drive, in the City of Chula Vista ("Project")

Property Owner may also rent units affordable to low income households (referred to as "for rent" units) under the terms set forth herein and Exhibit E until the for-sale units are sold. Said "for rent" affordable units shall consist of ten (10) low income three-bedroom units.

- 1.5 State Density Bonus Law. The City is required to provide Property Owner with incentives for the production of low-income housing units within the development if Property Owner agrees to construct certain percentages of the development for low and/or very low-income households.
- 1.6 Grant of Density Bonus and Additional Incentives. The City Council of the City ("City Council"), in response to Property Owner's application, approved a density bonus and additional incentives for the Real Property. Said resolution is attached as Exhibit B and is incorporated herein.
- 1.7 Low/Moderate Income Housing. Said Government Code Section 65915 provides, among other things, that when a developer of housing agrees to construct a specified percentage of the total units of a housing development for households of low income or moderate-income, as defined in Section 50093 of the California Health and Safety Code, a city shall grant a density bonus for said housing development.
- 1.8 Agreement. The City Council established, in Resolution No. _____, a requirement that an agreement be entered into between City and Property Owner providing for (i) the density bonus and (ii) the creating and maintaining of a specified percentage of the dwelling units on the Real Property for low income housing.
- 1.9 Design Review Committee. The City's Design Review committee met and approved the Property Owner's site plan, elevations and preliminary plans for the constructing and maintaining of ten dwelling units on the Real Property.
- 1.10 Completed Project. Property owner has subsequently completed construction of the Project, having received the necessary City and Design Review Committee building approvals, density bonus, and additional incentives.
- 1.11 Prior Agreements. The City and Property owner entered into an agreement titled "Housing Cooperation Agreement" dated May 9, 2000 (providing for a "for rent" affordable project) in compliance with section 1.8 ("Original Agreement), which is hereby incorporated into this Amended and Restated Agreement. (Exhibit C.) That Original Agreement was subsequently amended via "First Amendment to Housing Cooperation Agreement" dated June 15, 2010 (providing for a "for sale" affordable project), which is hereby also incorporated by reference into this Amended and Restated Agreement. (Exhibit D.)
- 1.12 Intent. Subsequent to the Original Agreement and First Amendment, Property owner now seeks to provide a "for sale" project, but also seeks to be able to rent units (as "for rent" affordable units as provided for herein and Exhibit E) until such time individual units are sold. It is the parties' intent that this Amended and Restated Agreement ("Amended and Restated Agreement" or "Agreement") constitute the agreement referred to in Paragraph 1.8.

CITY AND PROPERTY OWNER HEREBY AGREE AS FOLLOWS:

ARTICLE 2– Development Standards

- 2.1 Density Bonus. Property Owner is entitled to construct an additional ten (10) dwelling units to the existing forty (40) unit residential development and maintain on the Real Property a total of fifty (50) dwelling units, a twenty-five percent (25%) increase in density.
- 2.2 Other Standards. The permitted uses of the Real Property, the density of use thereof, the maximum height and size of buildings thereon, and provisions for reservations or dedication of land for public purposes and all other standards of development of the Real Property will be governed by each of the following as presently constituted (“the Development Standards”):
- 2.2.1 General Plan: “Residential Medium” designation in City’s General Plan.
- 2.2.2 Zone Regulations: The regulations for R-3 P12 (Apartment Residential, Precise Plan Density 12 units per acre).
- 2.2.3 Density: The provisions of Paragraph 2.1.
- 2.2.4 Parking: Property Owner shall provide two parking spaces per dwelling unit, no guest parking spaces, with twenty-one spaces provided as compact parking spaces, a reduction from the 0.5 guest parking space per dwelling unit required under the Precise Plan (76-14) for the Project and an increase in the one compact parking space per dwelling unit requirement as specified in Section 19.62.050 of the City of Chula Vista Municipal Code.
- 2.2.5 Precise Plan: The development standards set forth in the original Precise Plan (76-14) for the Project.
- 2.3 For Sale Low- and Moderate-Income Housing. As set forth in Article 3, three (3) dwelling units shall be sold to buyers qualified as low-income, with income not to exceed 80 percent of the AMI, and the unit shall be priced for low-income buyers at no more than 70 percent of the AMI. As set forth in Article 3, fourteen (14) dwelling units shall be sold to buyers qualified as moderate income, with income not to exceed 120 percent of the AMI, and the unit shall be priced for moderate-income buyers at no more than 110 percent of the AMI. Property Owner may also rent affordable units until the for sale affordable dwelling units are sold as set forth in Article 4 herein and Exhibit E.
- 2.4 Conflict. In the event of conflict between Paragraph 2.1 and any other of the Development Standards, Paragraph 2.1 will prevail.
- 2.5 Completed Project. Property owner has completed construction of the Project, having received the necessary building approvals, density bonus, and additional incentives.

ARTICLE 3– Low Income Housing-For Sale

- 3.1 Definitions. For the purposes of this article, the following definitions apply:
- 3.1.1 “Density Bonus” means a density increase of at least 25 percent over the otherwise maximum allowable residential density, unless a lesser amount is requested by the developer and approved by City Council, under the applicable zoning ordinance and land use element of the general plan.
 - 3.1.2 “Additional Incentives” means a reduction or modification of Development Standards, Zoning Codes or Architectural Design requirements, permitting mixed use zoning within a housing development, or other regulatory incentives or concessions.
 - 3.1.3 “Housing Manager” means the Housing Manager of the City.
 - 3.1.4 “Area Median Income” means the latest median income from time to time determined by the United States Department of Housing and Urban Development (pursuant to Section 8 of the United States Housing Act of 1937) for the San Diego Standard Metropolitan Statistical Area.
 - 3.1.5 “Qualified Homebuyer” means individuals or families with an income which does not exceed 80 percent of the Area Median Income for the low-income category or 120 percent of the Area Median Income for the moderate-income category, as adjusted for household size and as most recently determined by the United States Department of Housing and Urban Development.
 - 3.1.6 “3 BR Low- or Moderate-Income Unit” means any seventeen (17) three-bedroom units on the Real Property, which includes three (3) low-income units and fourteen (14) moderate-income units, which shall be initially sold to qualified low or moderate-income homebuyers.
 - 3.1.7 “Affordable Unit” means any for sale units as defined in Paragraph 3.1.6.
 - 3.1.8 “Manager’s Unit” means that unit on the real property occupied by a resident property manager which may be exempt from occupancy restrictions.
 - 3.1.9 “Mortgage Payment” means the sum of all actual or projected monthly or annual recurring expenses that include all of the following: (a) payments for principal and interest on a mortgage loan; (b) loan insurance fees; (c) property taxes and assessments; (d) fire and casualty insurance; (e) homeowner association fees; and (a reasonable allowance for utilities, or as defined in Title 25 California Code of Regulations Section 6920.
- 3.2 Qualification of Homebuyer. Each 3 BR Low- or Moderate-Income unit will be sold to a qualified low or moderate-income buyer as defined in Section 3.1.5.
- 3.3 Qualified Sales Price. Each of the designated Affordable Units shall be priced utilizing the methodology outlined below (the actual pricing will be calculated at the time each Affordable Unit is sold) to ensure affordability to the qualified homebuyer consistent with the definition for affordable Mortgage Payment set forth in Paragraph 3.1.9:

	Low Income	Moderate Income
	3 Bdrms	3 Bdrms
Unit Size by No. of Bedrooms (<i>1 Person Per Bedroom +1</i>)		
Qualifying Percent of Area Median Income (AMI) for Affordable Housing	70%	110%
Equals Annual Household Income Based Upon Qualifying Percent of AMI (see Footnote #1)	\$54,950	\$86,350
Equals Monthly Household Income Based Upon Qualifying Percent of AMI	4,579	7,196
Times Percent of Household Income Attributable to Housing Expenses	30%	35%
Equals Annual Dollars Allowed for Housing Expenses	16,485	30,223
Equals Monthly Dollars Allowed for Housing Expenses	1,374	2,519
Less Real Estate Taxes (Annual 1% of Purchase Price)	1,393	3,038
Less Insurance	250	250
Less Utilities	1,585	1,585
Less Home Owners Fee	3,012	3,012
Equals Annual Dollars Available for Debt Service	10,245	22,337
Divided by Annual Loan Constant (see Footnote #2)	0.0758	0.0758
Equals Maximum Loan Amount that Can Be Used for Home Purchase	135,154	294,689
Plus Down Payment - 3%	4,180	9,114
Equals Maximum Allowable Purchase Price (see Footnote #3)	\$139,334	\$303,804
Buyer's Monthly Mortgage Payment - Debt Service/12 months	\$854	\$1,861

Footnotes:

1. The household income limits are adjusted for a high cost area as per the Federal Housing Act of 1937 and calculated using HCD methodology to comply with Health and Safety Code Section 500052.5 and Title 25 Code of Regulations Sections 6920 and 6932.
2. Rounded to the nearest \$50.
3. Annual Loan Constant is based on a 6.5%, 30-year fixed rate mortgage.
4. All values are estimates and are intended solely as an example. Purchase Price to be adjusted according to total home owner's fees as established by the Real Estate Commissioner, final interest rate of the loan, other market conditions, and applicable program requirements.

3.4 **Proof of Qualification.** Property Owner will obtain from each person(s) to whom Property Owner sells an Affordable Unit a copy of the Uniform Residential Loan Application ("Loan Application") in the form of Exhibit F attached hereto and incorporated herein (or such other form as City may from time to time adopt and of with City notifies Property Owner in writing). Property Owner will be entitled to rely on the Loan Application and the supporting documents in determining the eligibility of each person(s) to sell such Affordable Unit.

3.5 **Breach by City.** If City breaches any of its covenants contained in this Agreement as amended and restated, Property Owner will have available to it all legal and equitable remedies afforded by the laws of the State of California.

- 3.6 Breach by Property Owner. If, with respect to any Affordable Unit, Property Owner breaches this Agreement as amended and restated by selling the Affordable Unit at a price higher than the Qualified Sales Price (as defined by Section 3.3 above) or sells the Affordable Unit to a homebuyer who is not a Qualified Homebuyer, Property Owner will, immediately upon City's demand, (i) designate another comparable unit as an Affordable Unit and (ii) provide additional verification to the City of sale to a Qualified Homebuyer. Further, City is hereby granted the power (but not the duty) to act as attorney-in-fact of such homebuyers in enforcing this Paragraph 3.6.
- 3.7 Remedies Not Exclusive. The remedies set forth in Paragraphs 3.5 and 3.6 are not exclusive but are in addition to all legal or equitable remedies otherwise available to the Parties.
- 3.8 Annual Review. City will, at least every 12 months during the term of this Agreement, review the extent of good faith substantial compliance by Property Owner with the terms of this Agreement. Pursuant to Government Code Section 65865.1, Property Owner will have the duty to demonstrate its good faith compliance with the terms of this Agreement at such periodic review. Property Owner will be deemed to have satisfied its duty of demonstration when it presents evidence to the reasonable satisfaction of the City on Property Owners good faith and substantial compliance with the major provisions of this Agreement. Either party may address any requirement of this Agreement during the review. However, ten days' written notice of any requirement to be addressed will be made by the requesting Party. If at the time of review an issue not previously identified in writing is required to be addressed, the review at the request of either Party will be continued to afford sufficient time for analysis and preparation. With Regard to for rent units, the annual review required under this Paragraph maybe satisfied by the process set forth in Exhibit E, Paragraphs 1.6, 1.7, and 1.14. This Section 3.8 shall expire upon the sale of all 17 affordable units.

ARTICLE 4-For Rent

- 4.1 For Rent Authorized. Property owner is authorized to rent dwelling units in this Project under the terms set forth in herein and in Exhibit E, which is hereby fully incorporated by reference into this Amended and Restated Agreement, until the affordable units are sold. All the affordable rental units must be rented and occupied within ninety (90) days of execution of this Agreement. Each rental agreement shall contain notice, approved by the City, that the rental unit is subject to sale.
- 4.2 For Rent Requirements. When two (2) affordable units are sold, the affordable rental units required under this Amended and Restated Agreement shall be reduced by one (1), with the last sale of an affordable unit (17 affordable units total) ending the affordable rental obligations. When one of the ten for-rent affordable units is to be sold or is sold to a Qualified Homebuyer, the tenant shall receive the following:
- Property owner shall provide tenant one hundred and eighty (180) days' notice that their unit will be sold or impacted by the sale.
 - Property owner shall offer the tenant the right of first refusal to purchase the unit that is to be sold or impacted by the sale. The tenant shall be offered the lowest price for sale unit that they qualify for (in terms of income) and which is available. The tenant shall have sixty (60) days to advise property owner of their decision to purchase said unit.

- The tenant shall be provided three thousand five hundred dollars (\$3500) to be used as a down payment toward the purchase of the affordable unit or, if they do not purchase the property, to be used as relocation assistance.
- All affordable unit rental agreements shall provide notice that their unit may be sold.

ARTICLE 5-Additional Requirements

- 5.1 **Successors Bound.** Any prospective purchaser, transferee or assignee shall expressly promise in writing to be bound by all of the provisions hereof, including the covenant in this Section 5.1 to require successors to expressly assume the obligations herein, including both the for sale and for rent obligations. The City may require that the terms of this Agreement be recorded against the Property and shall run with the land.
- 5.2 **Covenants to Run with the Land.** The terms and covenants (including for sale and for rent terms and attendant Equity Sharing Agreement) contained herein shall constitute “covenants running with the land,” and shall bind the Property and every person having an interest therein during the Term of this Agreement. Property Owner agrees for itself and its successors that, in the event that, for any reason whatsoever, a court of competent jurisdiction determines that the foregoing terms and covenants do not run with the land, such terms and covenants shall be enforced as equitable servitudes against the Property.
- 5.3 **Recordation; Waiver and Amendment; Payment of Fees.** This Amended and Restated Agreement shall be recorded in the Office of County Recorder of San Diego, California. No provision of this Agreement, or breach of any provision, can be waived except in writing. Waiver of any provision or breach shall not be deemed to be a waiver of any other provision, or of any subsequent breach of the same or other provision. Except as otherwise provided herein, this Agreement may be amended, modified or rescinded only in writing signed by Property Owner and the City Manager of the City of Chula Vista. In the event the City consents to such an amendment, modification or rescission, the same shall be conditioned upon Property Owner’s payment of all fees and costs incurred by the City with respect to the same, including without limitation attorneys’ fees.
- 5.4 **Non-Discrimination.**
- 5.4.1 **Obligation to Refrain from Discrimination.** Property Owner covenants by and for itself and any successors in interest 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, ancestry, familial status, source of income or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Property Owner or any person claiming under or through it establish or permit any such practice or practices of discrimination 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, with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property or the rental, lease sale of the Property and any dwelling unit thereon. The foregoing covenants shall run with the Property.

5.4.2 Nondiscrimination Covenants. Property Owner shall refrain from restricting the rental, lease and sale of the Property and any dwelling unit thereon on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income or disability of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) Deeds. In deeds “The 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 race, color, religion, sex, sexual orientation, disability, medical condition, familial status, source of income, 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 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 in the land herein conveyed. The foregoing covenants shall run with the land.”

(2) Leases. In leases “The lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, 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 race, color, religion, sex, sexual orientation, disability, medical condition, familial status, source of income, marital status, national origin or ancestry in the leasing, subleasing, renting, transferring, use, occupancy, tenure or enjoyment of the land herein leased, nor shall lessee itself, or any person claiming under or through it, establish or permit 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 land herein leased.”

(3) Contracts. In contracts “There shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, sexual orientation, disability, medical condition, familial status, source of income, marital status, national origin or ancestry 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 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 land.”

5.5 Term. The term for “for rent units” during which this Amended and Restated Agreement applies for each unit commences when all of the of the following occur (1) this Amended and Restated Agreement is executed, and (2) the unit is first occupied by an eligible tenant and ends thirty (30) years thereafter. If a unit is continuously rented for thirty (30) years as set forth herein and not sold, the requirement to sell said unit shall terminate upon the expiration of the 30-year time period. The term for “for sale units” during which this Amended and restated Agreement applies for each unit ends on the date in which the last Affordable Unit is sold and occupied by a Qualified Homebuyer. The affordability requirements under this Agreement must continuously be maintained during the term of this Agreement, either via for sale, for rent, or a combination

thereof.

- 5.6 Noticing Requirements Prior to Termination. Prior to termination of this Agreement, Property Owner shall comply with any and all noticing requirements required under any applicable laws or regulations, including without limitation, the requirements of California Government Code Sections 65863.10 and 65863.11, if applicable.
- 5.7 Equity Sharing Agreement. Pursuant to this Agreement, Property Owner is required to sell Affordable Units to Eligible Homebuyers. An Eligible Homebuyer who has purchased an Affordable Unit (also referred to as Homeowner or Owner) may subsequently sell, rent, refinance, convey, or otherwise transfer the Affordable Unit. However, Homeowner shall pay to the City a share of the Equity, as described in the attendant Equity Sharing Agreement (attached as Exhibit F and hereby incorporated by reference herein) and attendant Equity Sharing Security Documents (attached as Exhibit G), as part of any sale, rental, refinance, conveyance, or transfer of said Affordable Unit.

Property Owner shall require that the Eligible Homebuyer (Homeowner) execute the Equity Sharing Agreement (Exhibit F) and attendant Equity Sharing Security Documents (Exhibit G) as part of the sale to the Eligible Homebuyer of an Affordable Unit. Property Owner agrees that no sale to an Eligible Homebuyer shall be final until the Equity Sharing Agreement and attendant Equity Sharing Security Documents are executed. This obligation and the Equity Sharing Agreement and attendant Equity Sharing Security Documents terms shall run with the land and shall bind Property Owner, Homeowner (Eligible Homebuyer), any other owners, successors, or purchasers.

The Equity Sharing Agreement and Equity Sharing Security Documents (which consists of a Promissory Note, Deed of Trust, and Regulatory Agreement) are attached to this Agreement as Exhibits F and G in substantial form but are subject modification by the City to ensure the City fully captures its investment in the affordable property. The Equity Sharing Agreement and Equity Sharing Security Documents shall be recorded in the Office of County Recorder of San Diego, California.

ARTICLE 6 – General Provisions

- 6.1 Assignment. The rights and obligations of Property Owner under this Agreement may be transferred or assigned, provided such transfer or assignment is made as a part of the conveyance of the fee of all or a portion of the Real Property. Any such transfer or assignment will be subject to the provisions of this Agreement. During the Term of this Agreement, any such assignee or transferee will observe and perform all of the duties and obligations of Property Owner contained in this Agreement as such duties and obligations pertain to the portion of said real property so conveyed.
- 6.2 Amendment or Cancellation of Agreement. This Agreement may be amended from time-to-time or cancelled by the mutual consent of the Parties hereto but only in the same manner as its adoption. The term “this Agreement” includes any such amendment properly approved and executed.
- 6.3 Enforcement. Unless amended or cancelled as provided in Section 6.2, this Agreement is enforceable by any Party to it despite a change in the applicable general or specific plans, zoning, subdivision or building regulations adopted by City which alter or amend the rules, regulations or

policies governing permitted uses of the land, density and design.

- 6.4 Hold Harmless. Property Owner shall defend, indemnify, protect and hold harmless the City, its elected and appointed officers and employees, from and against all claims for damages, liability, cost and expense (including without limitation attorneys' fees) for personal injury or property damage arising out of the direct or indirect conduct or operations of the Property Owner, or any agent or employee, subcontractors, or others in connection with the execution of this Agreement (including, but not limited to, for sale and for rent requirements), except only for those claims arising from the sole negligence or sole willful misconduct of the City, its officers, or employees. Property Owner's indemnification shall include any and all costs, expenses, attorneys' fees and liability incurred by the City, its officers, agents or employees in defending against such claims, whether the same proceed to judgment or not. Property Owner agrees to indemnify, defend, protect and hold harmless the City, its officers, and employees from and against any and all claims, suits, actions, or other proceedings to which the City is exposed resulting from the City's preparations, review, approval, or granting of the Density Bonus as called for in this Agreement. Further, Property Owner, at its own expense shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents or employees. Property Owner's indemnification of City shall not be limited by any prior or subsequent declaration by the Property Owner.
- 6.5 City Claims Requirement. No suit or arbitration shall be brought arising out of this Agreement against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may be amended, the provisions of which, including such policies and procedures used by City in the implementation of same, are incorporated herein by this reference. Upon request by City, Property Owner shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement. Compliance with this section does not otherwise relieve or satisfy any other claims requirements under state or federal law.
- 6.6 Binding Effect of Agreement. The burdens of this Agreement bind and the benefits of the Agreement inure to the Parties' successors or assignees in interest.
- 6.7 Relationship of Parties. It is understood that the contractual relationship between City and Property Owner is such that Property Owner is an independent contractor and not an agent of City.
- 6.8 Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands or requests to be sent to any party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to each party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified herein as the places of business for each of the designated parties. A party may change its address by giving notice in writing to the other party. Thereafter, notices, demands and requests shall be addressed and transmitted to the new address.

City:
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910
Attn: Housing Manager

Property Owner:
Hamilton Plaza Ltd. 12526 High Bluff Drive Ste 355,
San Diego, CA 92130
Attn: Elizabeth Dabby

ARTICLE 7 – Conflicts of Law

- 7.1 **Conflict of City and State or Federal Laws.** In the event that state or federal laws or regulations enacted after this Agreement has been entered into prevent or preclude compliance with one or more provisions of this Agreement require changes in plans, maps or permits approved by the City, the parties will:
- 7.1.1 **Notice and Copies:** Provide the other Party with written notice of such state or federal restriction, provide a copy of such regulation or policy and statement of conflict with the provisions of this Agreement.
- 7.1.2 **Modification Conferences:** The Parties will, within 30 days, meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or state law or regulation.

ARTICLE 8 – Miscellaneous Provisions

- 8.1 **Rules of Construction.** The singular includes the plural and the neuter gender includes the masculine and the feminine.
- 8.2 **Severability.** The parties hereto agree that the provisions are severable. If any provision of this Agreement is held invalid, the remainder of this Agreement will be effective and will remain in full force and effect unless amended or modified by mutual consent of the Parties.
- 8.3 **Entire Agreement, Waivers and Amendments; Regulatory Agreement to Control.** Except for the Regulatory Agreement, this Agreement, together with any other written document referred to or contemplated herein, embody the entire Agreement and understanding between the Parties relating to the subject matter hereof. Notwithstanding any provision in this Agreement to the contrary, so long as the Regulatory Agreement is in effect, the terms of the Regulatory Agreement shall control with respect to the Low- or Moderate-income units. Neither this Agreement nor any provision hereof may be amended, modified, waived, or discharged except by an instrument in writing executed by the party against which enforcement or such amendment, waiver, or discharge is sought.
- 8.4 **Capacities of Parties.** Each signatory and party hereto hereby warrants and represents to the other Party that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all resolutions or other actions have been taken so as to enable it to enter into this Agreement.
- 8.5 **Governing Law/Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in the Federal or State courts located in San Diego County, State of California, and if applicable, the City of Chula Vista, or as close thereto as possible. Venue for this

Agreement, and performance hereunder, shall be the City of Chula Vista.

(Signature Page to follow.)

**SIGNATURE PAGE TO
AMENDED AND RESTATED HOUSING COOPERATION AGREEMENT
(For Sale with Option to Rent Until Sold)**

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

HAMILTON PLAZA LTD., a California Limited Partnership
By: Danmor Investments, Inc., a California Corporation, its General Partner

By: Elizabeth Ann Dabby, President

CITY OF CHULA VISTA, a municipal corporation of the State of California

Mary Salas, Mayor

ATTEST:

Kerry Bigelow, City Clerk

APPROVED AS TO FORM:

Glen R. Googins, City Attorney

ACKNOWLEDGMENT

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

STATE OF _____
COUNTY OF _____

On _____ before me, _____
(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 _____
(Signature of Notary Public)

(Seal)

ACKNOWLEDGMENT

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

STATE OF _____
COUNTY OF _____

On _____ before me, _____
(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

EXHIBIT A

LEGAL PROPERTY DESCRIPTION

All that certain real property situated in the City of Chula Vista, County of San Diego, State of California, described as follows:

EXHIBIT A

LEGAL PROPERTY DESCRIPTION

All that certain real property situated in the City of Chula Vista, County of San Diego, State of California, described as follows:

EXHIBIT "A"

LEGAL DESCRIPTION

LOT 1 OF CHULA VISTA TRACT NO. 06-09, 54-94 KINGSWOOD DRIVE CONDOMINIUMS, IN THE CITY OF CHULA VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO PARCEL MAP THEREOF NO. 20550, FILED IN THE OFFICE OF THE COUNTY RECORDER ON AUGUST 7, 2008 AS FILE NO. 2008-0423464.



