

COLONIAL HOUSE MIXED USE PROJECT

LOAN AGREEMENT

(\$4,200,000)

(Loan # _____)

BY AND BETWEEN

THE CITY OF OXNARD

AND

PACIFIC WEST COMMUNITIES, INC.

Date: _____, _____

COLONIAL HOUSE MIXED USE PROJECT

LOAN AGREEMENT

(\$4,200,000)

This Loan Agreement ("Loan Agreement") is dated as of this _____ day of _____, _____, for identification purposes only and entered into by and between the City of Oxnard, a public body, corporate and politic ("City"), and Pacific West Communities, Inc., an Idaho corporation its successors and assigns ("PWC").

RECITALS

A. The City and Commission entered into a Cooperation Agreement on January 18, 2011, as further clarified on March 8, 2011, by adoption of Resolution Nos. 13, 351 and 147, respectively (collectively the "Cooperation Agreement"). In addition, by adoption of Resolution Nos. 13, 351 and 147 and a subsequent assignment and assumption agreement to be entered/entered into by and between the City and the Commission, all assets of the Commission, including funds in the Low and Moderate Income Housing Fund, were transferred and assigned to the City. By authority of the Cooperation Agreement and the assignment of the Commission's assets, the City is obligated and authorized to continue the implementation of redevelopment within the Ormond Beach, Southwinds, Downtown Revitalization, Central Community Revitalization and HERO Project Areas, including, without limitation, the authority to enter into this Agreement. However, the City's responsibility herein in regard to the Loan Agreement is expressly limited to the assets and revenues available to Commission that have been, or in the future will be, transferred to the City.

B. City, on behalf of the Commission and in furtherance of the Cooperation Agreement, wishes to promote the development of more affordable rental housing in neighborhoods in need of development and revitalization in the Historic Enhancement and Revitalization of Oxnard ("HERO") Project Area of the City of Oxnard and, in particular, the development of mixed-use projects along Oxnard Boulevard.

C. PWC wishes to borrow from City, and City wishes to extend to PWC, a loan of Four Million Two Hundred Thousand Dollars (\$4,200,000.00) (the "Loan") for Eligible Costs (hereinafter defined in Section I) in connection with the development of certain real property located at 705, 711 and 747 North Oxnard Boulevard, Oxnard, California, Ventura County Assessor Parcel Nos. 200-0-252-120, 200-0-252-130 and 200-0-252-020 (the "Site").

D. Development of the Site will consist of a mixed-use project encompassing 14,538 square feet of commercial space ("Commercial Parcel") and parking facilities ("Parking Facilities") below a podium deck supporting 44 residential apartment units (including one manager's unit) affordable to persons or families of low and moderate income ("Apartment Complex") according to the terms of this Loan Agreement and the entitlement permits granted by the City consisting of Planning and Zoning Permit Nos. 07-570-06 (Zone Change), 08-300-05

(Tentative Map), and 07-500-18 (Special Use Permit) (The entire mixed use project encompassing the Commercial Space, Parking Facilities and Apartment Complex is hereinafter collectively referred to as the "Project").

D. As a condition of the Loan, PWC shall execute, among other things, a Note, a Deed of Trust, and an Agreement Containing Covenants. The Deed of Trust and Agreement Containing Covenants shall be recorded against the Site until construction completion whereupon said documents will only encumber the Apartment Complex and are intended to secure the Loan and City's continuing interest in the affordability and habitability of the Apartment Complex, as well as to secure performance of other covenants contained in this Loan Agreement.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the making of the Loan, PWC and City hereby agree as follows:

SECTION I. DEFINITIONS

The following terms have the meanings and content set forth in this section wherever used in this Loan Agreement, attached Exhibits, or documents incorporated into this Loan Agreement by reference.

1.1 "AFFORDABLE UNIT" shall mean each of the rental dwelling units developed as part of the Project in accordance with all of the terms and conditions of this Agreement and restricted in accordance with the Agreement Containing Covenants. Unless a different meaning is apparent from the context or is specified elsewhere in this Agreement, the following words and terms shall have the same meaning given or attributed to them in the California Health and Safety Code and in Title 25 of the California Code of Administrative Regulations: (a) adjusted income; (b) annual income; (c) housing cost; (d) family; (e) household; (f) persons and families of low and moderate income; (g) monthly adjusted income; (h) monthly income; (i) operating expenses; and (j) affordable rent (as expressly defined in California Health and Safety Code section 50053). Notwithstanding the foregoing, provided that the Project is subject to federal low-income housing tax credit requirements and regulations, the provisions of those requirements and regulations regarding household/family size and continued occupancy by households whose incomes exceed the eligible income limitations may apply in place of the provisions set forth in the California Health and Safety Code and in Title 25 of the California Code of Administrative Regulations, provided that such deviations conform to the requirements of California Health and Safety Code Section 50053(c) and 50462, or are otherwise allowed under California Redevelopment Law.

1.2 "AGREEMENT CONTAINING COVENANTS" means the agreement, in the form of Exhibit F attached hereto and incorporated herein by this reference, recorded on the Property which sets forth certain standards imposed by City as to the use and affordability of the Apartment Complex. The Agreement Containing Covenants shall be recorded senior to all liens and encumbrances and shall not be subordinate to any debt secured upon the Property. As used

in this Section, the term "Property" means: (i) the Site prior to completion of construction; and (ii) the Apartment Complex (rather than the entire Site) upon Release of Construction Covenants.

1.3 "ANNUAL FINANCIAL STATEMENT" shall mean the financial statement of Operating Expenses and Revenues, prepared at PWC's expense by an independent certified public accountant reasonably acceptable to City, which shall form the basis for determining the Residual Receipts.

1.4 "APPROVED BY THE CITY" as used herein shall mean that no challenge, appeal, claim, lawsuit, or similar action related to any approval, permit or entitlement granted by City has been timely filed or, if filed, that such challenge, appeal, claim, lawsuit, or other action has been finally resolved.

1.5 "BUDGET" means that budget for the development of the Apartment Complex, including Acquisition Costs, Predevelopment Costs, and Construction Costs, attached as Exhibit B and incorporated into this Loan Agreement by this reference. As used herein, "Acquisition Costs" means and includes: title policy and title insurance costs; escrow fees and closing costs; appraisals costs; the purchase price for the Site and similar costs and expenses necessary and appropriate to the assemblage of land necessary for development of the Apartment Complex and approved by the Director, such approval not to be unreasonably withheld.

1.6 "BUSINESS DAY" means Monday through Friday, inclusive, excluding any day of the year on which City is required or authorized to close.

1.7 "CALENDAR YEAR" shall mean the year beginning on January 1st and ending on December 31st.

1.8 "CASH FLOW ANALYSIS" shall mean the 55-year forecast of income and expenses, together with Residual Receipt distributions, depicted in that certain document entitled "Cash Flow Analysis" prepared by Thomas E. Figg, Consulting Services and dated January 12, 2011, on file in the office of the Director.

1.9 "CERTIFICATE OF OCCUPANCY" means a certificate (or equivalent approval) issued to PWC by City allowing habitable occupancy of all or a portion of the Project.

1.10 "CERTIFIED STATEMENT OF COSTS" shall mean the audit required by Section 6.15(5) relating to the Development Costs.

1.11 "CITY" means the City of Oxnard, California, a municipal corporation.

1.12 "CLOSING" shall mean the disbursement and the recordation of a deed of trust.

1.13 "COMMENCEMENT OF CONSTRUCTION" means the time PWC or PWC's construction contractor begins any physical vertical construction work on the Project at the Site.

1.14 **"COMMISSION"** means the Oxnard Community Development Commission, a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California and its authorized representatives, assigns, transferees, or successors-in-interest thereto. The principal office of Commission is located at 214 South C Street, Oxnard, CA 93030.

1.15 **"COMMUNITY REDEVELOPMENT LAW"** means the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000, et seq.).

1.16 **"DEED OF TRUST"** is that deed of trust, assignment of rents, security agreement and fixture filing, in the form of Exhibit E attached hereto and incorporated herein by this reference, placed on the Site at Closing and solely on the Apartment Complex following construction completion as security for the Loan by PWC as trustor with City as beneficiary, as well as any amendments to, modifications of, and restatements of said deed of trust. Subject to Section 3.9, the Deed of Trust shall be in a senior lien position to all other liens and encumbrances.

1.17 **"DEFERRED DEVELOPER FEE"** means that portion of the Developer Fee which is deferred until completion of the Project and thereafter paid from Residual Receipts. For purposes of this Loan Agreement, PWC shall defer the lesser of: (i) 50% of its total Developer Fee; or (ii) \$800,000.

1.18 **"DEVELOPER FEE"** means compensation for developing the Project as defined in Title 4, Division 17, Chapter 1 of the California Code of Regulations (the "TCAC Regulations") including all development consultant fees, processing agent fees, developer overhead and profit, construction management oversight fees if provided by the developer, personal guarantee fees, syndicator consulting fees, and reserves in excess of those customarily required by multi-family housing lenders. The maximum Developer Fee, for purposes of this Loan Agreement, shall not exceed the maximum threshold prescribed in the TCAC Regulations.

1.19 **"DEVELOPMENT COSTS"** shall mean all costs which are incurred by PWC for the development of the Apartment Complex in accordance with this Loan Agreement, including: (i) Predevelopment Costs and (ii) Construction Costs (as such terms are defined herein). [To the extent any of the aforementioned costs are incurred on the entire Project rather than the Apartment Complex specifically, such costs shall be allocated to the Affordable Units on a basis reasonably acceptable to the City and PWC and consistent with the Community Redevelopment Law.]

1.20 **"DIRECTOR"** means the Director of Community Development for the City.

1.21 **"ELIGIBLE COSTS"** means: (i) Predevelopment and Construction Costs (as defined below) that constitute allowable uses of Low and Moderate Income Funds under the Community Redevelopment Law (Health and Safety Code Sections 33334.2.(e) and 33334.3); (ii) are specific and limited exclusively to the Affordable Units; and (iii) are consistent with the Budget attached as Exhibit B. [To the extent any of the aforementioned costs are incurred on the entire Project rather than the Affordable Units specifically, such costs shall be allocated to the Affordable Units

on a basis reasonably acceptable to the City and PWC and consistent with the Community Redevelopment Law.]

- (a) **Predevelopment Costs.** Predevelopment Costs mean and includes: specialized studies (e.g., environmental site assessment, geotechnical, etc.); planning and design, including architecture and engineering; legal and accounting expenses; permit processing and development fees; options to purchase land and holding costs of land that has been acquired (e.g., property management, taxes, insurance, and finance charges); and other preliminary expenses approved by the Director.
- (b) **Construction Costs.** Construction means and includes: (i) "soft costs" consisting of construction interest and "points," permanent financing costs, fees and "points" in connection with any loan contemplated by this Loan Agreement or otherwise approved by City; property taxes, assessments, utility fees, developer fees; syndication fees; relocation expenses, security fees and similar holding costs incurred during the period of construction; and (ii) "hard costs" consisting of on and off-site improvements; building construction; landscaping; parking; and related work necessary and appropriate for completing the Project in accordance with Plans and Specifications approved by City.

1.22 INTENTIONALLY OMITTED.

1.23 **"GROSS REVENUE"** with respect to a particular Calendar Year shall mean all revenue, income, receipts, and other consideration actually received from operation of leasing of the Apartment Complex. Gross Revenue shall include, but not be limited to: all rents, fees and charges paid by tenants, Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance. Gross Revenue shall also include the fair market value of any goods or services provided in consideration for the leasing or other use of any portion of the Project. Gross Revenue shall not include: (i) tenants' security deposits, interest on security deposits, capital contributions or similar advances, amounts released from reserves or interest on reserves; (ii) any revenue derived from the Commercial Parcel, or (iii) the value of social services provided on site by a social services coordinator, if any.

1.24 **"HAZARDOUS MATERIALS"** means any substance, material, waste, pollutant, or contaminant which is or becomes regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is defined, regulated, or listed as "hazardous" or "extremely hazardous" or defined, regulated or listed as a "hazardous substance," "hazardous waste," "hazardous material," "pollutant," "contaminant," "toxic substance," "extremely hazardous waste," or "restricted hazardous waste" under any federal, state or local environmental or health and safety laws and regulations, as may be amended from time to time. Hazardous Materials include, but are not limited to, petroleum and petroleum byproducts, flammable explosives, urea formaldehyde

insulation, polychlorinated biphenyls, radioactive materials, asbestos, and lead. Hazardous Materials do not include substances that are used or consumed in the normal course of developing, operating, maintaining or occupying a housing project, to the extent and degree that such substances are stored, used, and disposed of in the manner and in amounts that are consistent with normal practice and legal standards.