JAN. 30, 2019

RYAN A. POST
LS 8785

DATE

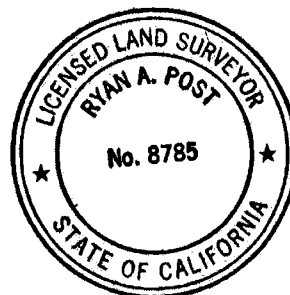


EXHIBIT B

City Council Resolution to be attached.

COUNCIL RESOLUTION NO. 2000-149

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA GRANTING A TWENTY-FIVE PERCENT (25%) DENSITY BONUS, REDUCING THE PARKING REQUIRED UNDER PRECISE PLAN (76-14) TO BE CONSISTENT WITH THE CITY'S MUNICIPAL CODE, AND ALLOWING SIXTEEN PERCENT OF THE REQUIRED PARKING AS COMPACT PARKING SPACES TO FACILITATE THE CONSTRUCTION OF A MAXIMUM OF TEN (10) AFFORDABLE DWELLING UNITS FOR AN EXISTING 40 UNIT MULTIFAMILY RESIDENTIAL DEVELOPMENT, KNOWN AS KINGSWOOD MANOR, LOCATED AT 54-94 KINGSWOOD DRIVE, AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE HOUSING COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF CHULA VISTA AND HAMILTON PLAZA LIMITED

I. RECITALS

A. Project Site

WHEREAS, the parcel, which is the subject matter of this resolution, is diagrammatically represented in Exhibit "A" attached hereto and incorporated herein by this reference, and for the purpose of general description herein consists of approximately 3.32 acres of land located east of the intersection of Tobias Drive and Kingswood Drive, also known as 54-94 Kingswood Drive ("Project Site").

B. Project Applicant

WHEREAS, an application for an affordable housing project and a request for a twenty-five percent (25%) density bonus and other additional incentives/concessions was filed with the Chula Vista Community Development Department on November 30, 1999 by Hamilton Plaza Limited ("Applicant"); and

C. Project Description

WHEREAS, said application requested a twenty-five percent (25%) density bonus, the reduction of the required parking under the Precise Plan (76-14) for the property to be consistent with the parking requirements specified in Section 19.62.050 of the City of Chula Vista's Municipal Code, and sixteen percent of the spaces to be provided as compact parking spaces to allow the construction of ten (10) additional rental units for low income households ("Project"); and

D. Environmental Determination

WHEREAS, in accordance with the requirements of CEQA, the Planning and Environmental Manager has determined that the Project requires the preparation of a Notice of Exemption under Section 15280 of California of the California Code of Regulations and such notice was prepared, filed and posted for the required 30 day period; and

E. Planning Commission Record on Application

WHEREAS, the Planning Commission held a public hearing on the Project on March 22, 2000 and again on April 12, 2000 at which time the Planning Commission voted 7 to 0 adopting Resolution No. AH 99-003 recommending that the City Council grant the requested increase in density of twenty-five percent (25%), the reduction of parking required under the Precise Plan (76-14) for the property to be consistent with the City of Chula Vista Municipal Code, and sixteen percent of the spaces to be provided as compact parking spaces pursuant to California Government Code Section 65915, Chapter 4.3, Density Bonuses and Other Incentives, to facilitate the construction of a maximum of ten (10) affordable dwelling units to an existing 40 unit housing development, known as Kingswood Manor, located at 54-94 Kingswood Drive; and

WHEREAS, from the facts presented to the Planning Commission, the Commission has determined that the Project is consistent with the City of Chula Vista General Plan and that the public necessity, convenience and general welfare and good zoning practice support the Project, and implements portions of State related density bonus and that the granting of said density bonus, the reduction of parking required under the Precise Plan (76-14) for the property to be consistent with the parking requirements of the City of Chula Vista Municipal Code, and the provision of sixteen percent of the parking spaces as compact spaces does not adversely affect the order, amenity, or stability of adjacent land uses; and

F. City Council Record of Application

WHEREAS, the City Council of the City of Chula Vista considered the recommendation of the Planning Commission regarding the density bonus and additional incentives/concessions for the Project on May 9th, 2000; and

G. Housing Cooperation Agreement

WHEREAS, as a condition of the approval of the density bonus and additional incentives granted, the Applicant is to enter into a written agreement with the City of Chula Vista specifying the tenancy requirements and terms of commitment for, the density bonus and additional incentives in accordance with California Government Code Section 65915; and

WHEREAS, the proposed form for such written agreement, the Housing Cooperation Agreement, has been negotiated with the applicant and is being presented for the City's consideration at the meeting at which this resolution is being adopted; and

NOW THEREFORE BE IT RESOLVED that the City Council does hereby find, determine and ordain as follows:

II. PLANNING COMMISSION RECORD

The proceedings and all evidence on the Project introduced before the Planning Commission at their public hearing on this Project held on March 22, 2000 and April 12, 2000, and the minutes and resolution resulting therefrom are hereby incorporated into the record of this proceeding.

III. CERTIFICATION OF COMPLIANCE WITH CEQA

The City Council does hereby find that the Notice of Exemption has been prepared in accordance with the requirements of the California Environmental Quality Act, the State EIR guidelines and the Environmental Review Procedures of the City of Chula Vista.

IV. INDEPENDENT JUDGEMENT OF THE CITY OF CHULA VISTA CITY COUNCIL

The City Council finds that Notice of Exemption reflects the independent judgment of the City of Chula Vista City Council.

V. CITY COUNCIL FINDINGS

The City Council hereby finds that the Project is consistent with the City of Chula Vista General Plan and that the public necessity, convenience and general welfare and good zoning practice support the Project, and implements portions of State related density bonus and that the granting of said density bonus, the reduction of parking required under the Precise Plan (76-14) for the property to be consistent with the parking requirements of the City of Chula Vista Municipal Code, and sixteen percent of the spaces to be provided as compact parking spaces does not adversely affect the order, amenity, or stability of adjacent land uses.

BE IT FURTHER RESOLVED that the City Council does hereby approve, in accordance with California Government Code Section 65915, the requested increase in density of twenty-five percent (25%), the reduction of the parking required under the Precise Plan (76-14) for the property to be consistent with the parking requirements of the City of Chula Vista Municipal Code, and sixteen percent of the spaces to be provided as compact parking spaces to allow the construction of a maximum of ten (10) affordable dwelling units for an existing 40 unit residential project located east of the intersection of Tobias Drive and Kingswood Drive, also known as 54-94 Kingswood Drive in the City of Chula, to balance the financial feasibility of the affordable housing project with the usual amenities found in a development of this type, subject to the following terms and conditions set forth below:

VI. Terms of grant of density bonus and additional incentives

- A. Ensure that the proposal complies with the use outlined in the application and materials submitted therewith except as modified below:
 - 1. Comply with all conditions of Council Resolution 2000-149 dated May 9th, 2000.
- B. The applicant enter into a written agreement with the City of Chula Vista specifying the tenancy requirements and terms of commitment for, the density bonus and additional incentives in accordance with California Government Code Section 65915.
- C. Construct the Project as submitted to and approved by the City Council, except as modified herein and/or required by the Municipal Code, and as detailed in the Project description.

- D. Construction of Building One, consisting of eight units, as designated on the submitted site plan, approximately thirty (30) feet from the north property line.
- E. Construction of masonry wall/fencing and landscaping along the portion of the north property line directly behind the pool and play area prior to issuance of the building permit(s) for the project.
- F. Installation of an intercom or other similar system for both the east and west parking lot gates prior to issuance of the building permit(s) for the project to enable guests or residents to more readily access such parking areas.
- G. Ten (10) units shall be maintained for a period of thirty years as affordable housing for low-income households.
- H. Participate in the City of Chula Vista Crime Free Multi-Housing Program or any other such program that may be adopted by the City of Chula Vista, with program certification of the property completed by issuance of the building permit(s) for the project.

VII. CITY COUNCIL APPROVAL

The City Council hereby grants the requested increase in density of twenty-five percent (25%) to allow, contingent upon applicant entering a regulatory agreement with the City ensuring compliance with certain conditions, the construction of a maximum of ten (10) affordable dwelling units for an existing 40 unit residential project located east of the intersection of Tobias Drive and Kingswood Drive, also known as 54-94 Kingswood Drive in the City of Chula.

The City Council further approves the following incentives to the Applicant in order to balance the financial feasibility of the affordable housing project with the usual amenities found in a development of this type:

1. The reduction of the required parking spaces under the Precise Plan (76-14) for the property to be consistent with the parking requirements specified in Section 19.62.050 of the City of Chula Vista's Municipal Code.
2. Sixteen percent of the spaces to be provided as compact parking spaces.


BE IT FURTHER RESOLVED that the City Council of the City of Chula Vista does hereby approve a Housing Cooperation Agreement with the applicant for the development of the project, a copy of which shall be kept on file in the office of the City Clerk.

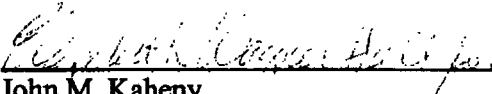
BE IT FURTHER RESOLVED that the Mayor of the City of Chula Vista and the City Manager, or his written designee is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver said Agreement in substantially the form presented, with such additions thereto or changes therein as are recommended or approved by the City Manager or City Attorney and approved by the officer or officers executing the agreement, with the approval of

such officer or officers to be evidenced conclusively by the execution and delivery of such agreements.

Presented by

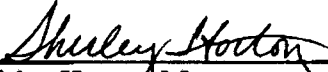
Approved as to form by


Chris Salomone
Community Development Director


John M. Kaheny
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 9th day of May, 2000, by the following vote:

- AYES: Councilmembers: Davis, Moot, Padilla, Salas, and Horton
- NAYS: Councilmembers: None
- ABSENT: Councilmembers: None


Shirley Horton, Mayor

ATTEST:


Susan Bigelow, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Resolution No. 2000-149 was duly passed, approved, and adopted by the City Council at a regular meeting of the Chula Vista City Council held on the 9th day of May, 2000.

Executed this 9th day of May, 2000.


Susan Bigelow, City Clerk

Exhibit A

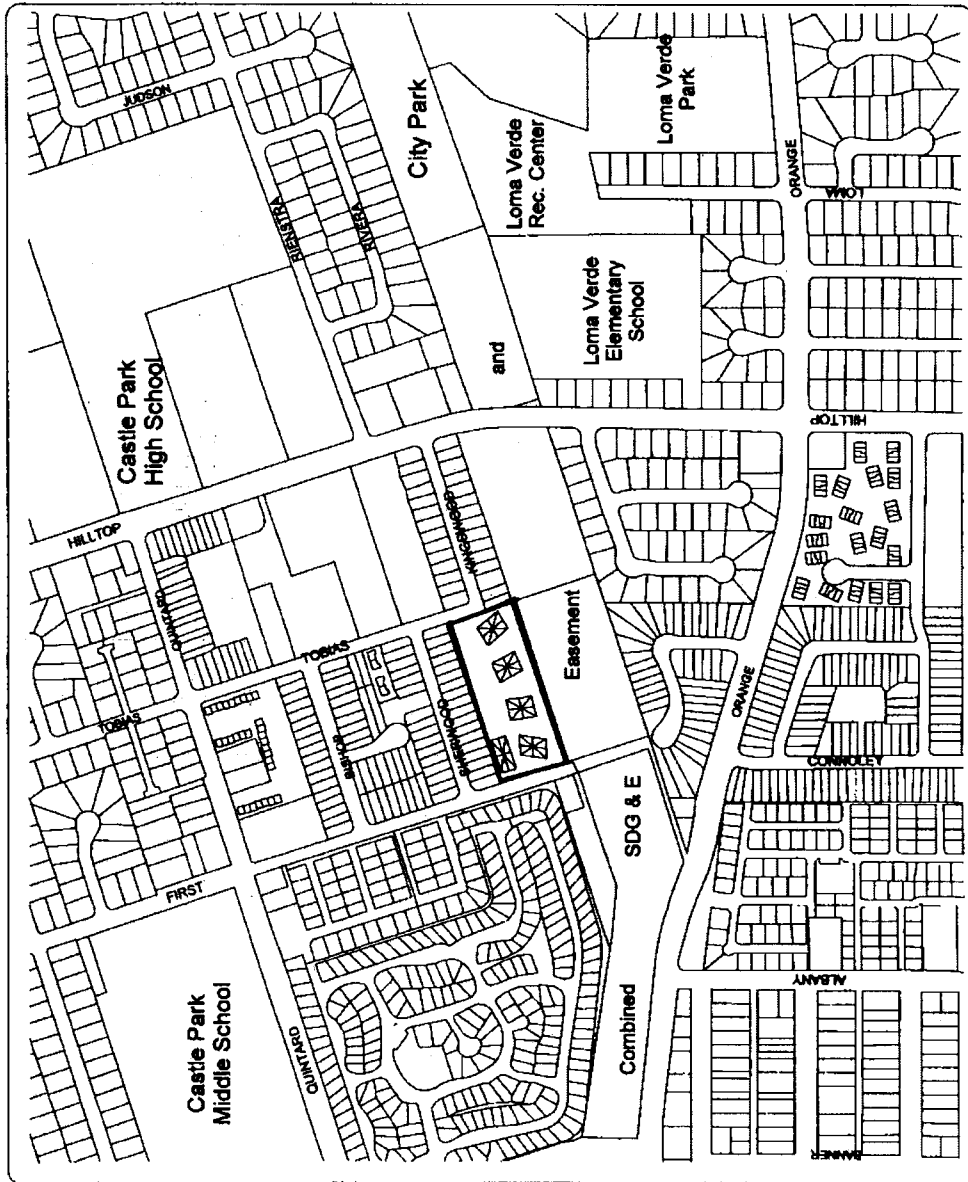


EXHIBIT C

Housing Cooperation Agreement dated May 9, 2000
(Original Agreement)

DOC # 2000-0252932

MAY 16, 2000 11:42 AM

RECORDING REQUESTED BY:

City of Chula Vista

WHEN RECORDED MAIL TO:

City of Chula Vista
City Clerk's Office
Attn: City Clerk
276 Fourth Avenue
Chula Vista CA 91910

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 0.00

6675

2000-0252932

23P
After Required Benefits City

(Space above for Recorder's Use)

HOUSING COOPERATION AGREEMENT

THIS HOUSING COOPERATION AGREEMENT (the "Agreement") is entered into this 9th day of May, 2000, between the CITY OF CHULA VISTA, a municipal corporation ("City"), and Hamilton Plaza LTD., a California Limited Partnership, ("Property Owner") and/or its successors or assignees.

ARTICLE 1- Recitals

- 1.1 **Authority.** City is authorized to enter into binding agreements for the purpose of protecting public health, safety, and welfare.
- 1.2 **Property Owner.** Property Owner is the legal owner of the fee title to the real property described as 54 through 94 Kingswood Drive. Said real property is referred to in this Agreement as "the Real Property" and as further described in the attached Exhibit "A," which is hereby incorporated herein.
- 1.3 **Density Bonus.** Property Owner has submitted to City a proposal for the development of ten (10) additional three bedroom units for low income households on the Real Property pursuant to State Government Code Section 65915. The project is known as Kingswood Manor Apartments.
- 1.4 **Project.** Property Owner proposes to construct ten (10) additional apartment units to an existing forty (40) unit residential development, with any ten three bedroom units affordable to low income households at or below 80 percent of the Area Median Income ("AMI") west of the intersection of Tobias and Kingswood Drive, also known as 54 through 94 Kingswood Drive, in the City of Chula ("Project").
- 1.5 **State Density Bonus Law.** The City is required to provide Property Owner with incentives for the production of low income housing units within the development if Property Owner agrees or proposes to construct certain percentages of the development for low and/or very low-income households.
- 1.6 **Grant of Density Bonus and Additional Incentives.** The City Council of the City ("City Council"), in response to Property Owner's application, approved a density bonus and additional incentives for the Real Property. Said resolution is attached as Exhibit B and is incorporated herein.

dl

2200-149

- 1.7 Low/Moderate Income Housing. Said Government Code Section 65915 provides, among other things, that when a developer of housing agrees to construct a specified percentage of the total units of a housing development for households of low income, as defined in Section 50093 of the California Health and Safety Code, a city shall grant a density bonus for said housing development.
- 1.8 Agreement. The City Council established in Resolution No. _____ a requirement that an agreement be entered into between City and Property Owner providing for (i) the density bonus and (ii) the creating and maintaining of a specified percentage of the dwelling units on the Real Property for low income housing.
- 1.9 Design Review Committee. The City's Design Review committee will meet and consider approval of the Property Owner's site plan, elevations and preliminary plans for the constructing and maintaining of ten dwelling units on the Real Property.
- 1.10 Intent. These parties intend that this Agreement constitute the agreement referred to in Paragraph 1.8.

CITY AND PROPERTY OWNER HEREBY AGREE AS FOLLOWS:

ARTICLE 2- Development Standard

- 2.1 Density Bonus. Property Owner is entitled to construct an additional ten dwelling units to the existing forty unit residential development and maintain on the Real Property a total of fifty dwelling units, a twenty-five percent (25%) increase in density.
- 2.2 Other Standards. The permitted uses of the Real Property, the density of use thereof, the maximum height and size of buildings thereon, and provisions for reservations or dedication of land for public purposes and all other standards of development of the Real Property will be governed by each of the following as presently constituted ("the Development Standards"):
- 2.2.1 General Plan: "Residential Medium" designation in City's General Plan.
- 2.2.2 Zone Regulations: The regulations for R-3 P12 (Apartment Residential, Precise Plan Density 12 units per acre).
- 2.2.3 Density: The provisions of Paragraph 2.1.
- 2.2.4 Parking: Property Owner shall provide two parking spaces per dwelling unit, no guest parking spaces, with twenty-one spaces provided as compact parking spaces, a reduction from the 0.5 guest parking space per dwelling unit required under the Precise Plan (76-14) for the Project and an increase in the one compact parking space per dwelling unit requirement as specified in Section 19.62.050 of the City of Chula Vista Municipal Code.
- 2.2.5 Precise Plan: The development standards set forth in the original Precise Plan (76-14) for the Project.

- 2.3 Low and Moderate Income Housing. Ten dwelling units shall be continuously occupied only by and affordable to low income households as set forth in Article 3.
- 2.4 Conflict. In the event of conflict between Paragraph 2.1 and any other of the Development Standards, Paragraph 2.1 will prevail.
- 2.5 Effect of Termination Pursuant to Article 3. Termination pursuant to Paragraph 3.6 will not affect, or render inapplicable, the foregoing Development Standards.

ARTICLE 3- Low Income Housing

- 3.1 Definitions. For the purposes of this article, the following definitions apply:
- 3.1.1 "Density Bonus" means a density increase of at least 25 percent over the otherwise maximum allowable residential density, unless a lesser amount is requested by the developer and approved by City Council, under the applicable zoning ordinance and land use element of the general plan.
- 3.1.2 "Additional Incentives" means a reduction or modification of Development Standards, Zoning Codes or Architectural Design requirements, permitting mixed use zoning within a housing development, or other regulatory incentives or concessions.
- 3.1.3 "Housing Manager" means the Housing Manager of the City.
- 3.1.4 "Area Median Income" means the latest median income from time to time determined by the United States Department of Housing and Urban Development (pursuant to Section 8 of the United States Housing Act of 1937) for the San Diego Standard Metropolitan Statistical Area.
- 3.1.5 "Low Income Tenants" means individuals or families with an income which does not exceed 80 percent of the Area Median Income, as adjusted for household size and as most recently determined by the U.S. Department of Housing and Urban Development.
- 3.1.6 "3 BR Low Income Apartment" means any ten (10) three-bedroom apartment units on the Real Property, which shall be continuously occupied only by and affordable to a Low Income Tenant.
- 3.1.7 "Affordable Apartment" means any of the apartments defined in Paragraph 3.1.6; "Affordable Apartments" means all of such apartments collectively.
- 3.1.8 "Manager's Unit" means that unit on the real property occupied by a resident property manager which may be exempt from occupancy restrictions.
- 3.1.9 "Rent" means the total of monthly payments for all of the following: (a) use and occupancy of the apartment unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits, and (c) a reasonable allowance for utilities not included in the above costs, excluding telephone service, which takes into consideration an adequate level of service.

- 3.2 Qualification of Tenants. As to the Affordable Apartments, the following will apply:
- 3.2.1 3 BR Low Income Apartments. Each 3 BR Low Income Apartment will be leased to a Low Income Tenant.
- 3.3 Monthly Rent. As to the Affordable Apartments, the following will apply:
- 3.3.1 Low Income Apartments. The monthly rent charged for all the Low Income Apartments shall not exceed the lesser of the following: a) ten percent less than non-restricted dwelling units within the Project; or b) one-twelfth of the amount obtained by multiplying 30 percent times 60 percent of the Area Median Income, as adjusted for household size and assuming the following unit sizes and household sizes:

<u>Unit Size</u>	<u>Household Size</u>
Three Bedroom	Five Persons

- 3.4 Proof of Qualification. Property Owner will obtain from each person(s) to whom Property Owner rents an Affordable Apartment a "Supplemental Rental Application" ("the Application") in the form of Exhibit D attached hereto and incorporated herein (or such other form as City may from time to time adopt and of which City notifies Property Owner in writing). Property Owner will be entitled to rely on the Application and the supporting documents thereto in determining the eligibility of such person(s) to rent such Affordable Apartment. Property Owner will retain the Application and supporting documents for a period of at least three years after the applicant thereof ceases to occupy such Affordable Apartment.

Copies of the most recent Supplemental Rental Application for Low Income Tenants commencing or continuing occupancy of an Affordable Apartment shall be attached to the semi-annual report to be filed with the City in compliance with Section 3.6 of this Agreement.

An Affordable Apartment occupied by a qualified tenant who at the commencement of the occupancy qualifies as a low income household shall be treated as occupied by a Low Income Tenant until a recertification of such tenant's income in accordance with Section 3.4.1 below demonstrates that such tenant no longer qualifies as a Low Income Tenant.

- 3.4.1 Recertification of Income. Immediately prior to the first anniversary date of the occupancy of an Affordable Apartment by a qualified tenant, and on each anniversary date thereafter, the Property Owner shall recertify the income of the occupants of each Affordable Apartment by obtaining a completed Supplemental Rental Application based upon the current income of each occupant of the Affordable Apartment. In the event the recertification demonstrates that such household's income exceeds the income at which such household would qualify, such household will no longer qualify as a Low Income Tenant, and the Property Owner will rent the next available unit of comparable or smaller size to one or more Low Income Tenants.
- 3.5 Waiver. Property Owner may apply in writing to the Housing Manager for a waiver, as to a specifically designated Affordable Apartment. Each such application will be accompanied by written data or other evidence relied upon by Property Owner to show that, for the near future, there will be no reasonable demand for such Affordable Apartments(s). Within 30 days after receipt of any such application, the Housing Manager will, in writing, either grant or disapprove the requested waiver; the failure of the Housing Manager to act within said period will be deemed to be approval of such requested waiver. If such waiver is granted, Property Owner may

lease the Affordable Apartment(s) affected by the granted waiver to such person(s) and at such rental as Property Owner determines, subject to each of the following:

- 3.5.1 Month-to-Month Tenancy. Anything in Paragraph 3.5 to the contrary notwithstanding, the lease or rental agreement will create only a month-to-month tenancy.
- 3.5.2 Termination of Waiver. At any time after granting any such waiver, the Housing Manager may, by writing delivered to Property Owner, terminate such grant. Within five days after such delivery, Property Owner will appropriately notify the tenant (s) and occupant (s) (of the Affordable Apartment (s) for which the grant of waiver has been terminated) that the month-to-month tenancy thereof will be and become terminated one month after delivery of such notification by Property Owner. Property Owner will take reasonable steps to effectuate such termination, including diligent commencement and prosecution of an unlawful detainer action.
- 3.6 Records, Audits. Property Owner will submit to City semi-annual certified rent rolls, disclosing with respect to each Affordable Apartment (i) monthly rent rate, (ii) number of occupants for which the Affordable Apartment is rented, and (iii) the income of such occupant(s) and in the form of Exhibit E attached hereto and incorporated herein (or such other form as City may from time to time adopt and of which City notifies Property Owner in writing). If City determines an audit is necessary to verify a submitted rent roll, it will so notify Property Owner in writing thereof. Within ten days after delivery of said notice, Property Owner will deliver to City the names of three certified public accountants doing business in the metropolitan San Diego area. City will promptly deliver to Property Owner the former's approval of one or more of said names. The audit will be completed by an approved certified public accountant, at Property Owner's cost, within 60 days after the delivery to Property Owner of City's said approval. The certified public accountant will promptly deliver a copy of the written audit to City.
- 3.7 Term. The term during which this Article 3 applies commences on the date hereof. Said term ends on the date which is thirty (30) years after the date on which at least five (5) of the ten (10) additional dwelling units approved pursuant to the density bonus are first occupied.