1.25 "IMPLEMENTING DOCUMENTS" are collectively the Loan Documents, Assignment of Architect's Contract, PILOT Promissory Note and PILOT Deed of Trust, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

1.26 "IMPROVEMENTS" means the Project to be constructed on the Site.

1.27 INTENTIONALLY OMITTED

1.28 "LOAN" is defined in Recital B.

1.29 "LOAN AGREEMENT" means this Loan Agreement entered into between City and PWC.

1.30 "LOAN COVERAGE THRESHOLD" shall mean an amount not to exceed ninety percent (90%) of the Value of the Site.

1.31 "LOAN CLOSING" shall mean the point in time when all conditions precedent to the disbursement of the Loan have been satisfied as set forth in Section 4.3.

1.32 "LOAN DOCUMENTS" are collectively the Loan Agreement, the Deed of Trust, the Promissory Note, and the Agreement Containing Covenants, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

1.33 "LOW INCOME HOUSEHOLD" means a household whose annual income does not exceed eighty percent (80%) of the median income for the Oxnard-Thousand Oaks-Ventura, CA Primary Metropolitan Statistical Area as determined by the California Department of Housing and Community Development ("HCD") with adjustments for smaller and larger households. Notwithstanding the foregoing, the federal low income housing tax credit rules and regulations may be utilized for determining family size appropriate for each Unit, provided that such deviations: (i) conform to the requirements of California Health and Safety Code Section 50053(c) and 50462; and (ii) are allowed by or do not otherwise conflict with California Redevelopment Law.

1.34 "MODERATE INCOME HOUSEHOLD" means a household whose annual income does not exceed one-hundred twenty percent (120%) of the median income for the Oxnard-Thousand Oaks-Ventura, CA Primary Metropolitan Statistical Area as determined by the California Department of Housing and Community Development ("HCD") with adjustments for smaller and larger households. Notwithstanding the foregoing, the federal low income housing

tax credit rules and regulations may be utilized for determining family size appropriate for each Unit, provided that such deviations: (i) conform to the requirements of California Health and Safety Code Section 50053(c) and 50462; and (ii) are allowed by or do not otherwise conflict with California Redevelopment Law.

1.35 INTENTIONALLY OMITTED

1.36 "NET PROCEEDS" means: (i) prior to completion of construction, the proceeds of a sale, transfer or refinancing of any portion of the Site, less the amount required to pay in full City's Loan and all other loans secured by the Site that have priority over City's Loan, amounts funded by Developer as Developer's equity, and the reasonable costs of the transaction incurred by PWC; and (ii) after the Release of Construction Covenants, the proceeds of a sale, transfer or refinancing of any portion of the Apartment Complex, less the amount required to pay in full City's Loan and all other loans secured by the Apartment Complex that have priority over City's Loan, and the reasonable costs of the transaction incurred by PWC.

1.37 "NOTE" is that promissory note executed by PWC in favor of City evidencing the Loan, in the form of Exhibit D attached hereto and incorporated herein by this reference, which is secured by the Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note.

1.38 "OPERATING EXPENSES" with respect to each Calendar Year shall mean the following costs reasonably and actually incurred for operation and maintenance of the Property to the extent that they are consistent with an annual independent audit performed by a certified public accountant using accounting principles consistently applied: property and other taxes and assessments imposed on the Property; premiums for property damage and liability insurance; utility services not paid for directly or reimbursed by tenants, including but not limited to water, sewer, trash collection, gas and electricity; maintenance and repair including but not limited to pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial, supplies, and similar customary utility services; any license or Certificate of Occupancy fees required for operation of the Property; general administrative expenses including but not limited to advertising and marketing, security services and systems, professional fees for legal, audit, accounting and tax returns for the limited partnership, and similar customary administrative expenses; property management fees, expenses and costs, not to exceed \$45.00 per unit per month in the first year with annual increases thereafter in proportion to the increases in Affordable Rent for the Project or six percent (6%) of Revenue, whichever is higher, and pursuant to a management contract reasonably approved by City; partnership management fees payable to the Limited Partnership's managing general partner in an amount not to exceed \$9,400 per year; cash deposited into a replacement reserve in the amount of \$250 per unit per year, subject to annual increases not to exceed three percent (3%); cash deposited into an operating reserve in such reasonable amounts as are required by Project lenders, the Tax Credit Allocation Committee, and the tax credit investor from time to time, and approved by City; required debt service payments (excluding debt service contingent upon the availability of residual receipts or surplus cash of the Property) on loans associated with the Project and approved by City. "Annual Operating Expenses" shall not include the following:

depreciation, amortization, depletion or other non-cash expenses. Annual Operating Expenses shall be subject to the reasonable approval of City. As used in this Section, the term "Property" means: (i) the Site prior to completion of construction; and (ii) the Apartment Complex upon Release of Construction Covenants.

1.39 "OPERATING RESERVE FUND" shall mean the fund established pursuant to Section 3.13. The Operating Reserve Fund shall be initially funded concurrent with the Closing of the permanent loan or upon the funding of the final installment of equity. PWC shall only be required to fund the Operating Reserve Fund to the extent that there are sufficient funds available from Revenues as provided in Section 3.13.

1.40 "PAYMENT DATE" shall mean the first April 1st after the end of the first Calendar Year (or partial year) in which a Certificate of Occupancy is issued for the Project, and annually on each April 1st thereafter, until City Loan is repaid in full.

1.41 "PERMITTED MORTGAGEES" means the lien holders of Permitted Mortgages.

1.42 "PERMITTED MORTGAGES" means the lien of lenders under the construction and permanent loan for the Project as provided in Section 3.9 hereof.

1.43 "PILOT" means payment in lieu of taxes as described in Section 3.11 hereof.

1.44 "PLANS AND SPECIFICATIONS" means the final architectural drawings and construction documents for which a building permit is issued by City for construction of the Project.

1.45 "PROJECT" as defined in Recital C.

1.46 "PROJECT BUDGET" means the source and use of funds identified in Exhibit B attached hereto.

1.47 "PWC" is Pacific West Communities, Inc., an Idaho corporation. The term PWC shall also include PWC's authorized representatives and assigns, transferees, or successors-in-interest thereto expressly permitted herein.

1.48 "RELEASE OF CONSTRUCTION COVENANTS" means that certificate issued to PWC by City evidencing completion of the Project pursuant to the terms of this Loan Agreement.

1.49 "REPLACEMENT RESERVE FUND" shall mean the fund established pursuant to Section 3.12.