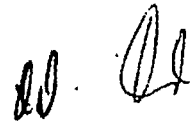
ARTICLE 4 - Breach

- 4.1 Breach by City. If City breaches any of its covenants contained in this Agreement, Property Owner will have available to it all legal and equitable remedies afforded by the laws of the State of California.
- 4.2 Breach by Property Owner. If, with respect to any Affordable Apartment, Property Owner breaches this Agreement by charging higher rent than that herein permitted, Property Owner will, immediately upon City's demand, (i) reduce the rent to that permitted herein and (ii) refund to any tenants who theretofore paid such higher rent the amount of the excess, together with interest hereon at the rate of 10 percent per annum, computed from the date(s) of payment of the excess by said tenants to the date of said refund. The provisions of this paragraph constitute a third-party beneficiary contract in favor of such tenants. Further, City is hereby granted the power (but not the duty) to act as attorney-in-fact of such tenants in enforcing this paragraph.

- 4.3 Breach by Property Owner. If, with respect to any Affordable Apartment, Property Owner breaches this Agreement by leasing to tenants who are not, pursuant to paragraph 3.2, qualified, Property Owner will, immediately upon City's written demand, and at Property Owner's sole cost, take all lawful steps to terminate such leasing.
- 4.4 Remedies Not Exclusive. The remedies set forth in Paragraphs 4.2 and 4.3 are not exclusive, but are in addition to all legal or equitable remedies otherwise available to City.

ARTICLE 5 – General Provisions

- 5.1 Assignment. The rights and obligations of Property Owner under this Agreement may be transferred or assigned, provided such transfer or assignment is made as a part of the conveyance of the fee of all or a portion of the Real Property. Any such transfer or assignment will be subject to the provisions of this Agreement. During the term of this Agreement, any such assignee or transferee will observe and perform all of the duties and obligations of Property Owner contained in this Agreement as such duties and obligations pertain to the portion of said real property so conveyed.
- 5.2 Amendment or Cancellation of Agreement. This Agreement may be amended from time-to-time or cancelled by the mutual consent of the parties hereto but only in the same manner as its adoption. The term "this Agreement" includes any such amendment properly approved and executed.
- 5.3 Enforcement. Unless amended or cancelled as provided in Section 5.2, this Agreement is enforceable by any party to it despite a change in the applicable general or specific plans, zoning, subdivision or building regulations adopted by City which alter or amend the rules, regulations or policies governing permitted uses of the land, density and design.
- 5.4 Hold Harmless. Property Owner shall defend, indemnify, protect and hold harmless the City, its elected and appointed officers and employees, from and against all claims for damages, liability, cost and expense (including without limitation attorneys' fees) for personal injury or property damage arising out of the direct or indirect conduct or operations of the Property Owner, or any agent or employee, subcontractors, or others in connection with the execution of this Agreement, except only for those claims arising from the sole negligence or sole willful misconduct of the City, its officers, or employees. Property Owner's indemnification shall include any and all costs, expenses, attorneys' fees and liability incurred by the City, its officers, agents or employees in defending against such claims, whether the same proceed to judgment or not. Property Owner agrees to indemnify, defend, protect and hold harmless the City, its officers, and employees from and against any and all claims, suits, actions, or other proceedings to which the City is exposed resulting from the City's preparations, review, approval, or granting of the Density Bonus as called for in this Agreement. Further, Property Owner, at its own expense shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents or employees. Property Owner's indemnification of City shall not be limited by any prior or subsequent declaration by the Property Owner.
- 5.5 Anti-Discrimination. Property Owner, for itself and its successors and assigns, agrees that during the term of this Agreement, will not, with respect to its operation of the Project, discriminate against any person because of race, color, creed, religion, sex, sexual orientation, marital status, age, handicaps, ancestry or national origin.



- 5.6 Crime Free Multi-Housing Program. Property Owner, for itself and its successors and assigns, agrees that during the term of this Agreement, will, with respect to its operation of the Project, participate in the City of Chula Vista Crime Free Multi-Housing Program or any other comparable program as may be adopted or implemented by the City of Chula Vista.
- 5.7 Binding Effect of Agreement. The burdens of this Agreement bind and the benefits of the Agreement inure to the parties' successors or assignees in interest.
- 5.8 Relationship of Parties. It is understood that the contractual relationship between City and Property Owner is such that Property Owner is an independent contractor and not an agent of City.
- 5.9 Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands or requests to be sent to any party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified herein as the places of business for each of the designated parties.

City:

City of Chula Vista
 276 Fourth Avenue
 Chula Vista, CA 91910
 Attn: Community Development Director

Property Owner:

Hamilton Plaza LTD.
 11230 Sorrento Valley Road, Suite 100
 San Diego CA 92121
 Attn: Danny Dabby

A party may change its address by giving notice in writing to the other party. Thereafter, notices, demands and requests shall be addressed and transmitted to the new address.

ARTICLE 6 – Conflicts of Law

- 6.1 Conflict of City and State or Federal Laws. In the event that state or federal laws or regulations enacted after this Agreement has been entered into prevent or preclude compliance with one or more provisions of this Agreement require changes in plans, maps or permits approved by the City, the parties will:
- 6.1.1 Notice and Copies: Provide the other party with written notice of such state or federal restriction, provide a copy of such regulation or policy and statement of conflict with the provisions of this Agreement.
- 6.1.2 Modification Conferences: The parties will, within 30 days, meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or state law or regulation.

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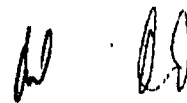
- 6.2 Council Hearings. Thereafter, regardless of whether the parties reach an agreement on the effect of such federal or state law or regulation upon this Agreement, the matter will be scheduled for hearing before the City Council. Ten days' written notice of such hearing will be given, pursuant to Government Code Section 65091 and 65094. The City Council, at such hearing, will determine the exact modification or suspension which shall be necessitated by such federal or state law or regulation. Property Owner, at the hearing, will have the right to offer oral and written testimony. Any modification or suspension will be taken by the affirmative vote of not less than a majority of the authorized voting members of the City Council.
- 6.3 Cooperation in Securing Permits. The City shall cooperate with the Property Owner in the securing of any permits which may be required as a result of such modifications or suspensions.

ARTICLE 7 – Annual Review

- 7.1 City and Land Owner Responsibilities. City will, at least every 12 months during the term of this Agreement, review the extent of good faith substantial compliance by Property Owner with the terms of this Agreement. Pursuant to Government Code Section 65865.1, Property Owner will have the duty to demonstrate its good faith compliance with the terms of this Agreement at such periodic review. Property Owner will be deemed to have satisfied its duty of demonstration when it presents evidence on its good faith and substantial compliance with the major provisions of Article 3 of this Agreement. Either party may address any requirement of this Agreement during the review. However, ten days' written notice of any requirement to be addressed will be made by the requesting party. If at the time of review an issue not previously identified in writing is required to be addressed, the review at the request of either party will be continued to afford sufficient time for analysis and preparation.
- 7.2 Opportunity to be Heard. Upon written request to City by Property Owner, the Property Owner will be permitted an opportunity to be heard orally and/or in writing at a noticed public hearing regarding its performance under this Agreement.
- 7.3 Information to be Provided Property Owner. The City will, to such an extent as is practical, deposit in the mail to Property Owner a copy of staff reports and related exhibits concerning contract performance a minimum of ten calendar days prior to an such review or action upon this Agreement by the Planning Commission or the City Council.

ARTICLE 8 – Miscellaneous Provisions

- 8.1 Rules of Construction. The singular includes the plural and the neuter gender includes the masculine and the feminine.
- 8.2 Severability. The parties hereto agree that the provisions are severable. If any provision of this Agreement is held invalid, the remainder of this Agreement will be effective and will remain in full force and effect unless amended or modified by mutual consent of the parties.

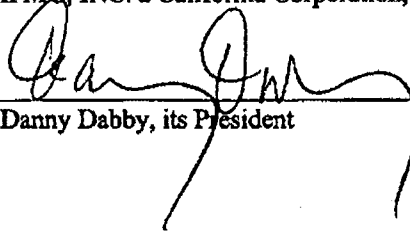


- 8.3 Entire Agreement, Waivers and Amendments: Regulatory Agreement to Control. Except for the Regulatory Agreement, this Agreement, together with any other written document referred to or contemplated herein, embody the entire Agreement and understanding between the parties relating to the subject matter hereof. Notwithstanding any provision in this Agreement to the contrary, so long as the Regulatory Agreement is in effect, the terms of the Regulatory Agreement shall control with respect to the Very Low Income Apartments. Neither this Agreement nor any provision hereof may be amended, modified, waived, or discharged except by an instrument in writing executed by the party against which enforcement or such amendment, waiver, or discharge is sought.
- 8.4 Capacities of Parties. Each signatory and party hereto hereby warrants and represents to the other party that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all resolutions or other actions have been taken so as to enable it to enter into this Agreement.
- 8.5 Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in the Federal or State courts located in San Diego County, State of California, and if applicable, the City of Chula Vista, or as close thereto as possible. Venue for this Agreement, and performance hereunder, shall be the City of Chula Vista.

Handwritten initials or marks, possibly "00" and "09", located at the bottom right of the page.

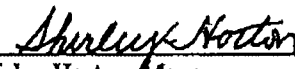
IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed as of the day and year first written above.

HAMILTON PLAZA LTD., a California Limited Partnership
By: IPMG, INC. a California Corporation, its General Partner




By: Danny Dabby, its President

CITY OF CHULA VISTA, a municipal corporation of the State of California



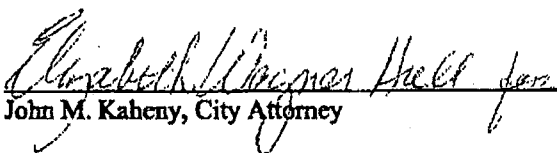
Shirley Horton, Mayor

ATTEST:



Susan Bigelow, City Clerk

APPROVED AS TO FORM:



John M. Kaheny, City Attorney



EXHIBIT D

First Amendment to Housing Cooperation Agreement dated June 15, 2010
(First Amendment)



RECORDING REQUESTED BY:

City of Chula Vista

AUG 16, 2010 10:12 AM

WHEN RECORDED MAIL TO:

City of Chula Vista
Office of the City Clerk
Attn: City Clerk
276 Fourth Avenue
Chula Vista, CA 91910

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
DAVID L. BUTLER, COUNTY RECORDER
FEES: 0.00

6666

PAGES: 25



Handwritten notes:
25
10/18
10/18

*This Instrument Benefits City Only.
No fee is required.*

FIRST AMENDMENT TO HOUSING COOPERATION AGREEMENT

This first amendment to Housing Cooperation Agreement ("First Amendment") is made as of June 15, 2010, by and between the CITY OF CHULA VISTA, a municipal corporation ("City") and Hamilton Plaza LTD, a California Limited Partnership ("Property Owner") and/or its successors or assignees.

Recitals

A. The City entered into a Housing Cooperation Agreement ("Agreement") with Property Owner on May 9, 2000, for the multifamily affordable housing development known as Kingswood Manor Apartments, located at 54 through 94 Kingswood Drive in the City of Chula Vista, California (the "Project"). A copy of the Agreement, which was recorded on May 16, 2000, and is known as Document No. 2000-0252932, is attached as Attachment A and is hereby incorporated by reference into this First Amendment.

B. The Agreement authorized a density bonus for the development of ten (10) additional three-bedroom units for low-income households at or below 80 percent of the Area Median Income ("AMI"). The City was required to provide the Property Owner with incentives for the production of low-income housing units within the development if Property Owner agrees or proposes to construct certain percentages of the development for low and/or very low-income households. In response to Property Owner's application, the City Council approved a density bonus and additional incentives.

C. The parties now desire to amend the Agreement to reflect a modification to the use of the Project from rental to for-sale.

Now, therefore, for good and valuable consideration, the parties agree to the following:

1. The Agreement is amended as follows:

ARTICLE 1-Recitals

(a) 1.4 Project. Property Owner proposes to construct ten (10) additional units to an existing forty (40) unit residential development, with any three (3) three bedroom units

affordable to low income households at or below 80 percent of the Area Median Income ("AMI") and fourteen (14) three bedroom units affordable to moderate income households at or below 120 percent of AMI, at the site west of the intersection of Tobias and Kingswood Drive, also known as 54 through 94 Kingswood Drive, in the City of Chula Vista ("Project").

6667

ARTICLE 2-Development Standard

- (b) Section 2.3 of the Housing Cooperation Agreement is amended to read as follows:

2.3 Low and Moderate Income Housing. As set forth in Article 3, three (3) dwelling units shall be sold to buyers qualified as low-income, with income not to exceed 80 percent of the AMI, and the unit shall be priced for low-income buyers at no more than 70 percent of the AMI. As set forth in Article 3, fourteen (14) dwelling units shall be sold to buyers qualified as moderate income, with income not to exceed 120 percent of the AMI, and the unit shall be priced for moderate-income buyers at no more than 110 percent of the AMI.

ARTICLE 3-Low Income Housing

- (c) Section 3.1.5 of the Housing Cooperation Agreement is amended to read as follows:

3.1.5 "Qualified Homebuyer" means individuals or families with an income which does not exceed 80 percent of the Area Median Income for the low-income category or 120 percent of the Area Median Income for the moderate-income category, as adjusted for household size and as most recently determined by the United States Department of Housing and Urban Development.

- (d) Section 3.1.6 of the Housing Cooperation Agreement is amended to read as follows:

"3 BR Low or Moderate Income Unit" means any seventeen (17) three-bedroom units on the Real Property, which includes three (3) low-income units and fourteen (14) moderate-income units, which shall be initially sold to qualified low or moderate-income homebuyers.

- (e) Section 3.1.7 of the Housing Cooperation Agreement is amended to read as follows:

"Affordable Unit" means any of the for-sale units as defined in Paragraph 3.1.6.

- (f) Section 3.1.9 of the Housing Cooperation Agreement is amended to read as follows:

"Mortgage Payment" means the sum of all actual or projected monthly or annual recurring expenses that include all of the following: (a) payments for principal and interest on a mortgage loan; (b) loan insurance fees; (c) property taxes and assessments; (d) fire and casualty insurance; (e) homeowner association fees; and (f) a reasonable allowance for utilities, or as defined in 25 California Code of Regulations Section 6920.

- (g) Section 3.2 of the Housing Cooperation Agreement is amended to read as follows:

Qualification of Homebuyer. Each 3 BR Low or Moderate Income Unit will be sold to a qualified low or moderate-income buyer as defined in Section 3.1.5.

(h) Section 3.3 of the Housing Cooperation Agreement is amended to read as follows:

Qualified Sales Price. Each of the designated Affordable Units shall be priced as follows:

	Low Income	Moderate Income
	3 Bdrms	3 Bdrms
Unit Size by No. of Bedrooms (<i>1 Person Per Bedroom + 1</i>)	70%	110%
Qualifying Percent of Area Median Income (AMI) for Affordable Housing	70%	110%
Equals Annual Household Income Based Upon Qualifying Percent of AMI (see Footnote #1)	\$54,950	\$86,350
Equals Monthly Household Income Based Upon Qualifying Percent of AMI	4,579	7,196
Times Percent of Household Income Attributable to Housing Expenses	30%	35%
Equals Annual Dollars Allowed for Housing Expenses	16,485	30,223
Equals Monthly Dollars Allowed for Housing Expenses	1,374	2,519
Less Real Estate Taxes (Annual 1% of Purchase Price)	1,393	3,038
Less Insurance	250	250
Less Utilities	1,585	1,585
Less Home Owners Fee	3,012	3,012
Equals Annual Dollars Available for Debt Service	10,245	22,337
Divided by Annual Loan Constant (see Footnote #2)	0.0758	0.0758
Equals Maximum Loan Amount that Can Be Used for Home Purchase	135,154	294,689
Plus Down Payment - 3%	4,180	9,114
Equals Maximum Allowable Purchase Price (see Footnote #3)	\$139,334	\$303,804
Buyer's Monthly Mortgage Payment - Debt Service/12 months	\$854	\$1,861

Footnotes:

1. The household income limits are adjusted for a high cost area as per the Federal Housing Act of 1937 and calculated using HCD methodology to comply with Health and Safety Code Section 500052.5 and Title 25 Code of Regulations Sections 6920 and 6932.
2. Rounded to the nearest \$50.
3. Annual Loan Constant is based on a 6.5%, 30 year fixed rate mortgage.
4. Purchase Price to be adjusted according to total home owner's fees as established by the Real Estate Commissioner, final interest rate of the loan, other market conditions, and applicable program requirements.

- (i) Section 3.4 of the Housing Cooperation Agreement is amended to read as follows:

Proof of Qualification. Property Owner will obtain from each person(s) to whom Property Owner sells an Affordable Unit a copy of the Uniform Residential Loan Application ("Loan Application") in the form of Exhibit B attached hereto and incorporated herein (or such other form as City may from time to time adopt and of with City notifies Property Owner in writing). Property Owner will be entitled to rely on the Loan Application and the supporting documents in determining the eligibility of each person(s) to sell such Affordable Unit.

- (j) Section 3.4.1 of the Housing Cooperation Agreement is deleted.
- (k) Section 3.5 and related sections 3.51 and 3.5.2 of the Housing Cooperation Agreement will be deleted.
- (l) Section 3.6 of the Housing Cooperation Agreement is deleted.
- (m) Section 3.7 of the Housing Cooperation Agreement is amended to read as follows:

Term. The term during with this Article 3 applies commences on the date hereof. Said term ends on the date in which the last of the Affordable Units is sold and occupied by a Qualified Homebuyer.

ARTICLE 4-Breach

- (n) Section 4.1 of the Housing Cooperation Agreement is amended to read as follows:

Breach by City. If City breaches any of its covenants contained in this Agreement as Amended, Property Owner will have available to it all legal and equitable remedies afforded by the laws of the State of California.

- (o) Section 4.1 of the Housing Cooperation Agreement is amended to read as follows:

Breach by Property Owner. If, with respect to any Affordable Unit, Property Owner beaches this Agreement as Amended by selling the Affordable Unit at a price higher than the Qualified Sales Price or sells the Affordable Unit to a homebuyer who is not a Qualified Homebuyer, Property Owner will, immediately upon City's demand, (i) designate another comparable unit as an Affordable Unit and (ii) Provide additional verification to the City of sale to a Qualified Homebuyer. Further, City is hereby granted the power (but not the duty) to act as attorney-in-fact of such homebuyers in enforcing this paragraph.

- (p) Section 4.3 of the Housing Cooperation Agreement is deleted.

ARTICLE 5-General Provisions

- (q) Section 5.9 of the Housing Cooperation Agreement is amended to read as follows:

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Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands or requests to be sent to any party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to each party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified herein as the places of business for each of the designated parties. A party may change its address by giving notice in writing to the other party. Thereafter, notices, demands and requests shall be addressed and transmitted to the new address.

City:
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910
Attn: Housing Manager

Property Owner:
Hamilton Plaza Ltd.
12526 High Bluff Drive, Suite 355
San Diego, CA 92130
Attn: Danny Dabby

2. All other terms in the Agreement not amended by this First Amendment shall remain in full force and effect.

Attachments:

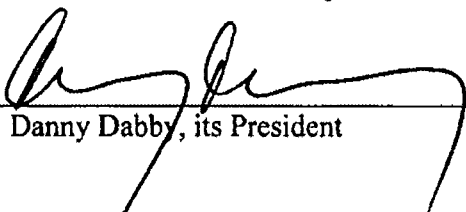
- A. Housing Cooperation Agreement
- B. Uniform Residential Loan Application

(Signature page to follow)

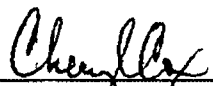
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IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed as of the day and year first written above.

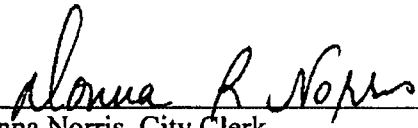
For HAMILTON PLAZA LTD., a California Limited Partnership
By: IPMG, INC. a California Corporation, its General Partner


By: Danny Dabby, its President

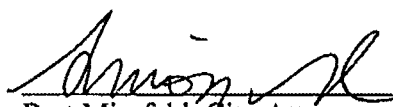
For CITY OF CHULA VISTA, a municipal corporation of the State of California


By: Cheryl Cox Mayor

ATTEST:


Donna Norris, City Clerk

APPROVED AS TO FORM:

 SIMON SILVA
FOR Bart Miesfeld, City Attorney

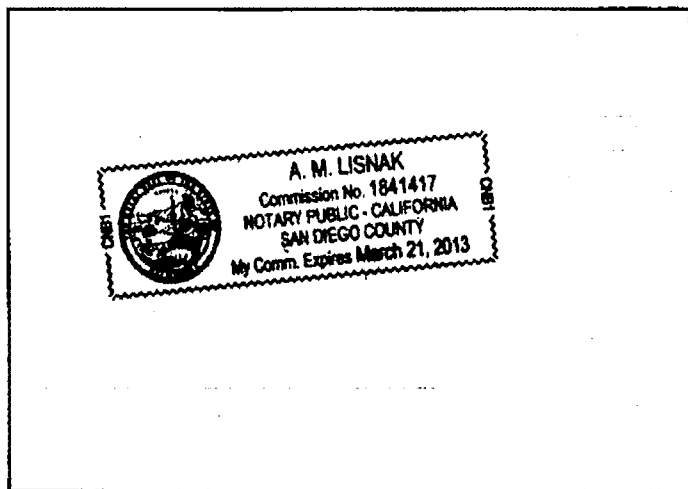


California All-Purpose Acknowledgement

State of California }
County of San Diego

On 8/3/10 before me, A.M. Lisnak, a Notary Public

personally appeared Jonny Dabby



Notary Public Seal

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.

Notary Public Signature

OPTIONAL

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Thumbprint of Signer 1

- Individual
- Corporate Officer: _____
- Partner - Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____

Thumbprint of Signer 2

- Individual
- Corporate Officer: _____
- Partner - Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____

STATE OF CALIFORNIA)
) S.S.
COUNTY OF SAN DIEGO)

On July 7, 2010 before me, Donna Norris, City Clerk, personally appeared Cheryl Cox, 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 she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person 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

Donna Norris

Donna Norris, CMC
City Clerk of the City of Chula Vista



DN

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Attachment A

Housing Cooperation Agreement

Recorded on May 16, 2000

In the Official Records of the San Diego County Recorder's Office

As Document No. 2000-0252932



DOC # 2000-0252932

MAY 16, 2000 11:42 AM

RECORDING REQUESTED BY:

City of Chula Vista

WHEN RECORDED MAIL TO:

City of Chula Vista
City Clerk's Office
Attn: City Clerk
276 Fourth Avenue
Chula Vista CA 91910

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 0.00

6675

2000-0252932

23P

After Required Benefits City

(Space above for Recorder's Use)

HOUSING COOPERATION AGREEMENT

THIS HOUSING COOPERATION AGREEMENT (the "Agreement") is entered into this 9th day of May, 2000, between the CITY OF CHULA VISTA, a municipal corporation ("City"), and Hamilton Plaza LTD., a California Limited Partnership, ("Property Owner") and/or its successors or assignees.

ARTICLE 1- Recitals

- 1.1 **Authority.** City is authorized to enter into binding agreements for the purpose of protecting public health, safety, and welfare.
- 1.2 **Property Owner.** Property Owner is the legal owner of the fee title to the real property described as 54 through 94 Kingswood Drive. Said real property is referred to in this Agreement as "the Real Property" and as further described in the attached Exhibit "A," which is hereby incorporated herein.
- 1.3 **Density Bonus.** Property Owner has submitted to City a proposal for the development of ten (10) additional three bedroom units for low income households on the Real Property pursuant to State Government Code Section 65915. The project is known as Kingswood Manor Apartments.
- 1.4 **Project.** Property Owner proposes to construct ten (10) additional apartment units to an existing forty (40) unit residential development, with any ten three bedroom units affordable to low income households at or below 80 percent of the Area Median Income ("AMI") west of the intersection of Tobias and Kingswood Drive, also known as 54 through 94 Kingswood Drive, in the City of Chula ("Project").
- 1.5 **State Density Bonus Law.** The City is required to provide Property Owner with incentives for the production of low income housing units within the development if Property Owner agrees or proposes to construct certain percentages of the development for low and/or very low-income households.
- 1.6 **Grant of Density Bonus and Additional Incentives.** The City Council of the City ("City Council"), in response to Property Owner's application, approved a density bonus and additional incentives for the Real Property. Said resolution is attached as Exhibit B and is incorporated herein.

dl

2200-149

- 1.7 Low/Moderate Income Housing. Said Government Code Section 65915 provides, among other things, that when a developer of housing agrees to construct a specified percentage of the total units of a housing development for households of low income, as defined in Section 50093 of the California Health and Safety Code, a city shall grant a density bonus for said housing development.
- 1.8 Agreement. The City Council established in Resolution No. _____ a requirement that an agreement be entered into between City and Property Owner providing for (i) the density bonus and (ii) the creating and maintaining of a specified percentage of the dwelling units on the Real Property for low income housing.
- 1.9 Design Review Committee. The City's Design Review committee will meet and consider approval of the Property Owner's site plan, elevations and preliminary plans for the constructing and maintaining of ten dwelling units on the Real Property. .
- 1.10 Intent. These parties intend that this Agreement constitute the agreement referred to in Paragraph 1.8.

CITY AND PROPERTY OWNER HEREBY AGREE AS FOLLOWS:

ARTICLE 2- Development Standard

- 2.1 Density Bonus. Property Owner is entitled to construct an additional ten dwelling units to the existing forty unit residential development and maintain on the Real Property a total of fifty dwelling units, a twenty-five percent (25%) increase in density.
- 2.2 Other Standards. The permitted uses of the Real Property, the density of use thereof, the maximum height and size of buildings thereon, and provisions for reservations or dedication of land for public purposes and all other standards of development of the Real Property will be governed by each of the following as presently constituted ("the Development Standards"):
- 2.2.1 General Plan: "Residential Medium" designation in City's General Plan.
- 2.2.2 Zone Regulations: The regulations for R-3 P12 (Apartment Residential, Precise Plan Density 12 units per acre).
- 2.2.3 Density: The provisions of Paragraph 2.1.
- 2.2.4 Parking: Property Owner shall provide two parking spaces per dwelling unit, no guest parking spaces, with twenty-one spaces provided as compact parking spaces, a reduction from the 0.5 guest parking space per dwelling unit required under the Precise Plan (76-14) for the Project and an increase in the one compact parking space per dwelling unit requirement as specified in Section 19.62.050 of the City of Chula Vista Municipal Code.
- 2.2.5 Precise Plan: The development standards set forth in the original Precise Plan (76-14) for the Project.

- 2.3 Low and Moderate Income Housing. Ten dwelling units shall be continuously occupied only by and affordable to low income households as set forth in Article 3.
- 2.4 Conflict. In the event of conflict between Paragraph 2.1 and any other of the Development Standards, Paragraph 2.1 will prevail.
- 2.5 Effect of Termination Pursuant to Article 3. Termination pursuant to Paragraph 3.6 will not affect, or render inapplicable, the foregoing Development Standards.

ARTICLE 3- Low Income Housing

- 3.1 Definitions. For the purposes of this article, the following definitions apply:
- 3.1.1 "Density Bonus" means a density increase of at least 25 percent over the otherwise maximum allowable residential density, unless a lesser amount is requested by the developer and approved by City Council, under the applicable zoning ordinance and land use element of the general plan.
- 3.1.2 "Additional Incentives" means a reduction or modification of Development Standards, Zoning Codes or Architectural Design requirements, permitting mixed use zoning within a housing development, or other regulatory incentives or concessions.
- 3.1.3 "Housing Manager" means the Housing Manager of the City.
- 3.1.4 "Area Median Income" means the latest median income from time to time determined by the United States Department of Housing and Urban Development (pursuant to Section 8 of the United States Housing Act of 1937) for the San Diego Standard Metropolitan Statistical Area.
- 3.1.5 "Low Income Tenants" means individuals or families with an income which does not exceed 80 percent of the Area Median Income, as adjusted for household size and as most recently determined by the U.S. Department of Housing and Urban Development.
- 3.1.6 "3 BR Low Income Apartment" means any ten (10) three-bedroom apartment units on the Real Property, which shall be continuously occupied only by and affordable to a Low Income Tenant.
- 3.1.7 "Affordable Apartment" means any of the apartments defined in Paragraph 3.1.6; "Affordable Apartments" means all of such apartments collectively.
- 3.1.8 "Manager's Unit" means that unit on the real property occupied by a resident property manager which may be exempt from occupancy restrictions.
- 3.1.9 "Rent" means the total of monthly payments for all of the following: (a) use and occupancy of the apartment unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits, and (c) a reasonable allowance for utilities not included in the above costs, excluding telephone service, which takes into consideration an adequate level of service.

- 3.2 Qualification of Tenants. As to the Affordable Apartments, the following will apply:
- 3.2.1 3 BR Low Income Apartments. Each 3 BR Low Income Apartment will be leased to a Low Income Tenant.
- 3.3 Monthly Rent. As to the Affordable Apartments, the following will apply:
- 3.3.1 Low Income Apartments. The monthly rent charged for all the Low Income Apartments shall not exceed the lesser of the following: a) ten percent less than non-restricted dwelling units within the Project; or b) one-twelfth of the amount obtained by multiplying 30 percent times 60 percent of the Area Median Income, as adjusted for household size and assuming the following unit sizes and household sizes:

<u>Unit Size</u>	<u>Household Size</u>
Three Bedroom	Five Persons

- 3.4 Proof of Qualification. Property Owner will obtain from each person(s) to whom Property Owner rents an Affordable Apartment a "Supplemental Rental Application" ("the Application") in the form of Exhibit D attached hereto and incorporated herein (or such other form as City may from time to time adopt and of which City notifies Property Owner in writing). Property Owner will be entitled to rely on the Application and the supporting documents thereto in determining the eligibility of such person(s) to rent such Affordable Apartment. Property Owner will retain the Application and supporting documents for a period of at least three years after the applicant thereof ceases to occupy such Affordable Apartment.

Copies of the most recent Supplemental Rental Application for Low Income Tenants commencing or continuing occupancy of an Affordable Apartment shall be attached to the semi-annual report to be filed with the City in compliance with Section 3.6 of this Agreement.

An Affordable Apartment occupied by a qualified tenant who at the commencement of the occupancy qualifies as a low income household shall be treated as occupied by a Low Income Tenant until a recertification of such tenant's income in accordance with Section 3.4.1 below demonstrates that such tenant no longer qualifies as a Low Income Tenant.

- 3.4.1 Recertification of Income. Immediately prior to the first anniversary date of the occupancy of an Affordable Apartment by a qualified tenant, and on each anniversary date thereafter, the Property Owner shall recertify the income of the occupants of each Affordable Apartment by obtaining a completed Supplemental Rental Application based upon the current income of each occupant of the Affordable Apartment. In the event the recertification demonstrates that such household's income exceeds the income at which such household would qualify, such household will no longer qualify as a Low Income Tenant, and the Property Owner will rent the next available unit of comparable or smaller size to one or more Low Income Tenants.
- 3.5 Waiver. Property Owner may apply in writing to the Housing Manager for a waiver, as to a specifically designated Affordable Apartment. Each such application will be accompanied by written data or other evidence relied upon by Property Owner to show that, for the near future, there will be no reasonable demand for such Affordable Apartments(s). Within 30 days after receipt of any such application, the Housing Manager will, in writing, either grant or disapprove the requested waiver; the failure of the Housing Manager to act within said period will be deemed to be approval of such requested waiver. If such waiver is granted, Property Owner may

lease the Affordable Apartment(s) affected by the granted waiver to such person(s) and at such rental as Property Owner determines, subject to each of the following:

- 3.5.1 Month-to-Month Tenancy. Anything in Paragraph 3.5 to the contrary notwithstanding, the lease or rental agreement will create only a month-to-month tenancy.
- 3.5.2 Termination of Waiver. At any time after granting any such waiver, the Housing Manager may, by writing delivered to Property Owner, terminate such grant. Within five days after such delivery, Property Owner will appropriately notify the tenant (s) and occupant (s) (of the Affordable Apartment (s) for which the grant of waiver has been terminated) that the month-to-month tenancy thereof will be and become terminated one month after delivery of such notification by Property Owner. Property Owner will take reasonable steps to effectuate such termination, including diligent commencement and prosecution of an unlawful detainer action.
- 3.6 Records, Audits. Property Owner will submit to City semi-annual certified rent rolls, disclosing with respect to each Affordable Apartment (i) monthly rent rate, (ii) number of occupants for which the Affordable Apartment is rented, and (iii) the income of such occupant(s) and in the form of Exhibit E attached hereto and incorporated herein (or such other form as City may from time to time adopt and of which City notifies Property Owner in writing). If City determines an audit is necessary to verify a submitted rent roll, it will so notify Property Owner in writing thereof. Within ten days after delivery of said notice, Property Owner will deliver to City the names of three certified public accountants doing business in the metropolitan San Diego area. City will promptly deliver to Property Owner the former's approval of one or more of said names. The audit will be completed by an approved certified public accountant, at Property Owner's cost, within 60 days after the delivery to Property Owner of City's said approval. The certified public accountant will promptly deliver a copy of the written audit to City.
- 3.7 Term. The term during which this Article 3 applies commences on the date hereof. Said term ends on the date which is thirty (30) years after the date on which at least five (5) of the ten (10) additional dwelling units approved pursuant to the density bonus are first occupied.

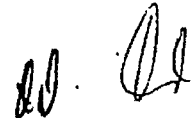
ARTICLE 4 - Breach

- 4.1 Breach by City. If City breaches any of its covenants contained in this Agreement, Property Owner will have available to it all legal and equitable remedies afforded by the laws of the State of California.
- 4.2 Breach by Property Owner. If, with respect to any Affordable Apartment, Property Owner breaches this Agreement by charging higher rent than that herein permitted, Property Owner will, immediately upon City's demand, (i) reduce the rent to that permitted herein and (ii) refund to any tenants who theretofore paid such higher rent the amount of the excess, together with interest hereon at the rate of 10 percent per annum, computed from the date(s) of payment of the excess by said tenants to the date of said refund. The provisions of this paragraph constitute a third-party beneficiary contract in favor of such tenants. Further, City is hereby granted the power (but not the duty) to act as attorney-in-fact of such tenants in enforcing this paragraph.

- 4.3 Breach by Property Owner. If, with respect to any Affordable Apartment, Property Owner breaches this Agreement by leasing to tenants who are not, pursuant to paragraph 3.2, qualified, Property Owner will, immediately upon City's written demand, and at Property Owner's sole cost, take all lawful steps to terminate such leasing.
- 4.4 Remedies Not Exclusive. The remedies set forth in Paragraphs 4.2 and 4.3 are not exclusive, but are in addition to all legal or equitable remedies otherwise available to City.

ARTICLE 5 – General Provisions

- 5.1 Assignment. The rights and obligations of Property Owner under this Agreement may be transferred or assigned, provided such transfer or assignment is made as a part of the conveyance of the fee of all or a portion of the Real Property. Any such transfer or assignment will be subject to the provisions of this Agreement. During the term of this Agreement, any such assignee or transferee will observe and perform all of the duties and obligations of Property Owner contained in this Agreement as such duties and obligations pertain to the portion of said real property so conveyed.
- 5.2 Amendment or Cancellation of Agreement. This Agreement may be amended from time-to-time or cancelled by the mutual consent of the parties hereto but only in the same manner as its adoption. The term "this Agreement" includes any such amendment properly approved and executed.
- 5.3 Enforcement. Unless amended or cancelled as provided in Section 5.2, this Agreement is enforceable by any party to it despite a change in the applicable general or specific plans, zoning, subdivision or building regulations adopted by City which alter or amend the rules, regulations or policies governing permitted uses of the land, density and design.
- 5.4 Hold Harmless. Property Owner shall defend, indemnify, protect and hold harmless the City, its elected and appointed officers and employees, from and against all claims for damages, liability, cost and expense (including without limitation attorneys' fees) for personal injury or property damage arising out of the direct or indirect conduct or operations of the Property Owner, or any agent or employee, subcontractors, or others in connection with the execution of this Agreement, except only for those claims arising from the sole negligence or sole willful misconduct of the City, its officers, or employees. Property Owner's indemnification shall include any and all costs, expenses, attorneys' fees and liability incurred by the City, its officers, agents or employees in defending against such claims, whether the same proceed to judgment or not. Property Owner agrees to indemnify, defend, protect and hold harmless the City, its officers, and employees from and against any and all claims, suits, actions, or other proceedings to which the City is exposed resulting from the City's preparations, review, approval, or granting of the Density Bonus as called for in this Agreement. Further, Property Owner, at its own expense shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents or employees. Property Owner's indemnification of City shall not be limited by any prior or subsequent declaration by the Property Owner.
- 5.5 Anti-Discrimination. Property Owner, for itself and its successors and assigns, agrees that during the term of this Agreement, will not, with respect to its operation of the Project, discriminate against any person because of race, color, creed, religion, sex, sexual orientation, marital status, age, handicaps, ancestry or national origin.



- 5.6 Crime Free Multi-Housing Program. Property Owner, for itself and its successors and assigns, agrees that during the term of this Agreement, will, with respect to its operation of the Project, participate in the City of Chula Vista Crime Free Multi-Housing Program or any other comparable program as may be adopted or implemented by the City of Chula Vista.
- 5.7 Binding Effect of Agreement. The burdens of this Agreement bind and the benefits of the Agreement inure to the parties' successors or assignees in interest.
- 5.8 Relationship of Parties. It is understood that the contractual relationship between City and Property Owner is such that Property Owner is an independent contractor and not an agent of City.
- 5.9 Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands or requests to be sent to any party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified herein as the places of business for each of the designated parties.

City:

City of Chula Vista
 276 Fourth Avenue
 Chula Vista, CA 91910
 Attn: Community Development Director

Property Owner:

Hamilton Plaza LTD.
 11230 Sorrento Valley Road, Suite 100
 San Diego CA 92121
 Attn: Danny Dabby

A party may change its address by giving notice in writing to the other party. Thereafter, notices, demands and requests shall be addressed and transmitted to the new address.

ARTICLE 6 – Conflicts of Law

- 6.1 Conflict of City and State or Federal Laws. In the event that state or federal laws or regulations enacted after this Agreement has been entered into prevent or preclude compliance with one or more provisions of this Agreement require changes in plans, maps or permits approved by the City, the parties will:
- 6.1.1 Notice and Copies: Provide the other party with written notice of such state or federal restriction, provide a copy of such regulation or policy and statement of conflict with the provisions of this Agreement.
- 6.1.2 Modification Conferences: The parties will, within 30 days, meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or state law or regulation.

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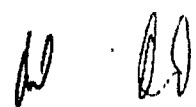
- 6.2 Council Hearings. Thereafter, regardless of whether the parties reach an agreement on the effect of such federal or state law or regulation upon this Agreement, the matter will be scheduled for hearing before the City Council. Ten days' written notice of such hearing will be given, pursuant to Government Code Section 65091 and 65094. The City Council, at such hearing, will determine the exact modification or suspension which shall be necessitated by such federal or state law or regulation. Property Owner, at the hearing, will have the right to offer oral and written testimony. Any modification or suspension will be taken by the affirmative vote of not less than a majority of the authorized voting members of the City Council.
- 6.3 Cooperation in Securing Permits. The City shall cooperate with the Property Owner in the securing of any permits which may be required as a result of such modifications or suspensions.

ARTICLE 7 – Annual Review

- 7.1 City and Land Owner Responsibilities. City will, at least every 12 months during the term of this Agreement, review the extent of good faith substantial compliance by Property Owner with the terms of this Agreement. Pursuant to Government Code Section 65865.1, Property Owner will have the duty to demonstrate its good faith compliance with the terms of this Agreement at such periodic review. Property Owner will be deemed to have satisfied its duty of demonstration when it presents evidence on its good faith and substantial compliance with the major provisions of Article 3 of this Agreement. Either party may address any requirement of this Agreement during the review. However, ten days' written notice of any requirement to be addressed will be made by the requesting party. If at the time of review an issue not previously identified in writing is required to be addressed, the review at the request of either party will be continued to afford sufficient time for analysis and preparation.
- 7.2 Opportunity to be Heard. Upon written request to City by Property Owner, the Property Owner will be permitted an opportunity to be heard orally and/or in writing at a noticed public hearing regarding its performance under this Agreement.
- 7.3 Information to be Provided Property Owner. The City will, to such an extent as is practical, deposit in the mail to Property Owner a copy of staff reports and related exhibits concerning contract performance a minimum of ten calendar days prior to an such review or action upon this Agreement by the Planning Commission or the City Council.

ARTICLE 8 – Miscellaneous Provisions

- 8.1 Rules of Construction. The singular includes the plural and the neuter gender includes the masculine and the feminine.
- 8.2 Severability. The parties hereto agree that the provisions are severable. If any provision of this Agreement is held invalid, the remainder of this Agreement will be effective and will remain in full force and effect unless amended or modified by mutual consent of the parties.

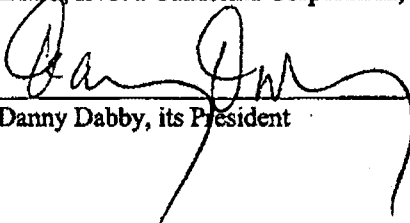


- 8.3 Entire Agreement, Waivers and Amendments: Regulatory Agreement to Control. Except for the Regulatory Agreement, this Agreement, together with any other written document referred to or contemplated herein, embody the entire Agreement and understanding between the parties relating to the subject matter hereof. Notwithstanding any provision in this Agreement to the contrary, so long as the Regulatory Agreement is in effect, the terms of the Regulatory Agreement shall control with respect to the Very Low Income Apartments. Neither this Agreement nor any provision hereof may be amended, modified, waived, or discharged except by an instrument in writing executed by the party against which enforcement or such amendment, waiver, or discharge is sought.
- 8.4 Capacities of Parties. Each signatory and party hereto hereby warrants and represents to the other party that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all resolutions or other actions have been taken so as to enable it to enter into this Agreement.
- 8.5 Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in the Federal or State courts located in San Diego County, State of California, and if applicable, the City of Chula Vista, or as close thereto as possible. Venue for this Agreement, and performance hereunder, shall be the City of Chula Vista.




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


HAMILTON PLAZA LTD., a California Limited Partnership
By: IPMG, INC. a California Corporation, its General Partner


By: Danny Dabby, its President

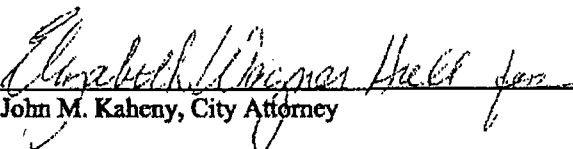
CITY OF CHULA VISTA, a municipal corporation of the State of California


Shirley Horton, Mayor

ATTEST:


Susan Bigelow, City Clerk

APPROVED AS TO FORM:


John M. Kaheny, City Attorney



Uniform Residential Loan Application

This application is designed to be completed by the applicant(s) with the Lender's assistance. Applicants should complete this form as "Borrower" or "Co-Borrower," as applicable. Co-Borrower information must also be provided (and the appropriate box checked) when the income or assets of a person other than the Borrower (including the Borrower's spouse) will be used as a basis for loan qualification or the income or assets of the Borrower's spouse or other person who has community property rights pursuant to state law will not be used as a basis for loan qualification, but his or her liabilities must be considered because the spouse or other person has community property rights pursuant to applicable law and Borrower resides in a community property state, the security property is located in a community property state, or the Borrower is relying on other property located in a community property state as a basis for repayment of the loan.

6685

If this is an application for joint credit, Borrower and Co-Borrower each agree that we intend to apply for joint credit (sign below):

Borrower _____ Co-Borrower _____
I. TYPE OF MORTGAGE AND TERMS OF LOAN

Mortgage Applied for:	<input type="checkbox"/> VA <input type="checkbox"/> FHA	<input type="checkbox"/> Conventional <input type="checkbox"/> USDA/Rural Housing Service	<input type="checkbox"/> Other (explain):	Agency Case Number	Lender Case Number
Amount \$	Interest Rate %	No. of Months	Amortization Type:	<input type="checkbox"/> Fixed Rate <input type="checkbox"/> GPM <input type="checkbox"/> Other (explain):	<input type="checkbox"/> ARM (type):

II. PROPERTY INFORMATION AND PURPOSE OF LOAN

Subject Property Address (street, city, state & ZIP)	No. of Units
Legal Description of Subject Property (attach description if necessary)	Year Built

Purpose of Loan	<input type="checkbox"/> Purchase <input type="checkbox"/> Refinance	<input type="checkbox"/> Construction <input type="checkbox"/> Construction-Permanent	<input type="checkbox"/> Other (explain):	Property will be:	<input type="checkbox"/> Primary Residence <input type="checkbox"/> Secondary Residence <input type="checkbox"/> Investment
-----------------	---	--	---	-------------------	---

Complete this line if construction or construction-permanent loan.

Year Lot Acquired	Original Cost \$	Amount Existing Liens \$	(a) Present Value of Lot \$	(b) Cost of Improvements \$	Total (a + b) \$
-------------------	------------------	--------------------------	-----------------------------	-----------------------------	------------------

Complete this line if this is a refinance loan.

Year Acquired	Original Cost \$	Amount Existing Liens \$	Purpose of Refinance	Describe Improvements	<input type="checkbox"/> made <input type="checkbox"/> to be made
				Cost: \$	

Title will be held in what Name(s)	Manner in which Title will be held	Estate will be held in: <input type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (show expiration date)
------------------------------------	------------------------------------	---

Source of Down Payment, Settlement Charges, and/or Subordinate Financing (explain)

Borrower _____ Co-Borrower _____
III. BORROWER INFORMATION

Borrower's Name (include Jr. or Sr. if applicable)				Co-Borrower's Name (include Jr. or Sr. if applicable)			
Social Security Number	Home Phone (incl. area code)	DOB (mm/dd/yyyy)	Yrs. School	Social Security Number	Home Phone (incl. area code)	DOB (mm/dd/yyyy)	Yrs. School
<input type="checkbox"/> Married <input type="checkbox"/> Separated	<input type="checkbox"/> Unmarried (include single, divorced, widowed)	Dependents (not listed by Co-Borrower) no. _____ ages _____		<input type="checkbox"/> Married <input type="checkbox"/> Separated	<input type="checkbox"/> Unmarried (include single, divorced, widowed)	Dependents (not listed by Borrower) no. _____ ages _____	
Present Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent ___ No. Yrs.				Present Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent ___ No. Yrs.			
Mailing Address, if different from Present Address				Mailing Address, if different from Present Address			

If residing at present address for less than two years, complete the following:

Former Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent ___ No. Yrs.	Former Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent ___ No. Yrs.
---	---

Borrower _____ Co-Borrower _____
IV. EMPLOYMENT INFORMATION

Name & Address of Employer	<input type="checkbox"/> Self Employed	Yrs. on this job	Name & Address of Employer	<input type="checkbox"/> Self Employed	Yrs. on this job
			Yrs. employed in this line of work/profession		
Position/Title/Type of Business	Business Phone (incl. area code)		Position/Title/Type of Business	Business Phone (incl. area code)	

If employed in current position for less than two years or if currently employed in more than one position, complete the following:



Borrower		IV. EMPLOYMENT INFORMATION (cont'd)		Co-Borrower	
Name & Address of Employer	<input type="checkbox"/> Self Employed	Dates (from - to)	Name & Address of Employer	<input type="checkbox"/> Self Employed	Dates (from - to)
		Monthly Income			Monthly Income
		\$			\$
Position/Title/Type of Business	Business Phone (incl. area code)		Position/Title/Type of Business	Business Phone (incl. area code)	
Name & Address of Employer	<input type="checkbox"/> Self Employed	Dates (from - to)	Name & Address of Employer	<input type="checkbox"/> Self Employed	Dates (from - to)
		Monthly Income			Monthly Income
		\$			\$
Position/Title/Type of Business	Business Phone (incl. area code)		Position/Title/Type of Business	Business Phone (incl. area code)	

V. MONTHLY INCOME AND COMBINED HOUSING EXPENSE INFORMATION						
Gross Monthly Income	Borrower	Co-Borrower	Total	Combined Monthly Housing Expense	Present	Proposed
Base Empl. Income*	\$	\$	\$	Rent	\$	
Overtime				First Mortgage (P&I)		\$
Bonuses				Other Financing (P&I)		
Commissions				Hazard Insurance		
Dividends/Interest				Real Estate Taxes		
Net Rental Income				Mortgage Insurance		
Other (before completing, see the notice in "describe other income," below)				Homeowner Assn. Dues		
				Other:		
Total	\$	\$	\$	Total	\$	\$

* Self Employed Borrower(s) may be required to provide additional documentation such as tax returns and financial statements.

Describe Other Income

Notice: Alimony, child support, or separate maintenance income need not be revealed if the Borrower (B) or Co-Borrower (C) does not choose to have it considered for repaying this loan.