1.50 "RESIDUAL RECEIPTS" shall mean, in a particular Calendar Year, the amount by which Gross Revenue exceeds Operating Expenses, as determined by an audit to be completed not later than 90 days after the end of each Calendar Year during the term of the Note and the PILOT Promissory Note, by an independent certified public accountant reasonably acceptable to

the Director, using accounting principles consistently applied and based on actual expenses incurred and revenues received during each such Calendar Year (the "Audit"). The first such Audit shall be for the partial year beginning on the date a Certificate of Occupancy has been issued for the Project and ending on December 31 of that year. The Director shall review and approve such Audit, or request revisions, within 30 days after receipt. The Audit shall determine the amount of Residual Receipts, if any, generated in that year, and determine City's fifty percent (50%) share of such Residual Receipts. All calculations of Residual Receipts shall be subject to: (i) comparison with the Cash Flow Analysis; and (ii) reasonable approval by the Director.

1.51 "REVENUE" shall mean the Gross Revenue, and any other income to PWC derived from the ownership, operation and management of the Apartment Complex.

1.52 "SCHEDULE OF PERFORMANCE" means the schedule provided in Exhibit C attached hereto, as the same may be amended from time to time upon mutual written agreement between PWC and the Director, incorporated herein by this reference.

1.53 "SCOPE OF DEVELOPMENT" shall mean development of the Project, as defined in Recital C, in accordance with this Loan Agreement and the Plans and Specifications Approved by the City, subject to all terms and conditions of approval granted pursuant thereto.

1.54 "SITE" consists of the real property located within the HERO Redevelopment Project, located at 705, 711 and 747 North Oxnard Boulevard, Oxnard, California, Ventura County Assessor Parcel Nos. 200-0-252-120, 200-0-252-130 and 200-0-252-020, and more particularly described and graphically depicted in Exhibit A hereto.

1.55 "TCAC" shall refer to the State of California Tax Credit Allocation Committee.

1.56 "TERM" means the duration of the Loan as stipulated in Section 3.3.

1.57 "UNIFORM HAZARDOUS WASTE MANIFEST" shall refer to the State of California Environmental Protection Agency approved form documenting the transportation and proper disposal of hazardous wastes to a state classified hazardous waste disposal site.

1.58 "VALUE" shall mean the fair market value of the Site as of Loan Closing, based on an appraisal approved in writing by the Director and which is prepared at PWC's expense by an independent certified M.A.I. appraiser with at least ten years relevant experience who is acceptable to the Director.

1.59 "VERY LOW INCOME HOUSEHOLD" means a household whose annual income does not exceed fifty percent (50%) of the median income for the Oxnard-Thousand Oaks-Ventura, CA Metropolitan Statistical Area as determined by HCD with adjustments for smaller and larger households. Notwithstanding the foregoing, the federal low income housing tax credit rules and regulations may be utilized for determining family size appropriate for each Unit, provided that such deviations: (i) conform to the requirements of California Health and Safety

Code Section 50053(c) and 50462; and (ii) are allowed by or do not otherwise conflict with California Redevelopment Law.

SECTION 2. EXHIBITS

The following documents are attached to this Loan Agreement and are incorporated in the Loan Agreement by this reference as though fully set out in the body of the Loan Agreement:

- A-1 Legal Description
- A-2 Site Map
- A-3 Project Site Plan
- B. Budget
- C. Schedule of Performance
- D. Form of Promissory Note
- E. Form of Deed of Trust
- F. Form of Agreement Containing Covenants
- G. Form of Notice of Affordability Restrictions
- H. Form of Assignment of Architect's Contract
- I. Form of PILOT Promissory Note
- J. Form of PILOT Deed of Trust

SECTION 3. TERMS OF LOAN

3.1 LOAN. City agrees to provide a loan of funds to PWC under the terms and conditions of the Loan Documents. As set forth in Section 3.4 below, the proceeds of this Loan shall only be used by PWC to pay for Eligible Costs.

3.2 AMOUNT OF LOAN. On and subject to the terms and conditions of the Loan Documents, City agrees to make and PWC agrees to accept a loan in an amount not to exceed Four Million Two Hundred Thousand Dollars (\$4,200,000), evidenced by the Note in this amount and secured by the Deed of Trust recorded initially against the Site. Upon the Release of Construction Covenants, the Deed of Trust shall encumber only the Apartment Complex and shall be released as to the remainder of the Project and Site subject to the provisions of Section 3.6 and 3.7 of this Loan Agreement. The Note shall bear simple interest for the entire term of the Loan at three percent (3%) per annum, non-compounded. Interest on the Loan shall be charged on the principal amount outstanding from the date of disbursement until paid.

(a) Alternative Funding Sources. City has requested, and PWC has agreed, that PWC shall pursue, in good faith and diligence, alternative funding in order to reduce the amount of the Loan. At a minimum, PWC shall apply for and use its commercially reasonable efforts to acquire funding in the amounts shown and from the sources listed below (the "Alternative Funding Sources"):

(1) Multi-Family Housing Program (MHP).

Approximate Application Amount: \$3,499,000
Net Anticipated City Loan Reduction: \$ 710,000
2011 Application Dates: March 3 (Currently on Hold)
2011 Award Dates: June 15 (approximately)

(2) 9% LIHTC Program (or alternatively 4% LIHTC with bonds if 9% LIHTC are not awarded). If PWC does not obtain LIHTC, all references to TCAC and TCAC Regulations herein shall be disregarded.

Approximate Application Amount: \$13,341,580
Net Anticipated City Loan Reduction: \$ 2,000,000
2011 Application Dates: March 23 & July 6
2011 Award Dates: June 8 & September 21

(3) Federal Home Loan Bank Affordable Housing Program (AHP).

Approximate Application Amount: \$308,000
Net Anticipated City Loan Reduction: \$200,000
2011 Application Dates: April 1 & October 1
2011 Award Dates: June 1 & Dec. 1 (approximately)

(4) USDA 514 Farm Labor Housing Loan.

Approximate Application Amount: \$3,000,000
Net Anticipated City Loan Reduction: \$1,000,000
2011 Application Dates: June 15 (approximately)
2011 Award Dates: August 15 (approximately)

City shall be reasonable in approving any other financing procured by PWC.