B/C	Monthly Amount
	\$

VI. ASSETS AND LIABILITIES

This Statement and any applicable supporting schedules may be completed jointly by both married and unmarried Co-Borrowers if their assets and liabilities are sufficiently joined so that the Statement can be meaningfully and fairly presented on a combined basis; otherwise, separate Statements and Schedules are required. If the Co-Borrower section was completed about a non-applicant spouse or other person, this Statement and supporting schedules must be completed about that spouse or other person also.

Completed Jointly Not Jointly

ASSETS	Cash or Market Value	Liabilities and Pledged Assets. List the creditor's name, address, and account number for all outstanding debts, including automobile loans, revolving charge accounts, real estate loans, alimony, child support, stock pledges, etc. Use continuation sheet, if necessary. Indicate by (*) those liabilities, which will be satisfied upon sale of real estate owned or upon refinancing of the subject property.		
Description				
Cash deposit toward purchase held by:	\$			
<i>List checking and savings accounts below</i>		LIABILITIES	Monthly Payment & Months Left to Pay	Unpaid Balance
Name and address of Bank, S&L, or Credit Union		Name and address of Company	\$ Payment/Months	\$
Acct. no.	\$	Acct. no.		
Name and address of Bank, S&L, or Credit Union		Name and address of Company	\$ Payment/Months	\$
Acct. no.	\$	Acct. no.		
Name and address of Bank, S&L, or Credit Union		Name and address of Company	\$ Payment/Months	\$
Acct. no.	\$	Acct. no.		



VI. ASSETS AND LIABILITIES (cont'd)

Name and address of Bank, S&L, or Credit Union		Name and address of Company		\$ Payment/Months	\$
Acct. no.	\$	Acct. no.			
Stocks & Bonds (Company name/number & description)		Name and address of Company		\$ Payment/Months	\$
	\$	Acct. no.			
Life insurance net cash value		Name and address of Company		\$ Payment/Months	\$
Face amount: \$					
Subtotal Liquid Assets					
Real estate owned (enter market value from schedule of real estate owned)					
Vested interest in retirement fund					
Net worth of business(es) owned (attach financial statement)		Acct. no.			
Automobiles owned (make and year)		Alimony/Child Support/Separate Maintenance Payments Owed to:		\$	
Other Assets (itemize)		Job-Related Expense (child care, union dues, etc.)		\$	
		Total Monthly Payments		\$	
Total Assets a.		Net Worth (a minus b)		\$	Total Liabilities b. \$

Schedule of Real Estate Owned (If additional properties are owned, use continuation sheet.)

Property Address (enter S if sold, PS if pending sale or R if rental being held for income)	Type of Property	Present Market Value	Amount of Mortgages & Liens	Gross Rental Income	Mortgage Payments	Insurance, Maintenance, Taxes & Misc.	Net Rental Income
		\$	\$	\$	\$	\$	\$
Totals		\$	\$	\$	\$	\$	\$

List any additional names under which credit has previously been received and indicate appropriate creditor name(s) and account number(s):

Alternate Name	Creditor Name	Account Number

VII. DETAILS OF TRANSACTION

VIII. DECLARATIONS

VII. DETAILS OF TRANSACTION		VIII. DECLARATIONS					
a. Purchase price	\$	If you answer "Yes" to any questions a through i, please use continuation sheet for explanation.		Borrower		Co-Borrower	
b. Alterations, improvements, repairs		Yes	No	Yes	No	Yes	No
c. Land (if acquired separately)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Refinance (incl. debts to be paid off)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Estimated prepaid items		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Estimated closing costs		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. PMI, MIP, Funding Fee		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Discount (if Borrower will pay)		(This would include such loans as home mortgage loans, SBA loans, home improvement loans, educational loans, manufactured (mobile) home loans, any mortgage, financial obligation, bond, or loan guarantee. If "Yes," provide details, including date, name, and address of Lender, FHA or VA case number, if any, and reasons for the action.)					
i. Total costs (add items a through h)							

VII. DETAILS OF TRANSACTION		VIII. DECLARATIONS			
j. Subordinate financing		If you answer "Yes" to any questions a through i, please use continuation sheet for explanation.	Borrower		Co-Borrower
			Yes	No	Yes
			Yes	No	Yes
k. Borrower's closing costs paid by Seller		f. Are you presently delinquent or in default on any Federal debt or any other loan, mortgage, financial obligation, bond, or loan guarantee? If "Yes," give details as described in the preceding question.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Other Credits (explain)		g. Are you obligated to pay alimony, child support, or separate maintenance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		h. Is any part of the down payment borrowed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Loan amount (exclude PMI, MIP, Funding Fee financed)		i. Are you a co-maker or endorser on a note?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		j. Are you a U.S. citizen?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n. PMI, MIP, Funding Fee financed		k. Are you a permanent resident alien?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		l. Do you intend to occupy the property as your primary residence? If "Yes," complete question m below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
o. Loan amount (add m & n)		m. Have you had an ownership interest in a property in the last three years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
p. Cash from/to Borrower (subtract j, k, l & o from i)		(1) What type of property did you own—principal residence (PR), second home (SH), or investment property (IP)? (2) How did you hold title to the home—solely by yourself (S), jointly with your spouse (SP), or jointly with another person (O)?	_____	_____	_____

IX. ACKNOWLEDGEMENT AND AGREEMENT

Each of the undersigned specifically represents to Lender and to Lender's actual or potential agents, brokers, processors, attorneys, insurers, servicers, successors and assigns and agrees and acknowledges that: (1) the information provided in this application is true and correct as of the date set forth opposite my signature and that any intentional or negligent misrepresentation of this information contained in this application may result in civil liability, including monetary damages, to any person who may suffer any loss due to reliance upon any misrepresentation that I have made on this application, and/or in criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Sec. 1001, et seq.; (2) the loan requested pursuant to this application (the "Loan") will be secured by a mortgage or deed of trust on the property described in this application; (3) the property will not be used for any illegal or prohibited purpose or use; (4) all statements made in this application are made for the purpose of obtaining a residential mortgage loan; (5) the property will be occupied as indicated in this application; (6) the Lender, its servicers, successors or assigns may retain the original and/or an electronic record of this application, whether or not the Loan is approved; (7) the Lender and its agents, brokers, insurers, servicers, successors, and assigns may continuously rely on the information contained in the application, and I am obligated to amend and/or supplement the information provided in this application if any of the material facts that I have represented herein should change prior to closing of the Loan; (8) in the event that my payments on the Loan become delinquent, the Lender, its servicers, successors or assigns may, in addition to any other rights and remedies that it may have relating to such delinquency, report my name and account information to one or more consumer reporting agencies; (9) ownership of the Loan and/or administration of the Loan account may be transferred with such notice as may be required by law; (10) neither Lender nor its agents, brokers, insurers, servicers, successors or assigns has made any representation or warranty, express or implied, to me regarding the property or the condition or value of the property; and (11) my transmission of this application as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or my facsimile transmission of this application containing a facsimile of my signature, shall be as effective, enforceable and valid as if a paper version of this application were delivered containing my original written signature.

Acknowledgment. Each of the undersigned hereby acknowledges that any owner of the Loan, its servicers, successors and assigns, may verify or reverify any information contained in this application or obtain any information or data relating to the Loan, for any legitimate business purpose through any source, including a source named in this application or a consumer reporting agency.

Borrower's Signature	Date	Co-Borrower's Signature	Date
X		X	

X. INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the Federal Government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may not discriminate either on the basis of this information, or on whether you choose to furnish it. If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, under Federal regulations, this lender is required to note the information on the basis of visual observation and surname if you have made this application in person. If you do not wish to furnish the information, please check the box below. (Lender must review the above material to assure that the disclosures satisfy all requirements to which the lender is subject under applicable state law for the particular type of loan applied for.)

BORROWER <input type="checkbox"/> I do not wish to furnish this information	CO-BORROWER <input type="checkbox"/> I do not wish to furnish this information
Ethnicity: <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	Ethnicity: <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino
Race: <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	Race: <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White
Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male	Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male
To be Completed by Interviewer This application was taken by: <input type="checkbox"/> Face-to-face interview <input type="checkbox"/> Mail <input type="checkbox"/> Telephone <input type="checkbox"/> Internet	Interviewer's Name (print or type) <hr/> Interviewer's Signature Date <hr/> Interviewer's Phone Number (incl. area code)
Name and Address of Interviewer's Employer	

TRUE COPY CERTIFICATION

(Government Code 27361.7)

San Diego, CA

Place of Execution

I certify under penalty of perjury that this material is a true copy of the original material contained in this document.

8/16/10

Date

Elizabeth C. Briggs

Signature of Declarant

- I. Type of Mortgage AND TERMS of LOAN
- II. Property INFORMATION AND PURPOSE OF LOAN
- III. Borrower BORROWER INFORMATION Co-Borrower
- IV. Borrower Employment INFORMATION Co-Borrower
BORROWER Employment INFORMATION (CONT) Co-Borrower
- V. Monthly INCOME AND COMBINED HOUSING EXPENSE INFORMATION
- VI. ASSETS AND LIABILITIES
ASSETS AND LIABILITIES (CONT)
- VII. DETAILS OF TRANSACTION
- VIII. DECLARATIONS
- IX. ACKNOWLEDGEMENT AND AGREEMENT
- X. INFORMATION FOR GOVERNMENT MONITORING PURPOSES

Elizabeth C. Briggs

Type or Print Name

EXHIBIT E
For Rent Requirements

Exhibit E

For Rent Requirements

ARTICLE 1-For Rent Requirements

1.1 Restrictive Covenants. Property Owner agrees and covenants on behalf of itself and its successors and assigns, and each successor in interest to the Property, that at all times during the term of this Agreement ten (10) residential units at the Property shall be set aside and reserved as for rent as "Affordable Units," until sold pursuant to the Amended and Restated agreement. As used herein the term "Affordable Units" shall refer to the ten (10) residential units at the Property which are owned or held available for rent strictly in accordance with the terms and conditions set forth below. The aforementioned units maybe sold as provided for in the Amended and Restated Agreement.

1.2 Affordable Unit Restrictions. The following restrictions shall apply to the ten (10) Affordable Units. The restrictions set forth in the Table below shall establish the maximum rental rate, which shall be adjusted for family size appropriate for the Affordable Unit, from which a utility allowance as approved by the City Manager shall be deducted. The family size appropriate for the Affordable Unit for purposes of establishing the maximum rental rate shall be for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit in accordance with California Health & Safety Code Section 50052.5(h). In the case of tenants receiving Section 8 benefits, the total contract rent (which includes all payments made by the tenant and all subsidies received by the owner) shall not exceed the maximum allowable rent referenced below.

TABLE OF RENT AND INCOME RESTRICTION CRITERIA

1	2	3	4
NUMBER OF AFFORDABLE UNITS	UNIT TYPE	MAXIMUM MONTHLY RENTS	MAXIMUM INCOME OF ELIGIBLE TENANTS
10	3-Bedroom	1/12 th of 30% of 60% of AMI	80% of AMI
TOTAL UNITS			
50			

1.3 "Eligible Tenants" are those tenants: (i) whose aggregate gross annual income does not exceed the respective percentages set forth in the Table of Rent and Income Restriction Criteria set forth in Section 1.2, above, as adjusted for family size; and (ii) who own no interests in real property other than a timeshare which may be used for a maximum of one month per year. For purposes of this Agreement, the current annual area median income shall be the area median income defined by HUD as the then current area median income for the San Diego-Carlsbad-San Marcos Metropolitan Statistical Area, established periodically by HUD and published in the Federal Register, as adjusted for family size. The rents and the occupancy restrictions shall be deemed adjusted, from time to time, in accordance with any adjustments that are authorized by HUD or any successor agency. In the event HUD ceases to publish an established area median income as aforesaid, City may, in its sole discretion, use any other reasonably comparable method of computing adjustments in area median income. Notwithstanding anything contained herein to the contrary, to the extent any other

restrictions applicable to the Property limit the rent and/or occupancy of the Property, the most restrictive shall apply.

1.4 Income of Co-tenants, etc. The income of all co-tenants and/or non-dependent occupants shall be taken into account in determining whether a household is an Eligible Tenant hereunder.

1.5 Affordable Marketing Plan Compliance; Selection of Residents.

1.5.1 Marketing Plan. Property Owner shall utilize the City's standardized management and marketing plan for rental of all of the Affordable Units. The marketing plan, at a minimum, requires publicizing the availability of the Affordable Units within the City, such as notices in any City-sponsored newsletter, advertising in local newspapers and notice in City offices. Provided, however, all tenants of each Affordable Unit shall meet the income requirements set forth herein and tenancy and eligibility shall be in conformance with the terms and standards set forth in the management marketing plan and no preference may be used for the purpose or effect of delaying or otherwise denying admission to the Property or unit based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant household.

1.5.2 Master List. Selection of residents shall be made either by a lottery or based upon the Master List, rather than on a first-come, first-serve basis. In the event the City implements a master waiting list for affordable housing in the City ("Master List"), then Property Owner shall provide notices to persons on the Master List of the availability of the Affordable Units, prior to undertaking other forms of marketing. Property Owner shall give the persons on the Master List not fewer than fifteen (15) days after receipt of such notice to respond by submitting application forms for rental of the Affordable Units.

1.5.3 Lottery. Absent a Master List described above, selection of tenants shall be made randomly by lottery within the following levels of priority, subject in all circumstances to applicable limitations imposed by law, including, without limitation, the Fair Housing Act under Federal law:

(1) Priority. Households which are displaced from their primary residence as a result of an action of City or related entity, a condominium conversion involving the household's residence, expiration of affordable housing covenants applicable to such residence, or closure of a mobile home or trailer park community in which the household's residence was located, and the household resided in such housing as the household's primary place of residence for at least two years prior to such action or event.

(2) Second Priority. Households which meet one of the following criteria: (i) households which are displaced from their primary residence as a result of an action of City or Chula Vista Housing Authority, a condominium conversion involving the household's residence, expiration of affordable housing covenants applicable to such residence, or closure of a mobile home or trailer park community in which the household's residence was located, and the household resided in such housing as the household's primary place of residence for at least one year but less than two years prior to such action or event; (ii) households with at least one member who resides within the City, as that person's primary place of residence; (iii) households with at least one member who works or has been hired to work within the City, as that person's principal place of full-time employment; or (iv) households with at least one member who is expected to live within the City as a result of a bona fide offer of employment within the City.

(3) Third Priority. Other Low Income Households who do not meet the criteria for first priority or second priority above.

1.5.4 Screening. Nothing herein shall restrict Property Owner from screening tenants through the application of criteria which is lawful and customary in apartment management in San Diego County and otherwise consistent with federal, state and local regulations and other restrictions related to the Project.

1.6 Determination; Annual Requalification. Property Owner shall obtain from each person to whom Property Owner leases an Affordable Unit a "Supplemental Rental Application" ("Application") in the form of Attachment "A", attached hereto (or such other form as City may from time to time adopt). Property Owner shall be entitled to rely on the Application and supporting documents thereto in determining whether a household is an "Eligible Tenant." Property Owner shall retain the Application and supporting documents for a period of not less than three (3) years after the household ceases to occupy an Affordable Unit. An Affordable Unit occupied by an Eligible Tenant, shall be treated as an Eligible Tenant until a recertification of such tenant's income demonstrates that such tenant no longer qualifies as an "Eligible Tenant."

1.7 Certification; Annual Recertification. Upon completion of construction of the Project (the occurrence of which shall be evidenced by the issuance of a temporary certificate of occupancy for all units within the Project) and annually each year during of the term of this Agreement, Property Owner shall certify to the City under penalty of perjury, utilizing such forms and providing such backup documentation as requested by the City. Failure to timely complete the annual certification process described in this Section 1.7 shall constitute a material default under this Agreement. The City may resort to the remedies set forth hereinbelow upon such material default, as well as any and all other remedies available at law or in equity. Notwithstanding anything herein to the contrary, any cure of any default made or tendered by the limited partner of the Property Owner shall be deemed to be a cure by the Property Owner and shall be accepted or rejected on the same basis as if made or tendered by the Property Owner.

1.8 Increased Income of Tenants.

(a) Non-Qualifying Household. If, upon recertification of the income of a Tenant of an Affordable Unit, the Declarant determines that a former Low Income Household has an Annual Income exceeding the maximum qualifying income for a Low Income Household set forth in Section 1.3 such Tenant shall be permitted to continue to occupy the Unit at the market rate rent, and the Owner shall rent the next available Unit to a Low Income Household, as applicable, to meet the requirements of Section 1.3 above. Declarant shall maintain the occupancy requirements set forth in Section 1.3 above.

1.9 Relationship with Property Owner. The term "Eligible Tenant" shall not include Property Owner, or any individuals who are partners of Property Owner, or in any entity having an interest in Property Owner, or the Property, or any officer, employee, agent or consultant of the Property Owner, or any relative (by blood or marriage) of any officer, employee, agent or consultant of the Property Owner.

1.10 No Students. No Affordable Unit shall be occupied or leased to any person who is a full-time student, or a household comprised exclusively of persons who are full-time students, or any student dependent as defined in the U.S. Internal Revenue Code, unless the taxpayer (upon whom the student in question is dependent) resides in the same dwelling unit. The term "Eligible Tenant" shall also not include Students as stated in this section.

1.11 Income of Co-Tenants, Etc. The income of all co-tenants and/or non-dependent occupants shall be taken into account in determining whether a household is an Eligible Tenant hereunder.

1.12 Eviction.

1.12.1 Any Reason Other Than Over Income. In the event that a tenant who was properly certified as an Eligible Tenant at the commencement of such tenant's occupancy ceases to be eligible, for any reason other

than being over income, Property Owner shall give sixty (60) days written notice to such tenant to vacate the Affordable Unit. The vacated Affordable Unit shall thereafter be rented to an Eligible Tenant.

1.13 Maintenance.

1.13.1 Physical Condition of Affordable Units. After completion of construction of the Project, Property Owner shall continually maintain the Affordable Units in a decent, safe and sanitary condition, and in good repair as described in 24 CFR §5.703, and in a manner which satisfies the Uniform Physical Conditions Standards promulgated by the Department of Housing and Urban Development (24 CFR §5.705), as such standards are interpreted and enforced by the City under its normal policies and procedures. The City shall have the right to inspect the Affordable Units from time to time, on reasonable notice and at reasonable times, in order to verify compliance with the foregoing maintenance covenant. Property Owner hereby consents to periodic inspection by the City's designated inspectors and/or designees during regular business hours, including the Code Enforcement Agents of the City of Chula Vista, to ensure compliance with all applicable zoning, building codes, regulations, and property standards. Property Owner agrees to comply with the provisions of 24 CFR 92.251, whether or not contained in this Section. Further, each Affordable Unit shall be requalified annually, as to the foregoing maintenance covenant, as part of the annual tenant requalification process described in, and to the extent applicable under, Section 1.13 above. Any deficiencies in the physical condition of an Affordable Unit shall be corrected by Property Owner at Property Owner's expense within thirty (30) days of the identification of such deficiency by the City and delivery of written notice of the same to Property Owner, provided if the deficiency is of a nature that it cannot be cured within such thirty (30) day period, the Property Owner shall have such additional time to cure as is reasonably determined by the City.

1.13.2 Crime-Free Project. At all times during the term of this Agreement, the Property Owner shall participate in the City's Crime-Free Multifamily Housing Program, or any successor or similar program established by the City.

1.14 Monitoring. It is contemplated that, during the term of this Agreement, the City will perform the following monitoring functions: (a) preparing and making available to Property Owner any general information that the /or City possesses regarding income limitations and restrictions which are applicable to the Affordable Units; (b) reviewing the documentation submitted by Property Owner in connection with the annual certification process for Eligible Tenants described in Section 1.3, above; (c) reviewing the documentation submitted by Property Owner in connection with the annual certification process for Eligible Tenants in accordance with Section 1.6 and 1.7, above; and (d) inspecting the Affordable Units to verify that they are being maintained in accordance with Section 1.13.1, above. Notwithstanding the foregoing description of the City's functions, Property Owner shall have no claim or right of action against the City based on any alleged failure to perform such function. In addition, the Property Owner shall cooperate with and utilize such forms, software, websites and third-party vendors as may be required by the City. Attached (as Attachment B) is a sample monitoring form which may be required by the City.

1.15 Additional Lease Provisions/Annual Income Verification. Property Owner agrees that it will require each Eligible Tenant to execute an Authorization for Release of Information, in the form attached hereto as Attachment "C." Property Owner agrees that it will include the following provision in all of its leases:

"Lessee agrees, upon written request from the Landlord or the City of Chula Vista ("City"), to certify under penalty of perjury the accuracy of all information provided in connection with the examination or reexamination of annual income of the tenant's household. Further, tenant agrees that the annual income and other eligibility requirements are substantial and material obligations of the tenancy and that the tenant will comply promptly

with all requests for information with respect to the tenancy from the Landlord and/or City. Further, tenant acknowledges that tenant's failure to provide accurate information regarding such requirements (regardless of whether such inaccuracy is intentional or unintentional) or the refusal to comply with the request for information with respect thereto, shall be deemed a violation of this lease provision, and a material breach of the tenancy and shall constitute cause for immediate termination of the tenancy."

1.16 Compliance with Regulations. Property Owner shall comply with all regulations, policies and procedures promulgated or otherwise adopted by the City. Property Owner's failure to so comply shall constitute a material default hereunder, entitling City to the remedies set forth herein.

1.17 Maximum Rent To Be Collected by Property Owner. In no event, shall all of the rent, including the portion paid by the Eligible Tenant and any other person or entity, collected by Property Owner (the "Total Rent") for any rent restricted unit exceed the amount of rent set forth in this Agreement. Total Rent includes all payments made by the Eligible Tenant and all subsidies received by Property Owner. In the case of persons receiving Section 8 benefits, who are Eligible Tenants, Property Owner acknowledges that it shall not accept any subsidy or payment that would cause the Total Rent received for any restricted unit to exceed the maximum rents allowed by this Agreement, for any Affordable Unit. Should Property Owner receive Total Rent in excess of the allowable maximum rent set forth in this Agreement, Property Owner agrees to immediately notify City and reimburse the City for any such overpayment. Acceptance by Property Owner or its successors in interest, of Total Rent in excess of the maximum rent set forth in this Agreement shall constitute a material breach of the Loan Agreements and this Agreement.

1.18 Enforcement. Property Owner expressly agrees and declares that the City or any successor public entity or agency is a proper party and shall have standing to initiate and pursue any and all actions or proceedings, at law or in equity to enforce the provisions hereof and/or to recover damages for any default hereunder, notwithstanding the fact that such damages or the detriment arising from such default may have actually been suffered by some other person or the public at large. Further, the City or any successor public entity or agency shall be the proper party to waive, relinquish, release or modify the rights, covenants, obligations or restrictions contained in or arising under this Agreement.

1.19 Remedies at Law for Breach of Tenant Restrictions. In the event of any material default under Sections 1.1 through 1.18 hereof regarding restrictions on the operation and the transfer of the Property, the City shall be entitled to, in addition to any and all other remedies available at law or in equity: (i) declare all of the Loans to be all due and repayable; and (ii) recover compensatory damages. If the default in question involves the collection of rents in excess of the rents permitted hereunder, the amount of such compensatory damages shall be the product of multiplying: (a) the number of months that the default in question has continued until the time of trial by (b) the result of subtracting the rents properly chargeable hereunder for the Affordable Units in question from the amount actually charged for those Affordable Units. Property Owner and the City agree that it would be extremely difficult or impracticable to ascertain the precise amount of actual damages accruing to the City as a result of such a default and that the foregoing formula is a fair and reasonable method of approximating such damages. The City shall be entitled to seek and to recover damages in separate actions for successive and separate breaches which may occur. Further, interest shall accrue on the amount of such damages from the date of the breach in question at the rate of ten percent (10%) per annum or the maximum rate than allowed by law, whichever is less. Nothing in this section shall preclude the award of exemplary damages as allowed by law. Notwithstanding the foregoing, the Property Owner's limited partner shall have the right, but not the obligation, to cure defaults hereunder in the same manner as the Property Owner.

1.20 Property Owner Required to Pay Monitoring Fees. Property Owner shall pay City a set-up fee (the "Set-Up Fee") in the amount of six hundred fifty dollars (\$650.00) which shall be paid by Property Owner

to City within thirty (30) days of written demand for the same. In each year during the term of this Agreement, Property Owner shall pay to City an annual monitoring fee, in an amount equal to the set-up fee, increased by three percent (3%) cumulative each year. The annual monitoring fee shall be paid to City annually within thirty (30) days after City provides a written invoice for the same. Failure to timely pay such fees shall constitute a material default under City Loan Agreements and this Agreement.

ARTICLE 2 - Breach

2.1 **Breach by City.** If City breaches any of its covenants contained in this Agreement, Property Owner will have available to it all legal and equitable remedies afforded by the laws of the State of California.

2.2 **Breach by Property Owner.** If, with respect to any Affordable Apartment, Property Owner breaches this Agreement by charging higher rent than that herein permitted, Property Owner will, immediately upon City's demand, (i) reduce the rent to that permitted herein and (ii) refund to any tenants who theretofore paid such higher rent the amount of the excess, together with interest hereon at the rate of 10 percent per annum, computed from the date(s) of payment of the excess by said tenants to the date of said refund. The provisions of this paragraph constitute a third-party beneficiary contract in favor of such tenants. Further, City is hereby granted the power (but not the duty) to act as attorney-in-fact of such tenants in enforcing this paragraph.

2.3 **Breach by Property Owner.** If, with respect to any Affordable Apartment, Property Owner breaches this Agreement by leasing to tenants who are not, pursuant to Paragraph 1.3, eligible tenants, Property Owner will, immediately upon City's written demand, and at Property Owner's sole cost, take all lawful steps to terminate such leasing.

2.4 **Remedies Not Exclusive.** The remedies set forth in Paragraphs 2.2 and 2.3 are not exclusive, but are in addition to all legal or equitable remedies otherwise available to City.

ATTACHMENT A

Supplemental Rental Application

Attachment A
SAMPLE SUPPLEMENTAL RENTAL APPLICATION

**Insert Name Apartments
Supplemental Application**

Insert Name Apartments offers apartments located at Insert Address. The units consist of 1, 2 and 3 bedroom units.

For more information about Insert Name Apartments, the units, floorplans, etc, please stop by the Rental Office at _____, Chula Vista, CA 9191_.

The purpose of this program is to provide affordable rental opportunities for low-income households and to ensure that City of Chula Vista meet the goals set forth in the City's Housing Element and HUD approved Consolidated Plan.

The City of Chula Vista and Insert Ownership Name welcomes your interest in Insert Name Apartments and requests that you read this information in its entirety. It is very important that you understand ALL of the program requirements. Once you agree to rent an affordable unit you are bound by all of the requirements.

AFFORDABLE HOUSING UNITS

In order to qualify to rent an Affordable Housing Unit, applicants must meet ALL of the requirements outlined within this document.

Income restrictions apply. Please refer to the chart below for the **MAXIMUM** gross income based upon household size, which is defined as the total number of people residing within the household. You must be able to provide evidence that the people you list as household occupants will reside in the affordable unit. Gross income is the total amount of income earned by all persons, over the age of 18, within the household before all standard withdrawals (including federal tax, state tax, social security, etc.)

Affordable Unit Restrictions

The restrictions set forth in the Table below shall establish the maximum rental rate, which shall be adjusted for family size appropriate for the Affordable Unit, from which a utility allowance as approved by the City Manager shall be deducted. The family size appropriate for the Affordable Unit for purposes of establishing the maximum rental rate shall be calculated at one person per bedroom plus one.

Attachment A
SAMPLE SUPPLEMENTAL RENTAL APPLICATION

TABLE OF RENT AND INCOME RESTRICTION CRITERIA

UNIT TYPE	MAXIMUM MONTHLY RENTS	MAXIMUM INCOME OF ELIGIBLE TENANTS
1-Bedroom	1/12 th of 30% of 50% of AMI	50% of AMI
1-Bedroom	1/12 th of 30% of 60% of AMI	60% of AMI
2-Bedroom	1/12 th of 30% of 50% of AMI	50% of AMI
2-Bedroom	1/12 th of 30% of 60% of AMI	60% of AMI
3-Bedroom	1/12 th of 30% of 50% of AMI	50% of AMI
3-Bedroom	1/12 th of 30% of 60% of AMI	60% of AMI

“Eligible Tenants” are those tenants: (i) whose aggregate gross annual income does not exceed the respective percentages set forth in the Table of Rent and Income Restriction Criteria set forth in Section 1(a), above, as adjusted for family size; and (ii) who own no interests in real property other than a timeshare which may be used for a maximum of one month per year. For purposes of this Declaration, the current annual area median income shall be the area median income defined by HUD as the then current area median income for the San Diego-Carlsbad-San Marcos Metropolitan Statistical Area, established periodically by HUD and published in the Federal Register, as adjusted for family size. The rents and the occupancy restrictions shall be deemed adjusted, from time to time, in accordance with any adjustments that are authorized by HUD or any successor agency. In the event HUD ceases to publish an established area median income as aforesaid, Lender may, in its sole discretion, use any other reasonably comparable method of computing adjustments in area median income. Notwithstanding anything contained herein to the contrary, to the extent any other restrictions applicable to the Property limit the rent and/or occupancy of the Property, the most restrictive shall apply.

Attachment A
SAMPLE SUPPLEMENTAL RENTAL APPLICATION

ADDITIONAL AFFORDABLE HOUSING PROGRAM REQUIREMENTS

RENT SELECTION CRITERIA

[Insert if Applicable]

The Property Management Company will use the following criteria in order to determine priority for rental of an Affordable Unit. A point system has been established so that applicants with a higher number of points will receive preference for units.

[Insert Point System if Applicable]

Attachment A
SAMPLE SUPPLEMENTAL RENTAL APPLICATION

AFFORDABLE HOUSING RESTRICTIONS

APPLICATION REVIEW PROCESS

- Applicants will be contacted by the rental office staff via U.S. mail acknowledging receipt of complete application and supporting documentation. The property manager and the City will review all applications to determine eligibility.
- Eligible applications will be forwarded to _____ to be reviewed for eligibility. Please be advised that your financial information will be reviewed for two different purposes:
 - To determine that your household annual income does NOT exceed the maximum allowed by the City of Chula Vista for the Affordable Housing. ALL income will be considered for all persons living in the home who are 18 years or older, even if the income is not taxable income.
 - To determine if your income, employment history and credit rating are sufficient to qualify for a rental.

Before you submit your complete application and supporting documentation please ask yourself the following questions. Do you:

- Meet ALL the program requirements?
- Have a good credit rating?
- Have stable income?

If you have answered yes to ALL the above questions.....

Fill out the attached application and submit it plus ALL required documentation and MAIL to:

ATTN: Insert Ownership Name, LP
Insert Name Apartments

Attachment A
SAMPLE SUPPLEMENTAL RENTAL APPLICATION

AFFORDABLE HOUSING UNIT APPLICATION

(1) APPLICANT #1

Name Social Security Number Age

Address City State Zip Code

Employer Name and Address Position/Title

Home Phone Work Phone

Marital Status: Single Divorced Married

Gender: _____

2) APPLICANT #2

Name Social Security Number Age

Address City State Zip Code

Employer Name and Address Position/Title

Home Phone Work Phone

Marital Status: Single Divorced Married

Gender: _____

Attachment A
SAMPLE SUPPLEMENTAL RENTAL APPLICATION

HOUSEHOLD INFORMATION:

List **ALL** household members **Including Applicant(s)** that will reside in the Affordable Housing Unit. Attach proof of this information.

Total # of persons in Household _____ Total yearly Household Income \$ _____

Total Household Assets \$ _____

Name Age Relationship to Applicant

Name Age Relationship to Applicant

Name Age Relationship to Applicant

Name Age Relationship to Applicant

Name Age Relationship to Applicant

Name Age Relationship to Applicant

Attachment A
SAMPLE SUPPLEMENTAL RENTAL APPLICATION

RENTER SELECTION CRITERIA INFORMATION:

Selection of Tenants: Absent a Master List described above, selection of tenants shall be made randomly by lottery within the following levels of priority, subject in all circumstances to applicable limitations imposed by law, including, without limitation, the Fair Housing Act under Federal law:

If you respond YES to any of the questions below, you MUST provide written evidence with your application satisfactory to the City of Chula Vista or you may not receive all eligible points.

1) Did you have to leave your most recent PRIMARY residence due to either: Being displaced from your primary residence as a result of an action of City or Agency, a condominium conversion involving the household's residence, expiration of affordable housing covenants applicable to such residence, or closure of a mobile home or trailer park community in which the household's residence was located, and the household resided in such housing as the household's primary place of residence for at least two years prior to such action or event.

Yes No

How long has this home been your primary residence?

2+ years 1 year Less than 1 year

2) Does your Household meet one of the following criteria: (i) households which are displaced from their primary residence as a result of an action of City or Agency, a condominium conversion involving the household's residence, expiration of affordable housing covenants applicable to such residence, or closure of a mobile home or trailer park community in which the household's residence was located, and the household resided in such housing as the household's primary place of residence for at least one year but less than two years prior to such action or event; (ii) households with at least one member who resides within the City, as that person's primary place of residence; (iii) households with at least one member who works or has been hired to work within the City, as that person's principal place of full-time employment; or (iv) households with at least one member who is expected to live within the City as a result of a bona fide offer of employment within the City.

Yes

No

Attachment A

SAMPLE SUPPLEMENTAL RENTAL APPLICATION

No discrimination herein may be used for the purpose or effect of delaying or otherwise denying admission to the Property or unit based on the race, color, ethnic origin, gender, religion, disability, or age of any member of the applicant.

AFFORDABLE HOUSING APPLICATION CHECKLIST

This checklist contains a list of documents that you are **REQUIRED** to submit, along with the completed Application as part of the application review process. Please review the list carefully and include **COPIES** of all documents that you are submitting. If there are any documents listed that you do not believe you are required to submit please indicate N/A and state the reason why the information is not attached. You must attach this signed checklist as part of your application packet. **APPLICATIONS THAT ARE MISSING DOCUMENTATION WILL NOT BE CONSIDERED.**

- Two months of most current and consecutive bank/investment/retirement statements for ALL accounts (all pages)
- Most recent paycheck stubs covering a 30-day period for each borrower
- Most recent one (1) year W-2s and/or 1099s for each borrower
- Most recent one (1) year Federal Tax Returns for each borrower (all schedules)
- Complete divorce decree(s) with all attachments, if applicable
- Complete bankruptcy papers with all schedules and discharge papers for bankruptcies within the last 7 years, if applicable
- Copy of Resident Alien Card, front and back, if applicable or other appropriate proof of legal U.S. residency

If you are self-employed, also provide the following:

- Most recent three (3) years tax returns and copies of 1040s, W-2s, 1099s and/or K-1s for each borrower
- Limited or General Partnership returns (if ownership interest is 25% or greater)-copies of form 1065
- Sub Chapter S Corporation returns (if ownership interest is 25% or greater)-copies of form 1120 S
- U.S. Corporation returns (if ownership interest is 25% or greater)- copies of form 1120
- YTD Profit and Loss Statement (in some cases this may need to be audited)

Attachment A
SAMPLE SUPPLEMENTAL RENTAL APPLICATION

AFFORDABLE HOUSING UNIT AFFIDAVIT

By signing below each applicant makes the following certifications:

I understand and agree with the answers I have provided, and do furthermore certify the following:

1. That those people who I expect to share occupancy of the Residence with me are listed under the Household Information section of the Application.
2. That my spouse is an Applicant for the Program and must sign this Application.
3. That I will submit true and complete copies of all requested documentation.
4. That the Residence will be occupied and used as my principal place of residence.
5. That my income does not exceed the program income limits.

AFFORDABLE HOUSING UNIT CERTIFICATION

I acknowledge and understand that this Affidavit, as completed above, will be relied on for determining my eligibility for An Affordable Housing Unit. I acknowledge that a material misstatement negligently made by me in this Affidavit or in any other connection with my Application for an Affordable Housing Unit will constitute a violation punishable by a fine and possible criminal penalties imposed by law, and will result in the cancellation or revocation of the Loan. I acknowledge that any false statement or misrepresentation or the fraudulent use of any instrument, facility, article, or other valuable thing or service pursuant to my participation in the Program is punishable by fine.

RENTER

DATE

RENTER

DATE

ATTACHMENT B

Sample Monitoring Form



SEMI-ANNUAL AFFORDABLE HOUSING MONITORING REPORT

Project Name: _____
 Project Address: _____
 Contact Person: _____ Title: _____
 Telephone No.: _____ Fax No.: _____
 As of (Date): June 30, _____ December 31, _____
 Reviewed By: _____ Date: _____

Bdrm Size	Restricted - Affordable		Non-Restricted		TOTAL
	No. of Units	No. of Units	No. of Units	Avg Monthly Rent	
Studio					
1 Bedroom					
2 Bedrooms					
3+Bedrooms					
TOTAL					

Unit No.	Bdrm Size	Monthly Rent \$	Name of Household	No. of Occupants	Total Monthly Household Income \$	Percent Median Income	Seniors - Occupants 62 Yrs+ (Y/N)	Date of Last Income Re-Examination	FOR CITY USE ONLY
									Unit in Compliance (Y/N)
Example 2		\$695	Doe, John	2	\$2,800	%	N/A	1/99	
		\$			\$	%			
		\$			\$	%			
		\$			\$	%			



**CITY OF
CHULA VISTA**

SEMI-ANNUAL AFFORDABLE HOUSING MONITORING REPORT

Project Name: _____
 As of (Date): June 30, _____ December 31, _____

Unit No.	Bdrm Size	Monthly Rent \$	Name of Household	No. of Occupants	Total Monthly Household Income \$	Percent Median Income	Seniors -- Occupants 62 Yrs+ (Y/N)	Date of Last Income Re- Examination	FOR CITY USE ONLY	
									Unit in Compliance (Y/N)	
		\$			\$	%				
		\$			\$	%				
		\$			\$	%				
		\$			\$	%				
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		\$			\$	%				

Deadline for Submittal: January 15th and July 15th of each year.
 DOC\SOC\989729v1\24036.0030



SEMI-ANNUAL AFFORDABLE HOUSING MONITORING REPORT

Owner's Certification

I am the owner or owner's representative for an affordable housing development in the City of Chula Vista, which is bound by a Housing Agreement with the City.

I certify under penalty or perjury that the attached rent roll for affordable units at my project is true and correct to the best of my knowledge and complies with the terms and conditions stipulated in the Affordable Housing Agreement, or any agreement that implements the same, with the City of Chula Vista.

Name _____

Title _____

Signature _____ Date _____

Project Name _____

TENANT INCOME CERTIFICATION

Initial Certification Recertification Other _____

Effective Date: _____

Move-In Date: _____

(MM-DD-YYYY)

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ TCAC#: _____ BIN#: _____
 Address: _____ If applicable, CDLAC#: _____
 Unit Number: _____ # Bedrooms: _____ Square Footage: _____

PART II. HOUSEHOLD COMPOSITION

Vacant (Check if unit was vacant on December 31 of the Effective Date Year)

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Last 4 digits of Social Security #
1				HEAD			
2							
3							
4							
5							
6							
7							

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$ _____	\$ _____	\$ _____	\$ _____
Add totals from (A) through (D), above			TOTAL INCOME (E):	\$ _____

PART IV. INCOME FROM ASSETS

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$ _____	\$ _____
Enter Column (H) Total		Passbook Rate	= (J) Imputed Income	
If over \$5000 \$ _____		X 0.06%		
Enter the greater of the total of column I, or J: imputed income			TOTAL INCOME FROM ASSETS (K)	\$ _____
(L) Total Annual Household Income from all Sources [Add (E) + (K)]				\$ _____

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY

RECERTIFICATION ONLY:

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1

\$

Unit Meets Federal Income Restriction at:
 60% 50%

Current Federal LIHTC Income Limit x 140%:
 \$ _____

Current Federal LIHTC Income Limit per Family Size: \$ _____

Unit Meets Deeper Targeting Income Restriction at:
 Other _____%

Household Income exceeds 140% at recertification:
 Yes No

If Applicable, Current Federal Bond Income Limit per Family Size: \$ _____

Household Income as of Move-in: \$ _____

Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Monthly Rent: \$ _____
 Monthly Utility Allowance: \$ _____
 Other Monthly Non-optional charges: \$ _____

Federal Rent Assistance: \$ _____ *Source: _____
 Non-Federal Rent Assistance: \$ _____ (*0-8)
Total Monthly Rent Assistance: \$ _____

GROSS MONTHLY RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges)

\$

- *Source of Federal Assistance
- 1 **HUD Multi-Family Project Based Rental Assistance (PBRA)
 - 2 Section 8 Moderate Rehabilitation
 - 3 Public Housing Operating Subsidy
 - 4 HOME Rental Assistance
 - 5 HUD Housing Choice Voucher (HCV), tenant-based
 - 6 HUD Project-Based Voucher (PBV)
 - 7 USDA Section 521 Rental Assistance Program
 - 8 Other Federal Rental Assistance
 - 0 Missing

Maximum Federal LIHTC Rent Limit for this unit: \$ _____

If Applicable, Maximum Federal & State LIHTC Bond Rent Limit for this unit: \$ _____

Unit Meets Federal Rent Restriction at: 60% 50%

If Applicable, Unit Meets Bond Rent Restriction at: 60% 50%

Unit Meets Deeper Targeting Rent Restriction at: Other: _____%

** (PBRA) Includes: Section 8 New Construction/Substantial Rehabilitation; Section 8 Loan Management; Section 8 Property Disposition; Section 202 Project Rental Assistance Contracts (PRAC)

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

yes no

If yes, Enter student explanation* (also attach documentation)

Enter 1-5

*Student Explanation:

- 1 AFDC / TANF Assistance
- 2 Job Training Program
- 3 Single Parent/Dependent Child
- 4 Married/Joint Return
- 5 Former Foster Care

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit
 See Part V above.

b. HOME
Income Status
 ≤ 50% AMGI
 ≤ 60% AMGI
 ≤ 80% AMGI
 OI**

c. Tax Exempt Bond
Income Status
 50% AMGI
 60% AMGI
 80% AMGI
 OI**

d. AHDP
Income Status
 50% AMGI
 80% AMGI
 OI**

e. _____
 (Name of Program)
Income Status

 OI**

**Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

 SIGNATURE OF OWNER/REPRESENTATIVE

 DATE

PART IX. SUPPLEMENTAL INFORMATION FORM

The California Tax Credit Allocation Committee (CTCAC) requests the following information in order to comply with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties. Although the CTCAC would appreciate receiving this information, you may choose not to furnish it. You will not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please check the box at the bottom of the page and initial.

Enter both Ethnicity and Race codes for each household member (see below for codes).

TENANT DEMOGRAPHIC PROFILE						
HH Mbr #	Last Name	First Name	Middle Initial	Race	Ethnicity	Disabled
1						
2						
3						
4						
5						
6						
7						

The Following Race Codes should be used:

- 1 – White – A person having origins in any of the original people of Europe, the Middle East or North Africa.
- 2 – Black/African American – A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” apply to this category.
- 3 – American Indian/Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- 4 – Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent:
 - 4a – Asian India 4e – Korean
 - 4b – Chinese 4f – Vietnamese
 - 4c – Filipino 4g – Other Asian
 - 4d – Japanese
- 5 – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands:
 - 5a – Native Hawaiian 5c – Samoan
 - 5b – Guamanian or Chamorro 5d – Other Pacific Islander
- 6 – Other
- 7 – Did not respond. **(Please initial below)**

Note: Multiple racial categories may be indicated as such: 31 – American Indian/Alaska Native & White, 14b – White & Asian (Chinese), etc.

The Following Ethnicity Codes should be used:

- 1 – Hispanic – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as “Latino” or “Spanish Origin” apply to this category.
- 2 – Not Hispanic – A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- 3 – Did not respond. **(Please initial below)**

Disability Status:

- 1 – Yes
 - If any member of the household is disabled according to Fair Housing Act definition for handicap (disability):
 - A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment or being regarded as having such an impairment. For a definition of “physical or mental impairment” and other terms used, please see 24 CFR 100.201, available at <http://fairhousing.com/legal-research/hud-regulations/24-cfr-100201-definitions>.
 - “Handicap” does not include current, illegal use of or addiction to a controlled substance.
 - An individual shall not be considered to have a handicap solely because that individual is transgender.
- 2 – No
- 3 – Did not respond **(Please initial below)**

Resident/Applicant: I do not wish to furnish information regarding ethnicity, race and other household composition.

(Initials) _____
 (HH#) 1. 2. 3. 4. 5. 6. 7.

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Enter the type of tenant certification: Initial Certification (move-in), Recertification (annual recertification), or Other. If other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual income recertification's, this effective date should be no later than one year from the effective date of the previous (re)certification.
Move-In Date	Enter the most recent date the household tax credit qualified. This could be the move-in date or in an acquisition rehab property, this is not the date the tenant moved into the unit, it is the most recent date the management company income qualified the unit for tax credit purposes.
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
TCAC#	Enter the project number assigned to the property by TCAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: CA-2010-123
BIN #	Enter the building number assigned to the building (from IRS Form 8609).
Address	Enter the physical address of the building, including street number and name, city, state, and zip code.
If applicable, CDLAC#	If project is awarded 4% bonds please enter the project number assigned to the property by CDLAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: 16-436
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
Square Footage	Enter the square footage for the entire unit.
Vacant Unit	Check if unit was vacant on December 31 of requesting year. For example, for the collection of 2011 data, this would refer to December 31, 2011.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following definitions:

H	Head of Household	S	Spouse	U	Unborn Child/Anticipated
A	Adult Co-Tenant	O	Other Family Member		Adoption or Foster
C	Child	F	Foster child(ren)/adult(s)		
L	Live-in Caretaker	N	None of the above		

Date of Birth	Enter each household member's date of birth.
Student Status	Enter "Yes" if the household member is a full-time student or "NO" if the household member is not a full-time student.
Last Four Digits of Social Security Number	For each tenant 15 years of age or older, enter the last four digits of the social security number or the last four digits of the alien registration number. If the last four digits of SSN or alien registration is missing, enter 0000. For tenants under age 15, social security number not required, although please enter 0000.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

- Column (A) Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
- Column (B) Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
- Column (C) Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
- Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
- Row (E) Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. If individual household member income is provided, list the respective household member number from Part II and complete a separate line for each member.

- Column (F) List the type of asset (i.e., checking account, savings account, etc.)
- Column (G) Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
- Column (H) Enter the cash value of the respective asset.
- Column (I) Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
- TOTALS Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 0.06% and enter the amount in (J), Imputed Income.

- Row (K) Enter the greater of the total in Column (I) or (J)
- Row (L) Total Annual Household Income From all Sources Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

- Total Annual Household Income from all Sources Enter the number from item (L).
- Current LIHTC Income Limit per Family Size Enter the Current Move-in Income Limit for the household size – specifically, the max income limit for the federal 50% or 60% set aside.
- Current Bond Income Limit per Family Size Enter the Current most restrictive Move-in Income Limit for the household size – specifically, the max income limit incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.

Household Income at Move-in	For recertifications only. Enter the household income from the move-in certification.
Household Size at Move-in	Enter the number of household members from the move-in certification.
Current Federal LIHTC Income Limit x 140%	For recertifications only. Multiply the current LIHTC Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the LIHTC Income Limit per Family Size at Move-in date (above), then the available unit rule must be followed.
Unit Meets Federal Income Restriction at	Check the appropriate box for the income restriction that the household meets according to what is required by the federal set-aside(s) for the project.
Unit Meets Deeper Targeting Income Restriction	If your agency requires an income restriction lower than the federal limit, enter the percent required.

Part VI - Rent

Tenant Paid Monthly Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Federal Rent Assistance	Enter the amount of rent assistance received from a federal program, if any.
Non-Federal Rent Assistance	Enter the amount of non-federal rent assistance received, if any.
Total Monthly Rent Assistance	Enter the amount of total rent assistance received, if any.
Source of Federal Rent Assistance	If federal rent assistance is received, indicate the single program source.
Monthly Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other Monthly Non-Optional Charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Monthly Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges. The total may NOT include amounts other than Tenant Paid Rent, Utility Allowances and other non-optional charges: In accordance with the definition of Gross Rent in IRC §42(g)(2)(B), it may not include any rent assistance amount.
Maximum LIHTC Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent limit for the federal 50% or 60% set aside.
Maximum LIHTC Bond Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.
Unit Meets Federal Rent Restriction at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal set-aside(s) for the project.
Unit Meets Bond Rent Restriction at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal and state law for the project.
Unit Meets Deeper Targeting Rent Restriction at	If your agency requires a rent restriction lower than the federal limit, enter the percent required.

Part VII - Student Status

If all household members are full time* students, check “yes”. Full-time status is determined by the school the student attends. If at least one household member is not a full-time student, check “no.”

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Part VIII – Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

- | | |
|-----------------|--|
| Tax Credit | See Part V above. |
| HOME | If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation. |
| Tax Exempt Bond | If the property participates in the Tax Exempt Bond program; mark the appropriate box indicating the household's designation. |
| AHDP | If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, select the appropriate box to indicate if the household is a VLL, LI or OI (at recertification) household. |
| Other | If the property participates in any other affordable housing program, complete the information as appropriate. |

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

PART IX. SUPPLEMENTAL INFORMATION

Complete this portion of the form at move-in and at recertification's (only if household composition has changed from the previous year's certification).