(b) Cost Savings. If any (i) savings are realized in Development Costs, (ii) Alternative Funding Sources are procured as provided in Section 3.2(a) above, and/or (iii) additional funds are obtained beyond those listed in Project Budget, PWC shall apply such savings and/or increased funding toward paying down (to the extent the Loan has been disbursed)/reducing (to the extent the Loan has not been disbursed) the Loan, provided such cost savings and/or increased funding relate to the Affordable Units and are in excess of the other funding sources (other than the Loan), as described in Section 3.2(c)(3), below. For purposes of calculating whether any such cost savings and/or increased funding in excess of the other funding sources are achieved upon completion of the Project: (i) City and PWC shall, upon issuance of a Certificate of Occupancy and prior to execution of the Release of Construction Covenants, determine the actual Development Costs, actual sources of financing for Affordable Units, and actual Alternative Funding Sources by causing the preparation of an Project Statement (as defined

in Section 3.2(c), below); and (ii) such Project Statement shall, by comparing such Project Statement with the Project Budget, determine whether any amounts are due/should be reduced under Section 8(a)(3), below. Any such cost savings shall be shared between PWC and City as follows: 75% of such cost savings shall be applied to reduce the outstanding balance of the Loan and PWC shall receive the remaining 25% which shall be applied to any unpaid Development Fee.

(c) Financial Audit. To determine whether any amounts are due/should be reduced under Section 3.2(b) above, PWC shall, within ninety (90) days after issuance of a Certificate of Occupancy for the Project, provide City in writing with complete independent report prepared by an independent certified public accountant reasonably acceptable to the Director, of the Development Costs, including actual updates of each of the line items set forth in the Project Budget, and the availability of Alternative Funding Sources (the "Project Statement").

(1) The Project Statement shall be subject to the reasonable approval of the Director. The Director shall have 15 (fifteen) days from receipt of the Project Statement to approve the same; failure to so respond shall be deemed approval. If the Director approves the Project Statement, then the amounts set forth therein shall be used to determine any amounts due under Section 3.2(c)(3), below, and City shall notify PWC of its approval in writing. Upon City's approval of the Project Statement, PWC shall pay all amounts due to City within fifteen (15) days after such approval.

(2) If City disapproves the Project Statement, it shall send a written notice of disapproval to PWC which shall include a detailed explanation thereof. PWC and City shall attempt in good faith to resolve any disagreement over the Project Statement but failing such resolution, City shall select a second certified public accountant, with PWC's approval of such auditor, which shall not be unreasonably withheld or delayed, to prepare a second Project Statement (the "City's Project Statement"). City's Project Statement shall be prepared at PWC's expense and shall be conclusive, absent manifest error. PWC shall pay all amounts due by PWC to City in accordance with City's Project Statement within fifteen (15) days of PWC's receipt of City's Project Statement. Upon PWC's receipt of City's Project Statement and absent manifest error, such Statement shall constitute the Project Statement for purposes of Section 3.2(a)(3), below.

(3) If actual sources for the Apartment Complex exceed all actual cost to develop the Apartment Complex, as set forth in the Project Statement, then the principal amount of the Loan shall be reduced/repaid by an amount equal to 75% of such excess amount as provided hereinabove. In the event any such excess amount of financing exists but the actual cost to develop the Project as set forth in the Project Statement is greater than the total cost set forth in the Project Budget, then the increased amount of any of the financing sources shall first be used to pay such increase in costs, then any remaining funds in excess of the other funding sources set forth in the Project Budget shall be used to reduce/repay the Loan by an amount equal to 75% of such excess funds.

3.3 TERM OF LOAN. The Loan shall be paid to City in annual installments from Residual Receipts, beginning upon the issuance of a Certificate of Occupancy for the Project, as set forth herein. Unless sooner due pursuant to the Loan Documents or the Note, the principal of the Loan and all accrued interest thereon shall be due and payable on the earliest of (a) twenty-four (24) years from the date of the Note (or such longer term as may be required by a Permitted Mortgagee or the tax credit investor), (b) the latest term of the Permitted Mortgages; (c) the duration of the Agreement Containing Covenants; (d) the date any portion of, or interest in, the Property is sold, transferred, assigned, conveyed, financed or refinanced without prior written consent from City, or (e) a default by PWC which has not been cured as provided for in this Loan Agreement (the "Term"). As used in this Section, the term "Property" means: (i) the Site prior to completion of construction; and (ii) the Apartment Complex upon Release of Construction Covenants.

3.4 USE OF FUNDS. Loan proceeds may be used only for the Eligible Costs and in the amount specified as Eligible Costs authorized by this Loan Agreement or that are approved in writing by City. Notwithstanding the foregoing, the parties acknowledge that the Loan is made from City funds and that the use of the Loan proceeds is governed by and the Loan proceeds may only be used in accordance with Community Redevelopment Law.

3.5 PREPAYMENT OF LOAN. PWC shall have the right to prepay the Loan in whole or in part prior to the end of the Term. No prepayment penalty will be charged to PWC for payment of all or any portion of the Loan amount prior to the end of the Loan Term described herein. However, prepayment of the Loan shall not affect PWC's obligations under the Agreement Containing Covenants, all of which shall remain in full force and effect for the entire term of that Agreement Containing Covenants.

3.6 COLLATERAL. As collateral for the Loan, PWC shall provide City an executed Deed of Trust in the form attached as Exhibit E, giving City various security interests in the Property. PWC shall deliver concurrently with the execution of the Deed of Trust, the original executed Note in the form attached as Exhibit D, which City shall hold until the Note is paid in full.

(a) Encumbrances. Except as provided in Section 3.9, PWC may not cause or allow any security instruments to be recorded against the Property prior to reconveyance in full of any and all Deeds of Trust securing amounts owed to City under this Loan Agreement. PWC promptly shall notify City of any mortgage, deed of trust, sale and lease-back or other financing conveyance, encumbrance or lien that has been created or attached thereto, whether by voluntary act of PWC or otherwise. The words "mortgage" and "deed of trust," as used herein, include all other appropriate modes of financing real estate acquisition, construction and land development.

(b) Regulatory Agreement. The restrictions of the Agreement Containing Covenants are in addition to and independent of restrictions imposed by any other funding or regulatory entity and shall be recorded in a position superior to all liens and encumbrances secured against the Property.

(c) Loan Coverage. The Loan, in combination with all other secured debt on the Property (but not including PILOT, hereinafter described in Section 3.11), shall not exceed the Loan Coverage Threshold.