- | | |
|-----------------------------|--|
| Tenant Demographic Profile | Complete for each member of the household, including minors. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status. |
| Resident/Applicant Initials | All tenants who wish not to furnish supplemental information should initial this section. Parent/Guardian may complete and initial for minor child(ren). |

ATTACHMENT C

Authorization for Release of Information



AUTHORIZATION FOR RELEASE OF INFORMATION

Each household member 18 years or older must read and sign this Authorization Form for Release of Information.

I, _____ (legal name), do hereby authorize any agencies, offices, groups organizations or business firms to release to _____, _____ Property Management Company (PM), and City of Chula Vista (City) any information or materials which are deemed necessary to complete and verify my application for participation and/or to maintain my continued assistance under the Affordable Housing Program (AHP). The information needed may include verification or inquiries regarding my identity, household members, employment and income, assets, allowances or preferences I have claimed, and residency. These organizations are to include, but are not limited to: financial institutions; Employment Security Commission; educational institutions; past or present employers; Social Security Administration; welfare and food stamps agencies; Veteran's Administration, court clerks; utility companies; Workmen's Compensation Payers; public and private retirement systems; law enforcement agencies; medical facilities and credit providers.

I understand that City, _____, and PM may utilize third parties to verify information and other computer matching programs in order to verify the information supplied on my application. It is understood and agreed that this authorization or the information obtained with its use may be given to and used by City, _____, and PM in the administration and enforcement of program rules and regulations and that City, _____, and PM may in the course of its duties obtain such information from other Federal State or local agencies, including State Employment Security Agencies; Department of Defense; Office of Personnel Management; the Social Security Administration; and State welfare and food stamp agencies. If there is a discrepancy between the information provided by the above sources and the information that I have provided, I understand that City, _____, and PM may take action to terminate my participation in the AHP.

It is with my understanding and consent that a photocopy of this authorization may be used for the purposes stated above. This authorization is valid for two years.

Name

Address Chula Vista City CA State 919 Zip

_____/_____/_____
Date of Birth

_____-_____-_____
Social Security No.

(_____)_____-_____
Telephone Number

Signature

_____/_____/_____
Date Signed

EXHIBIT F
Equity Sharing Agreement

FREE RECORDING REQUESTED PURSUANT
TO GOVERNMENT CODE SECTION 27383

WHEN RECORDED PLEASE MAIL TO:

City of Chula Vista
Housing Division
276 Fourth Avenue
Chula Vista, CA 91910

(SPACE ABOVE FOR RECORDER'S USE ONLY)

APN: _____

FTHB # _____

HOMEOWNER'S EQUITY SHARING AGREEMENT

THIS EQUITY SHARING AGREEMENT ("EQUITY SHARING AGREEMENT" OR "AGREEMENT") IS ENTERED INTO AS OF THIS _____ DAY OF _____, 20____ BETWEEN THE CITY OF CHULA VISTA, A MUNICIPAL CORPORATION ("CITY"), AND ELIGIBLE HOMEBUYER, ON BEHALF OF ITSELF AND _____ ("HOMEOWNERS").

RECITALS

WHEREAS, Hamilton Plaza, LTD (referred to as "Property Owner"), the developer of that certain property known as Kingswood Condominium Manor located at 54-94 Kingswood Drive, Chula Vista, received a Density Bonus pursuant to Government Code section 65915 and other incentives; and

WHEREAS, as part of the Density Bonus, Property Owner is required to sell seventeen (17) Affordable Units, as set forth in that certain Amended and Restated Housing Agreement (For Sale with Option to Rent Until Sold) ("Housing Agreement"), to Qualified Homebuyers; and

WHEREAS, pursuant to the Amended and Restated Agreement, the initial sale of an Affordable Unit must to be a Qualified Homebuyer (also referred to herein as "Homeowner"), meaning they fall within specified income requirements; however, a subsequent sale is not required to be to a Qualified Homebuyer, but the value of the Equity in the Affordable Unit must be shared with the City, as defined and provided for herein and consistent with Government Code section 65915; and

WHEREAS, Property Owner, as part of the Housing Agreement, is required to ensure that the Homebuyer executes this Equity Sharing Agreement, as part of the sale of the Affordable unit and no sale of the Affordable Unit shall be final until this Equity Agreement is executed; and

WHEREAS, the terms in this Equity Sharing Agreement are intended to run with the land and be binding on Homeowner for the full term of this Agreement.

NOW, THEREFORE, THE CITY AND HOMEOWNER, FOR VALUABLE CONSIDERATION, MUTUALLY AGREE AS FOLLOWS:

A. EQUITY SHARING.

If all or any part of the Property or any interest in it is sold, rented, refinanced, conveyed or transferred (or if a beneficial interest in Borrowers are sold, rented, refinanced, conveyed or transferred and Borrowers are not a natural person), the "Equity", as hereafter defined, in the Property shall be shared between the Borrowers and the Beneficiary on the following basis:

"Equity" is defined as the dollar amount that constitutes the difference between the sales price of the Property and the sum of the following amounts:

- (a) principal on the original First Note and the Deed of Trust; and
- (b) principal on the Second Note and Deed of Trust to the City of Chula Vista, along with any interest and fees due thereof; and
- (c) all costs of the sale, including costs of brokers' commissions, escrow fees, title costs and fees, recording costs, etc.; and
- (d) borrower's net down payment not including the loan from the City to Borrowers (excluding normal fees associated with a loan transaction); and
- (e) costs of any improvements reflecting the depreciated value of any structural or permanent and fixed improvements which the Owner has made to the Property after purchase of the Property. No such adjustment shall be made except for improvements made or installed by the Owner which were approved by the City prior to construction, conformed with applicable building codes at the time of installation, whose initial costs are verified by invoices, receipts, or similar forms of documentation which are determined to be satisfactory by the City, and where an appraisal shows value added to the Property by the improvements.

The remaining balance ("Equity") shall be split between the City and Borrowers using the following formula:

$$\frac{\text{City investment (Principal amount of the Silent Second Note)}}{\text{Fair Market Value of the Property at time of initial purchase}} = \text{City \% of Equity to be recaptured}$$

B. SALE

Homeowner agrees no sale, renting, refinance, conveyance, or transfer of the Affordable Unit subject to this Agreement is final and no change of title shall occur until the City is fully paid the Equity required under this Equity Sharing Agreement.

C. DEFAULTS AND REMEDIES.

In the event of any breach or violation of any agreement or obligation under this Agreement, the City may proceed with any or all remedies it may have.

D. NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.

No officer, official, director, employee, agent or representative of the City shall be personally liable to Property Owner or Eligible Homebuyer for any obligation created under the terms of this Equity Agreement except in the case of actual fraud or willful misconduct by such person.

E. INDEMNITY.

Homeowner shall indemnify and hold the City and its officers, officials, directors, employees, agents and authorized representatives (each, an "Indemnified Party," and collectively, "Indemnified Parties"), free and harmless against any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorney's fees) which any Indemnified Party may incur as a direct or indirect consequence of (1) Homeowner's failure to perform any obligations as and when required by this Agreement; (2) any failure of any of Homeowner's representations or warranties to be true and complete; or (3) any act or omission by Homeowner, or any contractor, subcontractor, management agent, or supplier with respect the Property, except where such losses are caused by the sole negligence or willful misconduct of Indemnified Parties. Homeowner shall pay immediately upon the City's demand any amounts owing under this indemnity. The duty of the Homeowner to indemnify includes the duty to defend Indemnified Parties in any court action, administrative action, or other proceeding brought by any third party arising from the Property. Homeowner's duty to indemnify Indemnified Parties shall survive the term of this Agreement.

F. SUBORDINATION.

This Agreement shall be subordinated in priority only to the liens and encumbrances approved by the City in writing, in its sole and absolute discretion.

G. GENERAL PROVISIONS

1. **Governing Law:** This Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.
2. **Time:** Time is of the essence in this Agreement.
3. **Consents and Approvals:** For those provisions of this Equity Agreement which are expressly subject to consent or approval of the City. Any approval must be in writing and executed by an authorized representative of the City.
4. **Notices, Demands and Communications:** Formal notices, demands and communications between Owners and the City shall be sufficiently given and shall not be deemed given unless

dispatched by mailing it first class mail or by certified mail, return receipt requested, to the principal offices of Owners and City as follows:

City:	Owners:
City of Chula Vista	_____
Housing Division	_____
276 Fourth Avenue	_____
Chula Vista, CA 91910	_____

Any such written communications by mail shall be conclusively deemed to have been received by the addressee five days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above.

5. No suit or arbitration shall be brought arising out of this Agreement against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may be amended, the provisions of which, including such policies and procedures used by City in the implementation of same, are incorporated herein by this reference. Upon request by City, Property Owner shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement. Compliance with this section does not otherwise relieve or satisfy any other claims requirements under state or federal law.
6. Severability: Every provision of this Equity Agreement is intended to be severable. If any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

(Signature Page to follow.)

IN WITNESS HEREOF, The City and the Owners have executed this Agreement as of the date first hereinafter set forth.

CITY OF CHULA VISTA,
a municipal corporation

Name, Title

OWNERS:

Signature: _____

Print Name: _____

ACKNOWLEDGMENT:

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 SAN DIEGO)

On _____ before me, _____, a Notary Public, personally appeared Leilani Hines who proved to me on the basis of satisfactory evidence to be the person whose name subscribed to the within instrument, and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, 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 of Notary

(SEAL)

ACKNOWLEDGMENT:

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 SAN DIEGO)**

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) 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 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 of Notary

(SEAL)

EXHIBIT "A"
Legal Description

APN: _____

EXHIBIT G
Equity Sharing Documents
(Promissory Note, Deed of Trust, & Regulatory Agreement)

**EQUITY SHARING SECURITY DOCUMENT
PROMISSORY NOTE**

APN:

NOTICE: THIS NOTE MAY REQUIRE PAYMENT OF PRINCIPAL AND INTEREST UPON THE SALE OR TRANSFER OF THE PROPERTY OR UPON A PREPAYMENT. FURTHER, THIS NOTE IS A SHARED APPRECIATION NOTE AS DEFINED IN SECTION 1917, ET SEQ. OF THE CALIFORNIA CIVIL CODE.

PROMISSORY NOTE SECURED BY DEED OF TRUST

\$ _____
Amount

Date

[Property Address]

1. **Borrowers' Promise to Pay.** For value received, the undersigned, **NAME** ("Borrower"), promises to pay to the City of Chula Vista ("City"), or order, the sum of **AMOUNT and 00/cents (\$XXXXXX)** with interest accruing thereon as hereinafter provided ("Initial Subsidy" pursuant to Government Code section 65915(c)(2)(B)), and the Equity portion payable as set forth below ("Equity" pursuant to Government Code section 65915(c)(2)) . It is understood that the City may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note will be called the "Note Holder".

The Initial Subsidy is calculated pursuant to Government Code section 65915(c)(2)(B) that provides, in relevant part:

"[T]he local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sales price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value at the time of resale shall be used as the initial market value."

2. **No Interest.** This Note will bear no interest unless the Borrowers defaults under the terms of this Note, the Deed of Trust securing it, and attendant Regulatory Agreement affecting the Property. In the event of default, interest from the Date of this Note shall be calculated at:
 - a) The rate equal to the interest rate of the senior trust deed or, in the event of no senior trust deed,
 - b) The prevailing rate of the Prime Rate as published in the Wall Street Journal, on the date of default.
3. **Payments and Term.** No periodic payments are required hereunder. Borrowers agrees to pay the unpaid principal balance, unpaid accrued interest, and any other amounts due under this Note upon the earlier of:

Initials _____

1. Upon refinancing of any debt that is secured by a lien on the Property, except for refinancing due to reduce interest rate due to favorable market conditions; or
2. Upon sale, rental, transfer, or encumbrance of any interest in the Property without City prior written consent, except for a transfer permitted as defined below; or
3. Upon the maturity date, or full repayment, of any debt that is secured by a lien on the Property that is senior to the Deed of Trust; or
4. Upon Borrowers' failure to occupy the Property as Borrowers' principal place of residence.

A transfer constitutes sold, or otherwise conveyed, by operation of law or otherwise. No delay or omission on the part of the City shall operate as a waiver of such right of repayment or of any other right of this Note. The principal amount of this Note, together with interest (if any) accruing thereon from the date hereof, and any shared equity (if any), as set forth in Section 5, shall be due and payable on or before the date provided by the City in the Notice of Acceleration, which shall not be less than thirty (30) days, if all or any part of the Property or any interest in it is sold, rented, refinanced, conveyed, or transferred (or if a beneficial interest in Borrowers is sold, rented, refinanced, conveyed, or transferred and Borrowers are not a natural person) (herein called "Transfer) without the prior written consent of the City. The City shall not exercise this right of acceleration if prohibited by federal law as of the date of the Deed of Trust or in the City has executed a separate written waiver of this option. The following shall not constitute a Transfer:

- (a) A transfer of the Property from a deceased Borrower to the surviving spouse of the Borrowers if the surviving spouse is also named as a Borrower;
- (b) A transfer of the Property by a Borrower to his/her spouse pursuant to which the spouse becomes a co-owner of the Property;
- (c) A transfer of the Property resulting from a decree of dissolution of the marriage or legal separation or from a property settlement agreement incidental to such a decree which requires the Borrowers to continue to make payments on the Note and by which a spouse who is already a Borrower becomes the sole owner of the Property;
- (d) A transfer of the Property from Borrowers to an inter-vivos trust in which the Borrowers are the sole beneficiaries; and
- (e) A transfer by means of encumbering the Property with a lien that is a junior lien to the lien securing the loan to Borrowers evidenced by the Deed of Trust.

All payments made under this Note shall be paid in lawful money of the United States to the City of Chula Vista at 276 Fourth Avenue, Chula Vista, CA 91910, Attention: Development Services Department, Housing Division.

4. **Prepayment.** Borrowers have the right to prepay the principal without incurring any penalty, apart from any interest that may be due under default provisions above. In the event that Borrowers chooses to prepay the Note, Borrowers must notify Note Holder in writing. Upon, such prepayment, the City's share of the Equity shall become immediately due and payable to the Note Holder. If the property is for sale or in escrow at the time of notification, the Note will be part of the escrow and Borrowers will incur appropriate equity share as an obligation. Upon full repayment under this Section 4, all related Loan Documents shall be released.

5. **Equity.**

"Equity" is defined as the dollar amount that constitutes the difference between the sales price of the Property and the sum of the following amounts:

- (a) principal on the original First Note and the Deed of Trust; and
- (b) principal on this Second Note and Deed of Trust to the City of Chula Vista, along with any interest and fees due thereof; and
- (c) all costs of the sale, including costs of brokers' commissions, escrow fees, title costs and fees, recording costs, etc.; and
- (d) borrower's net down payment not including the loan from the City to Borrowers (excluding normal fees associated with a loan transaction); and
- (e) costs of any improvements reflecting the depreciated value of any structural or permanent and fixed improvements which the Owner has made to the Property after purchase of the Property. No such adjustment shall be made except for improvements made or installed by the Owner which were approved by the City prior to construction, conformed with applicable building codes at the time of installation, whose initial costs are verified by invoices, receipts, or similar forms of documentation which are determined to be satisfactory by the City, and where an appraisal shows value added to the Property by the improvements.

The remaining balance ("Equity") shall be split between the City and Borrowers using the following formula:

$$\frac{\text{City investment (Principal amount of the Silent Second Note)}}{\text{Fair Market Value of the Property at time of initial purchase}} = \text{City \% of Equity to be recaptured}$$

6. **Default Under Deed of Trust.** Notwithstanding any other provisions of the Note, if default occurs in any of the covenants or agreements contained in the Deed of Trust securing this Note, this Note shall immediately become due and payable in full at the option of the City. In the event the City exercises such option, the amounts due and payable shall be the principal balance remaining on the Note and other amounts owing, together with accrued but unpaid interest as described above.

7. **Acceleration of Payment.** The principal amount of this loan, together with any then outstanding accrued interest thereon shall become immediately due and payable, at the option of the holder and without demand or notice, upon the occurrence of any of the following events:

- a. In the event of a default under the terms of this Note, Deed of Trust, or Regulatory Agreement;
- b. In the event Borrowers shall cease to occupy the Property as Borrower's principal place of residence; or
- c. In the event of any sale, renting, transfer, lease, conveyance, or encumbrance of the Property without City's prior written consent in violation of Paragraph 3 of this Note.

8. **Attorneys' Fees.** Should suit be commenced to collect on this Note, or any portion thereof, such sum as the court may deem reasonable shall be added hereto as attorneys' fees.
9. **Time.** Time is of the essence herein.
10. **Amendments.** This Note may not be modified or amended except by an instrument in writing expressing such intention and signed by an authorized representative of the City and Borrowers.
11. **Severability.** If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity and binding effect of the remainder of this Note upon the parties.
12. **Borrower's Waivers.** Borrowers waive any rights to require the City to perform certain acts. Those acts 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 non-payment (known as "protest").
13. **Giving of Notices.** Any notice that must be given to Borrowers under this Note will be given by delivering it or by mailing it first class mail or by certified mail, return receipt requested, addressed to Borrowers at the address set forth above. A notice that must be given to the City under this Note will be given by mailing it certified mail, return receipt request, to the City at the address stated in Section 3 above. Any party may change its address by a notice given to the other party in the manner set forth in this Section.
14. **Joint and Several Responsibility.** If more than one person executes this Note, each is fully and personally obligated to pay the full amount owed and to keep all promises in this Note.

NOTICE TO BORROWERS

Do not sign this Note if it contains blank spaces.
All spaces should be completed before you sign.

Borrower: _____

Date: _____

**FREE RECORDING REQUESTED PURSUANT
TO GOVERNMENT CODE SECTION 27383**

WHEN RECORDED PLEASE MAIL TO:

City of Chula Vista
Housing Division
276 Fourth Avenue
Chula Vista, CA 91910

(SPACE ABOVE FOR RECORDER'S USE ONLY)

APN:

**NOTICE: THIS DEED OF TRUST SECURES A SHARED APPRECIATION LOAN WITHIN THE
MEANING OF CIVIL CODE SECTION 1917, ET SEQ.**

**EQUITY SHARING SECURITY DOCUMENT
DEED OF TRUST
(SHARED APPRECIATION)**

THIS DEED OF TRUST, is made this ____ day of **MONTH, YEAR**, among the Trustor, **NAME, CAPACITY** (herein "Borrowers"), and the City of Chula Vista (herein "Beneficiary") a public body, corporate and politic, whose address is 276 Fourth Avenue, Chula Vista, CA 91910.

BORROWERS, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to **TITLE COMPANY** (herein "Trustee"), in trust, with power of sale, the following described property located in the City of Chula Vista, County of San Diego, State of California [which has the address of **ADDRESS** (herein "Property Address")]:

SEE EXHIBIT "A" ATTACHED HERETO FOR LEGAL DESCRIPTION

Said Deed of Trust is second and subsequent in lien to a First Deed of Trust recording concurrently herewith in favor of the first lien holder, **MORTGAGE COMPANY NAME** Lender is a Corporation organized and existing under the laws of the State of California, first lien in the amount of **AMOUNT** and 00/cents (\$**XXX.XX**);

TOGETHER with all the improvements now and hereafter erected on the Property, and all easements, rights, appurtenances and rents (subject however to the rights and authorities given herein to the Beneficiary to collect and apply such rents), all of which shall be deemed to be and remain part of the property covered by this Deed of Trust; and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are hereinafter referred to as the "Property";

Initials _____

TO SECURE to the Beneficiary the repayment of the indebtedness evidenced by Borrowers' promissory note, dated **DATE** and extensions and renewals thereof (herein "Note"), in the principal sum of **AMOUNT and 00/cents (\$XXX.XX)**, with default interest thereon, and the Equity, as defined in the promissory note, payable to Beneficiary as provided hereinafter, if not sooner paid, which shall become immediately due and payable if all or any part of the Property or any interest in it is sold, rented, refinanced, conveyed or transferred (or if a beneficial interest in Borrowers are sold, rented, refinanced, conveyed or transferred and Borrowers are not a natural person), (each of which is called a "Transfer") without the prior written consent of Beneficiary; the payment of all other sums, with default interest thereon, if any, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained.

Borrowers' covenants that Borrowers are lawfully seized of the estate hereby conveyed and have the right to grant and convey the Property, and that the Borrowers' subject property is unencumbered except for encumbrances of record. Borrowers covenants that Borrowers warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

UNIFORM COVENANTS

Borrowers and Beneficiary covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrowers shall promptly pay when due the principal, interest, and shared equity indebtedness evidenced by the Note.

If payment of the indebtedness is required due to a Sale of the Property where the purchase price is equal to or less than the Acquisition Cost of the Property, assuming an open and competitive sale, then repayment shall be made in the following order and amount:

- (a) Outstanding principal balance of the primary lender's loan;
 - (b) The principal and interest amount of the Beneficiary's initial subsidy (within the meaning of Government Code section 65915(c)(2)(A));
 - (c) Shared Equity (within the meaning of Government Code section 65915(c)(2)); and
 - (d) Any remainder to borrowers.
2. **Funds for Taxes and Insurance.** To protect the security of the Deed of Trust, Trustor agrees to pay, at least ten (10) days before delinquency, all taxes and assessments affecting said property; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; and all costs, fees and expenses of this Deed of Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary, without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his/her reasonable fees.

3. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrowers shall perform all of Borrowers' obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrowers' covenants to make payments when due. Borrowers shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Deed of Trust, and leasehold payments or ground rents, if any.
4. **Hazard Insurance.** Borrowers shall keep the improvement(s) now existing or hereinafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Beneficiary may require and in such amounts and for such periods as Beneficiary may require.

The insurance carrier providing the insurance shall be chosen by Borrowers subject to approval by Beneficiary; provided that such approval will not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Beneficiary and shall include a standard mortgage clause in favor of and in a form acceptable to Beneficiary. Beneficiary has the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

In the event of loss, Borrowers shall give prompt notice to the insurance carrier and Beneficiary. Beneficiary may make proof of loss if not made promptly by Borrowers.

If Property is abandoned by Borrowers, or if Borrowers fails to respond to Beneficiary within 30 days from the date notice is mailed by Beneficiary to Borrowers that the insurance carrier offers to settle a claim for insurance benefits, Beneficiary is authorized to collect and apply the insurance proceeds at Beneficiary's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

5. **Preservation and Maintenance of Property, Condominium, Cooperatives, Planned Unit Developments.** Borrowers will keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall maintain property including the principle house, garage, and out buildings as well as lawn maintenance, and shall comply with the provisions of any lease if this Deed of Trust is on a leasehold. If this Deed of Trust is on a unit in a condominium or a planned unit development, Borrowers shall perform all of Borrowers' obligations under the declaration or covenants, conditions and restrictions, creating or governing the condominium, planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.
6. **Protection of Beneficiary Security.** If Borrowers fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Beneficiary's interest in the Property, then Beneficiary, at Beneficiary's option, upon notice to Borrowers, may make such appearances, disburse such sums including reasonable attorneys' fees, and take such action as is necessary to protect Beneficiary's interest. If Beneficiary required mortgage insurance as a condition of making the loan secured by this Deed of Trust, Borrowers shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Beneficiary's written agreement or applicable law.

Any amounts disbursed by Beneficiary pursuant to this Paragraph, with interest thereon, at the original Note rate, will become additional indebtedness of Borrowers secured by this Deed of Trust. Unless Borrowers and Beneficiary agree to other terms of payment, such amounts will be payable

upon notice from Beneficiary to Borrowers requesting payment thereof. Nothing contained in this Paragraph will require Beneficiary to incur any expense or take any action hereunder.

7. **Inspection.** Beneficiary may make or cause to be made reasonable entries upon and inspections of the Property, provided that Beneficiary will give the Borrowers notice prior to any such inspection specifying reasonable cause therefore related to Beneficiary's interest in the Property.
8. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.
9. **Borrowers Not Released; Forbearance by Beneficiary Not a Waiver.** Extension of the time for payment or modification of payment of the sums secured by this Deed of Trust granted by Beneficiary to any successor in interest of Borrowers shall not operate to release, in any manner, the liability of the original Borrowers and Borrowers' successors in interest. Beneficiary shall not be required to commence proceedings against such successor or to extend time for payment or otherwise modify payment of the sums secured by this Deed of Trust by reason of any demand made by the original Borrowers and Borrowers' successors in interest. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.
10. **Successors and Assigns Bound, Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Beneficiary and Borrowers, subject to the provisions of Paragraph 16 hereof. All covenants and agreements of Borrowers shall be joint and several. Any Borrowers who co-signs this Deed of Trust, but does not execute the Note:
 - (a) Is co-signing this Deed of Trust only to grant and convey that Borrowers' interest in the Property to Trustee under the terms of this Deed of Trust,
 - (b) Is not personally liable on the Note or under this Deed of Trust, and
 - (c) Agrees that the Beneficiary and any other Borrowers hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Deed of Trust or the Note, without that Borrowers' consent and without releasing that Borrowers or modifying this Deed of Trust as to that Borrowers' interest in the Property.
11. **Notice.** Except for any notice required under applicable law to be given in another manner, any notice to Borrowers provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by certified mail, addressed to Borrowers at the Property address or such other address as Borrowers may designate by notice to Beneficiary as provided herein, and
 - (a) Any notice to Beneficiary will be given by certified mail, return receipt requested, to Beneficiary address stated herein or to such other address as Beneficiary may designate by notice to Borrower as provided herein.
 - (b) Any Notice provided for in this Deed of Trust shall be deemed to have been given to Borrowers or Beneficiary when given in the manner designated herein.