(d) Project Design. As further security but subject to the rights of Permitted Mortgagees, PWC agrees to assign and transfer to City, subject to the rights of prior lien holders, its successors or assigns, all of (1) PWC's rights in and to the Plans and Specifications, together with all amendments, modifications, supplements, general conditions and addenda thereto relating to the Project, and (2) PWC's right, title and interest in the agreement between PWC and the architect relating to the Project, in the form attached as Exhibit H and incorporated herein by this reference.

(e) Property. As used in this Section 3.6, the term "Property" means: (i) the Site prior to completion of construction; and (ii) the Apartment Complex upon Release of Construction Covenants.

3.7 TITLE AND TITLE INSURANCE. PWC warrants that upon Closing it will obtain and thereafter maintain good and marketable title to the Site. As a condition for disbursing the Loan, PWC shall, at PWC's expense, cause for a title company to issue an ALTA lender's policy of title insurance naming City as the insured with liability not less than the principal amount of the Loan, issued by an insurer satisfactory to City, excepting only such defects, liens, encumbrances, and exceptions as are approved by the Director, and containing such endorsements as City may reasonably require.

3.8 RECORDING. Prior to funding of any of the Loan proceeds, the title company shall record the Deed of Trust, Agreement Containing Covenants, Notice of Affordability Restrictions, and PILOT Deed of Trust with the Recorder for the County of Ventura, and shall deliver conformed copies of the recorded documents to City and PWC.

3.9 LOAN SUBORDINATION. If an economically feasible alternative method of financing the Project on substantially comparable terms and conditions, but without subordination, is not reasonably available, as determined by City in its reasonable discretion, the Director may take such actions as may be reasonably necessary in order to subordinate City's Deed of Trust and Agreement Containing Covenants to the lien of the commercial lenders under the construction loan and the permanent loan for the Project, provided that: (i) any such loan is used solely for the financing of the Project, is not cross-collateralized with any other real property, and the deed of trust for such loan expressly provides it is junior and subject to the Agreement Containing Covenants ("Permitted Mortgages"); (ii) the Permitted Mortgages, in combination with the Loan, will not exceed the Loan Coverage Threshold as evidenced to the reasonable satisfaction of the Director (provided that Permitted Mortgagees shall not be prevented from making protective advances or otherwise modifying their loans); and (iii) receipt by the Director of written commitments from such lender, reasonably designed to protect City's investment in the event of default, providing for any of the following:

(a) A right of City to cure a default on the construction and permanent loans;

(b) A right of City to negotiate with the construction and permanent lenders after notice of default from the construction and permanent lenders;

(c) An agreement that if prior to foreclosure of the loans, City takes title to the Project and cures the default on the loans, the lender will not exercise any right it may have to accelerate the loans by reason of the transfer of title to City;

(d) A right of City to purchase the Project from PWC at any time after a default on the loans ; and

(e) Simultaneously with the recordation of deeds of trust securing construction and permanent sources of financing, City will subordinate its Deed of Trust and may subordinate the Agreement Containing Covenants a determined by the Director in his or her sole and absolute discretion in accordance with the conditions set forth in Section 3.9 (a-d).

3.10 REPAYMENT OF CITY LOAN. On or before April 1st of every Calendar Year starting the Calendar Year after the year during which a Certificate of Occupancy is issued for the Project and continuing through the Term or until the Loan is paid in full, whichever comes first (each a "Payment Date"), PWC shall submit to City its Annual Financial Statement for the preceding year (prepared at PWC's expense by an independent certified public accountant reasonably acceptable to City). Residual Receipts shall be determined on the basis of the Annual Financial Statement. City shall review and approve such statement, or request revisions, within 30 days after receipt. In the event that City determines as the result of its review that there is an understatement in the amount of Residual Receipts, PWC shall promptly pay to City its share of such understatement, but in any event within ten (10) days of notice of such understatement.

City and PWC shall each be allocated fifty percent (50%) of Residual Receipts. City's share of Residual Receipts shall first be applied to pay PILOT and second to retire interest and principal on the Loan. PWC's share of Residual Receipts shall first be applied to pay the Deferred Development Fee and secondly as retained income. Any unpaid sums due on any Payment Date shall accrue until paid in full.

3.11 PILOT. On each Payment Date (as defined in Section 3.10) and terminating on April 1, 2044, City shall be owed by PWC the greater of: (i) \$75,575; (ii) 0.6% of the combined costs of land, construction, contractor fees and developer fees as reported to TCAC; or (iii) 0.6% of the combined costs of land, construction, contractor fees and developer fees at Project completion as determined by the Certified Statement of Costs (the "Base Amount") (the "Base Amount"). The calculation of the Base Amount owed to City shall be made once at Project completion and the same amount will be due City on each Payment Date. Commencing on the second Payment Date and each Payment Date thereafter terminating on April 1, 2044, the Base Amount shall be increased at an annual rate of 2%. PILOT shall be paid on each Payment Date (with the first and last payment being pro rated for partial year as applicable) only to the extent of 50% of Residual Receipts, with such payment having a priority over payment of the Loan pursuant to Section 3.10. To the extent such 50% share of Residual Receipts is insufficient to pay the annual PILOT amount, such unpaid amount shall accrue and be paid out the City's 50% share

of Residual Receipts in succeeding years until the PILOT is paid in full. The obligation of PWC under this Section 3.11 shall be evidenced by a Promissory Note and secured by a Deed of Trust upon the Apartment Complex (junior to all Permitted Mortgages and the Loan), in the form set forth in Exhibits I and J attached hereto and incorporated herein by this reference. If the City's 50% share of Residual Receipts (as they may be available from time to time) are not sufficient to pay in full the annual and accrued amount PILOT by the end of the 55-year term of affordability covenants imposed upon the Apartment Complex, the unpaid balance of principal and accrued interest remaining at the end of the term (if any) shall be exonerated, and the Promissory Note and the Deed of Trust shall be cancelled and re-conveyed.

3.12 REPLACEMENT RESERVE FUND. Concurrently with the Closing of the permanent loan, PWC shall establish and thereafter maintain, in an interest bearing account under PWC's name and with the member bank of the permanent private lender, a reserve fund to be known as the Replacement Reserve Fund, to be used for the purpose of replacing structural elements or equipment of the Apartment Complex, or for any other purpose consistent with maintaining the physical or financial integrity of the improvements. As an Operating Expense, PWC shall deposit annually therein, on the Payment Date, an amount equal to \$250 per unit per year unless and until a different amount is required by City, provided that no such change in amount shall exceed the annual percentage rent increase charged by PWC to its tenants. The Replacement Reserve Fund shall remain in the form of cash or be invested as reasonably approved by City, and shall include all earnings thereon. This Replacement Reserve Fund shall be maintained during any period when the Loan or portion thereof remains outstanding. PWC shall not withdraw funds from the Replacement Reserve Fund without the prior written approval of other lenders or investors if the loan documents so state.

In the event of a default on the part of PWC under this Loan Agreement, the Agreement Containing Covenants, or a default under the Note or Deed of Trust pursuant to which event the principal amount of Loan may be accelerated, City, subject to the rights of the holders of the security instruments contemplated by this Loan Agreement, may apply or authorize the application of the funds in the Replacement Reserve Fund to the amount then due under the Note or use such funds for the continued operation of the Apartment Complex.

3.13 OPERATING RESERVE FUND. Concurrently with the Closing of the permanent loan, PWC shall establish and thereafter maintain, in an interest bearing account under PWC's name and with the member bank of the permanent private lender, a reserve fund to be known as the Operating Reserve Fund, to be used for any Operating Expense deficit, and on said date PWC shall deposit a minimum amount equal to three months of estimated Operating Expenses and hard debt service under stabilized occupancy (the "Minimum Amount") as required by TCAC all to the extent of available Gross Revenue. In the event that the Operating Reserve Fund falls below the Minimum Amount then PWC shall deposit annually thereon, on the Payment Date such amount of monies so as to bring the Operating Reserve Account up to the Minimum Amount. To the extent that funds are available to deposit, the Operating Reserve Fund shall be maintained during any period when the Loan or any portion thereof remains outstanding all to the extent of available Gross Revenue. Funds from the Operating Reserve Fund may be expended only when actual Revenue is insufficient to pay Operating Expenses. The Operating

Reserve Fund shall be released to PWC following one (1) year of stabilized operations, or as otherwise required under the TCAC regulations .

In the event of a default on the part of PWC under this Loan Agreement, the Agreement Containing Covenants, or a default under the Note or Deed of Trust pursuant to which event the principal amount of the Loan may be accelerated, City, subject to the rights of the holders of the security instruments or the tax credit investor contemplated by this Loan Agreement, may apply or authorize the application of the funds in the Operating Reserve Account to the amount then due under the Note or use such funds for the continued operation of the Apartment Complex.

3.14 BOND FINANCING. The Loan shall be subordinate to City's existing bonded indebtedness and bond issuance(s) and the refunding or refinancing thereof and any future bonds City may issue and the bonded indebtedness incurred in connection therewith, provided that the Director determines at the time of issuance of any such future bonds that such issuance and indebtedness will not adversely affect City's ability to perform its obligations under this Loan Agreement. Bonded indebtedness includes any indebtedness incurred by City for bonds, notes, interim certificates, debentures, certificates of participation or other obligations issued by City. City's obligation to make the Loan is not and shall not be construed as a "pledge" of property tax revenues for purposes of Section 33671.5 of the Community Redevelopment Law.

3.15 DOCUMENT EXECUTION AND RECORDATION. Prior to and as conditions precedent to execution and recordation of the Implementing Documents, all of the following requirements shall first be satisfied:

(a) There exists no uncured default hereunder.

(b) PWC shall have: (i) delivered to City, and the Director shall have approved a current appraisal of the Site in writing, which is prepared at PWC's expense by an independent certified M.A.I. appraiser with at least ten years relevant experience who is acceptable to the Director; and (ii) evidenced that the Loan, in combination with all other debt secured on the Site (excluding PILOT), will not exceed the Loan Coverage Threshold.

(c) PWC has executed and delivered to City all documents, instruments, and policies required under this Loan Agreement as a condition precedent to Closing in a form acceptable to City, including but not limited to the Implementing Documents, and all such documents and instruments shall have been recorded against the Site in the lien priority as required by this Agreement.

(d) PWC has delivered to City all documents relating to PWC's authorization of the Loan, including: copies of all resolutions or other necessary actions taken by PWC to authorize the execution of this Loan Agreement and the Implementing Documents; a certificate of status of PWC issued by the State of Idaho.

(d) PWC has delivered or shall be prepared to deliver to City an ALTA lender's policy of title insurance as required by Section 3.7 above.

(e) PWC has provided and delivered to City a certificate of insurance or copy of the insurance policy, which policy shall be satisfactory to City, as required by Section 9.2 below.

(f) PWC has delivered to City an environmental assessment prepared by a qualified engineer acceptable to City relating to the presence of Hazardous Materials in, on or around the Site, and confirming that all Hazardous Materials described in such assessment have been removed or mitigated in accordance with law, and that the condition of the Site will not result in liability for cleanup of the Site by PWC or City under applicable law.

(g) The Permitted Mortgagees (as defined in Section 3.9) who are providing construction loans at Closing shall have: (i) executed (in recordable form) an agreement in form, substance and content satisfactory to the Director and City General Counsel as described by California Health and Safety Code section 33334.14(a)(4) and such agreement shall have been recorded against the Site; and (ii) agreed with City and PWC as to a mutually acceptable Loan term.

City, at its option, may terminate this Agreement if any of the conditions precedent set forth above are not satisfied by Developer by September 30, 2011. This deadline shall be extended by the Director in writing for good cause shown (as used herein good cause shall include PWC's need for additional time to obtaining financing for the Project), provided a written request, including a statement of reasons for the time limit extension request is filed with City prior to the expiration date, provided that such extension shall not exceed 180 days.

SECTION 4. LOAN DISBURSEMENT

4.1 DISBURSEMENT OF LOAN PROCEEDS. The Loan shall be disbursed in three separate draws upon satisfaction or waiver of each and all of the conditions precedent to disbursement set forth in Section 4.3 below:

(a) First Draw. The first draw of Loan proceeds totaling Two Million Two Hundred Thousand Dollars (\$2,200,000; "First Draw") shall be used exclusively to pay Eligible Costs incurred by PWC prior to or after the date of this Loan Agreement. As a condition precedent to City's funding of the First Draw, PWC shall have achieved Closing of construction financing necessary to develop the Project and evidenced such Closing to the reasonable satisfaction of the Director, but in no event later than September 30, 2011. This deadline shall be extended by the Director in writing for good cause shown, provided a written request, including a statement of reasons for the time limit extension request is filed with City prior to the expiration date, provided that such extension shall not exceed 180 days.