12. **Governing Law, Severability.** The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall 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 this Deed of Trust and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.
13. **Borrower's Copy.** Borrowers shall be furnished a conformed copy of the Note and this Deed of Trust at the time of execution or after recordation hereof.
14. **Regulatory Agreement.** Borrowers shall fulfill all of Borrowers' other loan agreement(s) which Borrower enters into with the City, including, without limitation, the Regulatory Agreement with the City.
15. **Rehabilitation Loan Agreement (if applicable).** Borrowers shall fulfill all of Borrowers' obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrowers enters into with Beneficiary. Beneficiary, at Beneficiary's option, may require Borrowers to execute and deliver to Beneficiary, in a form acceptable to Beneficiary, an assignment of any rights, claims or defenses which Borrowers may have against parties who supply labor, materials or services in connection with improvements made to the Property.
16. **Transfer of the Property or a Beneficial Interest in Borrower during Regulatory Agreement's Effective Period.** If all or any part of the Property or any interest in it is sold, rented, refinanced, conveyed or transferred (or if a beneficial interest in Borrowers are sold, rented, refinanced, conveyed or transferred and Borrowers are not a natural person), the "Equity", as hereafter defined, in the Property shall be shared between the Borrowers and the Beneficiary on the following basis:
"Equity" is defined as the dollar amount that constitutes the difference between the sales price of the Property and the sum of the following amounts:
 - (a) principal on the original First Note and the Deed of Trust; and
 - (b) principal on this Second Note and Deed of Trust to the City of Chula Vista, along with any interest and fees due thereof; and
 - (c) all costs of the sale, including costs of brokers' commissions, escrow fees, title costs and fees, recording costs, etc.; and
 - (d) borrower's net down payment not including the loan from the City to Borrowers (excluding normal fees associated with a loan transaction); and
 - (e) costs of any improvements reflecting the depreciated value of any structural or permanent and fixed improvements which the Owner has made to the Property after purchase of the Property. No such adjustment shall be made except for improvements made or installed by the Owner which were approved by the City prior to construction, conformed with applicable building codes at the time of installation, whose initial costs are verified by invoices, receipts, or similar forms of documentation which are determined to be satisfactory by the City, and where an appraisal shows value added to the Property by the improvements.

The remaining balance ("Equity") shall be split between the City and Borrowers using the following formula:

$$\frac{\text{City investment (Principal amount of the Silent Second Note)}}{\text{Fair Market Value of the Property at time of initial purchase}} = \text{City \% of Equity to be recaptured}$$

NON-UNIFORM COVENANTS

Borrowers and Beneficiary further covenant and agree as follows:

17. **Acceleration, Remedies.** Upon Borrower's breach of any covenant or agreement of Borrowers in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, and those contained in paragraph 17 hereof, the Beneficiary, prior to acceleration, shall give notice to Borrowers as provided in Paragraph 12 hereof specifying:
- (a) The breach;
 - (b) The action required to cure such breach;
 - (c) A date, not less than 10 days from the date the notice is mailed to Borrower, by which such breach must be cured; and
 - (d) 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 Property.

The notice shall further inform Borrowers of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrowers to acceleration of sale. If the breach is not cured on or before the date specified in the notice, Beneficiary, at Beneficiary's option, may 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 applicable law. Beneficiary shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this Paragraph 17, including, but not limited to, reasonable attorneys' fees.

If Beneficiary invokes power of sale, Beneficiary shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Beneficiary's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Beneficiary or Trustee shall mail copies of such notice in the manner prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrowers, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Beneficiary or Beneficiary's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie

evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order:

- (a) To all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees and costs of title evidence;
- (b) To all sums secured by this Deed of Trust; and
- (c) The excess, if any, to the person or persons legally entitled thereto.

18. **Borrower's Right to Reinstate.** Notwithstanding Beneficiary's acceleration of the sums secured by this Deed of Trust due to Borrower's breach, Borrowers shall have the right to have any proceedings begun by Beneficiary to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Property 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) Borrowers pays Beneficiary all sums, which would be then due under this Deed of Trust, and the Note, had no acceleration occurred;
- (b) Borrowers cure all breaches of any other covenants or agreements of Borrower contained in the Deed of Trust;
- (c) Borrowers pays all reasonable expenses incurred by Beneficiary and Trustee in enforcing the covenants and agreements of Borrowers contained in this Deed of Trust, and in enforcing Beneficiary's and Trustee's remedies as provided in Paragraph 18 hereof, including, but not limited to, reasonable attorneys' fees; and
- (d) Borrowers takes such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's interest in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired.

Upon such payment and cure by Borrowers, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

19. **Assignment of Rents; Appointment of Receiver; Beneficiary in Possession.** As additional security hereunder, Borrowers hereby assigns to Beneficiary the rents of the Property, provided that Borrower shall, prior to any default by Borrowers in payment of any indebtedness secured hereby or in performance of any agreement hereunder, have the right to collect and retain such rents as they become due and payable.

Upon any such default, the Beneficiary, in person, by agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the property including those past due. All rents collected by Beneficiary or the receiver shall be applied first to payment of the cost of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Deed of Trust. Beneficiary and the receiver shall be liable to account only for those rents actually received. The entering upon and taking possession of said property and the collection of such rents and the application thereof as aforesaid shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

20. **Reconveyance.** Upon payment of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Property and will surrender this Deed of Trust and all Notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.
21. **Substitute Trustee.** The Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Beneficiary and recorded in the office of the Recorder of the county where the Property is located. The instrument shall contain the name of the original Lender, Trustee and Borrowers, the book and page where this Instrument is recorded and the name and address of the successor trustee. The successor trustee shall, without conveyance of the Property, succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.
22. **Request for Notices.** Borrowers requests that copies of the Notice of Default and Notice of Sale be sent to Borrower's address, which is the Property Address. Beneficiary requests that copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust be sent to Beneficiary's address, as set forth on Page One of this Deed of Trust as provided by Section 2924b of the Civil Code of California.
23. **Fee for Requested Statements.** The Beneficiary may charge a fee not to exceed Sixty Dollars (\$60.00) for furnishing the statement of obligation as provided in Section 2943 of the Civil Code of California.
24. **Deed of Trust Rider.** The Deed of Trust Rider executed by Borrowers is attached and made part of this Deed of Trust.
25. **Covenants, Conditions and Restrictions.** The Property is subject to Covenants, Conditions and Restrictions ("Restrictions") between the Beneficiary and the Borrowers, that are not attached hereto but are incorporated by reference. Borrowers acknowledge receipt of said Restrictions and agree for him/herself/ his/her heirs, successors and assigns to be bound by the same. Restrictions refer to any and all program specific documents including any and all certifications made by the Borrowers and Lender to the Beneficiary in order for the Borrowers to receive First Time Homebuyer assistance.
26. **Warranties of Borrower.** Borrowers warrants to City that:
- (a) That Borrower is a Qualified Homebuyer as set forth in section 3.1.5 of the related Amended and Restated Housing Cooperation Agreement between City and Developer at the time the property is sold to Borrower.
 - (b) That for so long as Borrowers owns the Property, Borrowers will reside in the Property as Borrowers' principal place of residence. Borrowers agree not to sublet, lease or rent out the Property during the term of this Deed of Trust.
27. **Subordination.** The Beneficiary and Borrowers acknowledge and agree that this Deed of Trust is subject to and will subordinate in all respects to the liens, terms, covenants and conditions of the First Trust Deed and to all advances heretofore made or which may be hereafter be made pursuant to the First Trust Deed including all sums advanced for the purpose of:

- (a) Protecting or further securing the lien of the First Trust Deed, curing defaults by the Borrowers under the First Trust Deed or for any other purpose expressly permitted by the First Trust Deed; and
- (b) Constructing, renovating, repairing, furnishing, fixturing or equipping the Property.

The terms and provisions of the First Trust Deed are paramount and controlling, and they supersede any other terms and provisions hereof in conflict therewith. In the event of a foreclosure of deed in lieu of foreclosure of the First Trust Deed, any provisions herein or any provision in any other collateral agreement restricting the use of the Property to low or moderate income households or otherwise restricting the Borrowers' ability to sell the Property shall have no further force or effect on subsequent owners or purchasers of the Property. Any person, including his/her successors or assigns (other than the Borrowers or a related entity of the Borrowers), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the First Trust Deed shall receive title to the property free and clear from such restrictions.

Further, if the Primary 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 Primary Lender's acquisition of title, provided that:

- (a) The Beneficiary has been given written notice of a default under the First Trust Deed; and
- (b) The Beneficiary shall not have cured the default under the First Trust Deed, or diligently pursued curing the default as determined by the Primary Lender, within the 60-day period provided in such notice sent to the Beneficiary.

The Beneficiary and Borrowers further acknowledge and agree that this Deed of Trust will only subordinate for a rate and term refinance of the First Trust Deed at the discretion of the Beneficiary and shall not be subject to subordination for a cash out refinance, equity line of credit or any other such form of refinance as deemed inappropriate by the Beneficiary.

28. **Funds for Taxes and Insurance.** The Beneficiary will waive collection of impounds for taxes and assessments (including condominium, planned unit development and planned residential development assessments, if any). Borrowers will make all payments for impounds to First Trust Deed holder.

29. **Riders to this Security Instrument.** If one or more riders are executed by Borrowers and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)]

- | | | |
|---|---|--|
| <input type="checkbox"/> Transfer Rider | <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Other(s) [specify]: |
| <input checked="" type="checkbox"/> Condominium Rider | <input type="checkbox"/> PUD Rider | |

(Signature Page to follow.)

BY SIGNING BELOW, Borrowers accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrowers and recorded with it.

BORROWERS:

NAME

ACKNOWLEDGMENT:

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 SAN DIEGO)

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) 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 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.

(SEAL)

Signature of Notary

EXHIBIT "A"
Legal Description

FREE RECORDING REQUESTED PURSUANT
TO GOVERNMENT CODE SECTION 27383

WHEN RECORDED PLEASE MAIL TO:

City of Chula Vista
Housing Division
276 Fourth Avenue
Chula Vista, CA 91910

(SPACE ABOVE FOR RECORDER'S USE ONLY)

APN:

**EQUITY SHARING SECURITY DOCUMENT
HOMEOWNER'S REGULATORY AGREEMENT**

THIS REGULATORY AGREEMENT ("REGULATORY AGREEMENT" OR "AGREEMENT") IS ENTERED INTO AS OF THIS ___ DAY OF **MONTH, YEAR** BETWEEN THE **CITY OF CHULA VISTA**, A MUNICIPAL CORPORATION ("CITY"), AND A QUALIFYING HOUSEHOLD, ON BEHALF OF ITSELF AND **NAME** ("OWNER").

PREFACE

WHEREAS, Developer (Hamilton Plaza, LTD) owns Kingswood Manor Condominiums located at 54 through 94 Kingswood Drive, Chula Vista, CA , and

WHEREAS, Developer, as part of the project approval process, sought and was provided a density bonus by the City pursuant to the State's Density Bonus Law (Government Code section 65915); and

WHEREAS, Owner, who qualified to purchase a condominium unit at Kingswood Manor Condominiums as an affordable unit, purchased an affordable condominium unit ("Condo Unit") and is required to occupy said Condo Unit, but may subsequently sell, rent, refinance, convey, or otherwise transfer said Condo Unit subject to this Agreement;

WHEREAS, should Owner sell, rent, refinance, convey, or otherwise transfer said Condo Unit, the City, pursuant to state density bonus law, is permitted to get the benefit of having provided a density bonus and is authorized to recoup its investment, including

its initial subsidy (within the meaning of 65915(c)(2)(B)) and Shared Equity (within the meaning of Government Code section 65915(c)(2)); and

WHEREAS, as further consideration for the density bonus and to further the interests of City, Owner have agreed to enter into and record this Agreement; and

WHEREAS, the purpose of this Agreement is to regulate and restrict the occupancy and ownership of the Condo Unit for the benefit of project occupants and the people of the City of Chula Vista.

WHEREAS, the covenants in this Agreement are intended to run with the land and be binding on Owner for the full term of this Agreement.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS;

Owner shall receive City investment in real property owned by the Owner, as evidenced by legal title or a valid contract of sale. Acting in this capacity, the Owner will comply with the following:

A. DEFINITIONS

The following terms have the meanings and content set forth in this Section A where used in this Agreement or attached exhibits.

1. "AREA MEDIAN INCOME" has the meaning set forth in Section 3.1.4 of the attendant Amended and Restated Housing Cooperation Agreement.
2. "CITY" is the City of Chula Vista, a municipal corporation.
3. "CONDO UNIT" means a residential condominium dwelling unit that is located on the Property. The Condo Unit is more particularly described in the attached Exhibit A, which is hereby incorporated into this Agreement by this reference
4. "DEED OF TRUST" means any deed of trust, assignment of rents, and security agreement placed on the Condo Unit or any part thereof as security for any Loan and other obligations with Owner as trustor and the City as beneficiary, as well as any amendments to, modification of, and restatements of said deed(s) of trust.
5. "EQUITY SHARE" means the split of appreciation between the City and Owner, as further defined in Section F.1.
6. "HUD" means the United States Department of Housing and Urban Development.
7. "HOMEOWNER INVESTMENT" is defined as the amount of down payment made by the Owner towards the purchase price at time of purchase (excluding normal

costs of a loan transaction) and City approved capital improvements made by the owner since purchase.

8. "LOAN" is any investment of funds provided by the City to any Owner for the purchase of any Condo Unit.
9. "LOAN AGREEMENT" means any loan agreement executed by any Owner and the City which governs any Loan, as well as any amendments to, modifications of, or restatements of said loan agreement(s). The Loan Agreements will be on file with the City of Chula Vista.
10. "LOAN DOCUMENTS" are collectively the Loan Agreement, Deed of Trust, Note, this Agreement and any loan agreement, deed of trust, or promissory note entered into between the City and Owner with respect to any of the Condo Unit, as they may be amended, modified or restated from time to time, along with all exhibits and attachments to these documents.
11. "NOTE" means the promissory note and note rider executed by Owner in favor of the City evidencing any part of a Loan, which is secured by a Deed of Trust, as well as any amendments to, modifications or, or restatements of said promissory note. The Notes will be on file with the City of Chula Vista.
12. "ONE HUNDRED TWENTY PERCENT" means annual income, which does not exceed one hundred twenty percent (120%) of the Area Median Income.
13. "OWNER" or "OWNERS" is the qualifying household that is the purchaser of a Condo Unit within the Project.
14. "PROJECT" means the Project as defined in the attendant Amended and Restated Housing Cooperation Agreement which includes 17 condominium units which will be affordable to households as stated in the attendant Amended and Restated Housing Cooperation Agreement.
15. "PROPERTY" means the real property described in the attached Exhibit B, which is hereby incorporated into this Agreement by this reference, and any buildings or improvements now or hereafter situated on said real property.
16. "QUALIFYING HOUSEHOLD" and also referred to as "Qualified Homebuyer" has the meaning set forth in Section 3.1.5 of the attendant Amended and Restated Housing Cooperation Agreement. .
17. "QUALIFYING SALES PRICE" and also referred to as "Affordable Unit" has the meaning set forth in Section 3.1.7 of the attendant Amended and Restated Housing Cooperation Agreement.

B. TERM OF AGREEMENT

The term of this Agreement shall remain in full force and effect for the life of the loan as defined on the Promissory Note, unless terminated earlier by City in writing or extended by the mutual consent of the parties. However, failure to record this Agreement by City

shall not relieve Owner of any of the obligations specified herein. The covenants in this Agreement will run with the land for the benefit of City and its heirs, assigns and successors and be binding on Owner and Owner's heirs, assigns and successors for the full term of this Agreement.

C. CITY INVESTMENT

The City's investment is being made through the state's Density Bonus Law. The investment is an assistance program, which will effectively allow the Qualifying Household to acquire the Condo Unit at an affordable price. All funds recaptured from this investment will be placed in the City's Inclusionary Housing Fund for the development of future affordable housing to the extent required by state law.

D. AFFORDABILITY

1. The Condo Unit will qualify as affordable housing and will have:
 - a. an initial purchase price that is a Qualifying Sales Price; and
 - b. an appraised value at acquisition that is the Market Rate Price.
2. The Condo Unit must be the principal residence of an Owner that is a Qualifying Household at the time of purchase.

E. MONITORING

It is contemplated that, during the term of this Agreement, the City will perform the following monitoring functions: (a) prepare and send an Annual Occupancy Form for the Owner to complete and return. (b) review the documentation submitted by Owner in connection with the annual occupancy verification process. (c) inspect the Condo Unit to verify it is being maintained in accordance with Section G, below. Notwithstanding the foregoing description of City functions, Owner shall have no claim or right of action against the City based on any alleged failure to perform such function.

F. RECAPTURE OF CITY INVESTMENT

1. The City of Chula Vista requires that the City's equity be recaptured if the Condo Unit does not continue to be the principal residence of the Owner. If all or any part of the Condo Unit or any interest in it is sold, rented, refinanced, conveyed or transferred (or if a beneficial interest in Owner is sold, rented, refinanced, conveyed, or transferred and Owner are not a natural person), the "Equity", as hereafter defined, in the Condo Unit shall be shared between the Owner and the City on the following basis:

"Equity" is defined as the dollar amount that constitutes the difference between the sales price of the Condo Unit and the sum of the following amounts:

- (a) principal on the original First Note and the Deed of Trust; and

- (b) principal on the Second Note and Deed of Trust to the City of Chula Vista, along with any interest and fees due thereof, for the City's initial subsidy; and
- (c) all costs of the sale, including costs of brokers' commissions, escrow fees, title costs and fees, recording costs, etc.; and
- (d) Owner's net down payment not including the loan from the City to Owner (excluding normal fees associated with a loan transaction); and
- (e) costs of any improvements reflecting the depreciated value of any structural or permanent and fixed improvements which the Owner has made to the Condo Unit after purchase of the Condo Unit. No such adjustment shall be made except for improvements made or installed by the Owner which were approved by the City prior to construction, conformed with applicable building codes at the time of installation, whose initial costs are verified by invoices, receipts, or similar forms of documentation which are determined to be satisfactory by the City, and where an appraisal shows value added to the Condo Unit by the improvements.

The remaining balance ("Equity") shall be split between the City and Owner using the following formula:

$$\frac{\text{City Investment}}{\text{Fair Market Value of the Condo Unit at time of initial purchase}} = \text{City \% of Equity to be recaptured}$$

(Principal amount of the Silent Second Note)

G. PROPERTY MANAGEMENT

1. Maintenance and Security. Owner shall at his or her own expense maintain the Condo Unit in good condition, in good repair, and in decent, safe, sanitary and habitable living conditions for the benefit of that Owner's household and any prospective occupants. Owner shall maintain the Condo Unit in conformance with all applicable state, federal and local laws, ordinances, codes and regulations.
2. In the event that Owner fails to maintain the Condo Unit in accordance with these standards and after at least thirty (30) business days prior notice to Owner, the City or the City's contractor or agent may, but shall be under no obligation to, enter upon the Condo Unit, make such repairs or replacements as are deemed necessary in the City's discretion, and provide for payment thereof. Any amount advanced by the City to make such repairs, together with interest thereon from the date of such advance at the rate of seven (7) percent (unless payment of such an interest rate would be contrary to applicable law, in which event such sums shall bear

interest at the highest rate then allowable by applicable law), shall become an additional obligation of the Owner to the City and shall be secured by any Deed of Trust, if not previously reconveyed.

H. PROJECT REQUIREMENTS

Compliance with the following project requirements is required as follows:

- 1) Occupancy Requirements. The Program requires that occupancy standards must be maintained for the Effective Period for each of the assisted Condo Units as follows:
 - a. The purchaser shall be a Qualified Homebuyer within the meaning of Section 3.1.5 of the related Amended and Restated Housing Cooperation Agreement between the City and Developer at the time of sale.
 - b. Each Owner must occupy the Condo Unit as a principal residence. Only loan default and subsequent foreclosure negates the principal residence limitation.
- 2) Ownership Interest. The purchaser must have fee simple title upon sale of the Condo Unit or cooperative ownership interest upon sale of the Condo Unit.
- 3) Refinance. The City will subordinate to the following refinance situations only, subject to City approval and additional documentation is required:
 - a. FHA streamline refinance, with a reduction in total PITI and no cash out.
 - b. VA rate reduction refinance, with a reduction in total PITI and no cash out.
 - c. Conventional rate and term refinance, with a reduction in total PITI and no cash out.

I. INTENTIONALLY BLANK

J. DEFAULTS AND REMEDIES.

In the event of any breach or violation of any agreement or obligation under this Agreement, the City may proceed with any or all of the remedies as described in paragraphs 16 and 17 of the Deed of Trust. The City also retains any other remedies available to it under equity or the law.

K. NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.

No officer, official, director, employee, agent or representative of the City shall be personally liable to Owner for any obligation created under the terms of this Agreement except in the case of actual fraud or willful misconduct by such person.

L. INDEMNITY.

Notwithstanding the insurance coverage required herein, Owner shall indemnify and hold the City and its officers, officials, directors, employees, agents and authorized representatives (each, an "Indemnified Party," and collectively, "Indemnified Parties"), free and harmless against any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorney's fees) which any Indemnified Party may incur as a direct or indirect consequence of (1) Owner's failure to perform any obligations as and when required by this Agreement; (2) any failure of any of Owner's representations or warranties to be true and complete; or (3) any act or omission by Owner or any contractor, subcontractor, management agent, or supplier with respect the Condo Unit, except where such losses are caused by the sole negligence or willful misconduct of Indemnified Parties. Owner shall pay immediately upon the City's demand any amounts owing under this indemnity. The duty of the Owner to indemnify includes the duty to defend Indemnified Parties in any court action, administrative action, or other proceeding brought by any third party arising from the Condo Unit. Owner's duty to indemnify Indemnified Parties shall survive the term of this Agreement.

M. SUBORDINATION

This Agreement shall be subordinated in priority only to the liens and encumbrances approved by the City in the Loan Agreement, Section H.1, or otherwise in writing by the City in its sole and absolute discretion.

N. GENERAL PROVISIONS

1. **Governing Law:** This Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.
2. **This Agreement Controls:** In the event that any provisions of this Agreement and any Loan Documents conflict, the terms of this Agreement shall control.
3. **Time:** Time is of the essence in this Agreement.
4. **Consents and Approvals:** For those provisions of this Agreement which are expressly subject to consent or approval of the City, said consent or approval shall not be unreasonably withheld. Any approval must be in writing and executed by an authorized representative of the City.
5. **Notices, Demands and Communications:** Formal notices, demands and communications between Owner and the City shall be sufficiently given and shall not be deemed given unless dispatched by mailing it first class mail or by certified mail, return receipt requested, to the principal offices of Owner and City as follows:

City:

Owner:

City of Chula Vista
Development Services Dept
Housing Division
276 Fourth Avenue
Chula Vista, CA 91910

Any such written communications by mail shall be conclusively deemed to have been received by the addressee five days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above.

6. **Severability:** Every provision of this Agreement is intended to be severable. If any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.
7. **Attorney's Fees:** In the event of any litigation over the performance of this Agreement, the prevailing party shall be entitled to attorney's fees and costs incurred during the course of litigation.

IN WITNESS HEREOF, The City and the Owner have executed this Agreement as of the date first hereinafter set forth.

CITY OF CHULA VISTA,
a municipal corporation

Name, Title

OWNER:

Signature: _____

Print Name:

ACKNOWLEDGMENT:

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 SAN DIEGO)

On _____ before me, _____, a Notary Public, personally appeared Leilani Hines who proved to me on the basis of satisfactory evidence to be the person whose name subscribed to the within instrument, and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, 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 of Notary

(SEAL)

ACKNOWLEDGMENT:

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 SAN DIEGO)

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) 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 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 of Notary

(SEAL)

EXHIBIT "A"
Legal Description