(b) Second Draw. The second draw of Loan proceeds totaling One Million Dollars (\$1,000,000; "Second Draw") shall be used exclusively to pay Eligible Costs incurred by PWC on and after the date of the First Draw. As a condition precedent to City's funding of the Second Draw, PWC shall have completed Construction of the entire Project as evidenced by

issuance of a Certificate of Occupancy by City, allowing occupancy of all Affordable Units, but in no event later than September 30, 2012. This deadline shall be extended by the Director in writing for good cause shown, provided a written request, including a statement of reasons for the time limit extension request is filed with City prior to the expiration date, provided that such extension shall not exceed 180 days.

(c) Third Draw. The third draw of Loan proceeds totaling One Million Dollars (\$1,000,000; "Third Draw") shall be used exclusively to pay Eligible Costs incurred by PWC on and after the date of the Second Draw. As a condition precedent to City's funding of the Third Draw, PWC shall have achieved full occupancy of all Affordable Units, but in no event later than September 30, 2013. This deadline shall be extended by the Director in writing for good cause shown, provided a written request, including a statement of reasons for the time limit extension request is filed with City prior to the expiration date, provided that such extension shall not exceed 180 days.

4.2 AMOUNT OF DISBURSEMENT. Total Loan proceeds shall be disbursed up to the amount of the Loan. Disbursement of Loan proceeds shall be made in accordance with and pursuant to Section 4.1 of this Loan Agreement. Any change in individual items listed as Eligible Costs shall require the prior written request of PWC and the written consent of City. However, City's obligations shall in no event exceed the Loan amount specified in this Loan Agreement. Any costs above this amount necessary for the completion of the Project shall be the sole responsibility of PWC.

4.3 CONDITIONS PRECEDENT TO DISBURSEMENT. Prior to the beginning of construction and prior to the disbursement of any Loan proceeds, whether for the First Draw or Second Draw, PWC shall satisfy or cause to be satisfied all of the conditions listed below:

- (a) There exists no uncured default hereunder.
- (b) The Implementing Documents shall have been recorded against the Site in the lien priority required herein in the Ventura County Recorder's Office.
- (c) PWC shall have provided City written evidence that PWC has secured long-term funding from one or more sources/lenders in a total amount no less than all of the Development Costs.
- (d) PWC shall have evidenced to the reasonable satisfaction of the Director that it has satisfied the Alternative Funding Sources requirements prescribed in Section 3.2(a).
- (e) PWC shall have provided City and obtained Director approval a Project Budget governing the disbursement of funds.

City, at its option, may terminate this Agreement if any of the conditions precedent to the First Draw set forth above are not satisfied by Developer by September 30, 2012. This deadline shall be extended by the Director in writing for good cause shown, provided a written request,

including a statement of reasons for the time limit extension request is filed with City prior to the expiration date, provided that such extension shall not exceed 180 days.

SECTION 5. PREDEVELOPMENT ACTIVITIES

At the time established in the Schedule of Performance, PWC shall deliver to City the following documents or instruments, accompanied, if specifically requested by City, by an assignment of such document or instrument to City (to the extent applicable), in the form required by City:

5.1 PROJECT BUDGET. PWC shall submit for Director's approval a final Project Budget with explanation for any and all changes in the source and use of funds appearing in Exhibit B hereto, which approval shall not be unreasonably withheld provided that: (i) all changes are necessary and appropriate; and (ii) sufficient funds are committed to completed the Project without additional assistance from City.

5.2 CONSTRUCTION BOND. If required by the construction lender, PWC shall deliver copies of labor and material bonds and payment and performance bonds, each not less than one hundred percent (100%) of the scheduled cost of construction of the Project and naming City as a dual obligee, together with the construction lender. Said bonds shall be issued by an insurance company which is licensed to do business in California and named in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register of the U.S. Treasury Department. City shall consider (but have no obligation to approve but will also not unreasonably deny) alternate forms of reasonable assurance that the Project will be completed in the manner contemplated by this Loan Agreement, including securing a Letter of Credit, or as otherwise required by the construction lender.

5.3 CONTRACTS AND SUBCONTRACTS. Upon request of the City, PWC shall deliver to City as they become executed by PWC all professional services, construction contracts and material construction subcontracts for the Apartment Complex.

5.4 PLANS AND SPECIFICATIONS. Before Commencement of Construction, PWC shall submit to the Director, for its review and approval, the Plans and Specifications for development of the Project. PWC shall develop the Project in conformance with the Plans and Specifications and any modifications thereto approved by City. Nothing contained herein shall in any way obligate or restrict the City with respect to its review and approval of the Project plans.

5.5 CONSTRUCTION CONTRACT. Before Commencement of Construction, PWC shall deliver to City a construction contract between PWC and a licensed general contractor approved by City, covering all construction required by this Loan Agreement and providing for the withholding from each progress payment of a five percent 5% retention to assure completion of the Project.

5.6 MANAGEMENT PLAN. PWC shall deliver to City the Management Plan required by the Agreement Containing Covenants.

SECTION 6. CONSTRUCTION OF THE DEVELOPMENT

6.1 CONFIGURATION AND TIMING OF THE DEVELOPMENT. PWC shall develop the Project in accordance with the Plans and Specifications as approved by City and City. PWC shall complete construction and obtain a Certificate of Occupancy by no later than thirty-six (36) months after the date of this Loan Agreement.

6.2 CONSTRUCTION SIGNS. Prior to the Commencement of Construction, PWC shall provide, at its sole cost, construction site signs identifying the development, and giving recognition to City and for its role in the Project. The design and text of the signs shall be in accordance with City's standard for construction signs, and the sign must be erected on the Site on or before Commencement of Construction of the Improvements.

6.3 COMMENCEMENT OF CONSTRUCTION. PWC or PWC's construction contractor shall begin construction of the Project no later than the date specified in the Schedule of Performance. PWC or PWC's construction contractor shall not proceed with Commencement of Construction until Closing unless City has issued a written notice to proceed. City shall not be required to issue a notice to proceed until all the predevelopment activities under Section 5 have been met by PWC.

6.4 COMPLETION OF CONSTRUCTION. Following Commencement of Construction, PWC or PWC's construction contractor shall diligently prosecute construction of the Project to completion as evidenced by the recording of the Release of Construction Covenants. PWC or PWC's construction contractor shall complete construction of the Project no later than the date specified in the Schedule of Performance.

6.5 SCHEDULING AND EXTENSIONS OF TIME. It shall be the responsibility of PWC to coordinate and schedule the work to be performed so that commencement and completion of construction will take place in accordance with the provisions of this Loan Agreement. City may extend the time for commencement or completion in writing in its sole and absolute discretion. Any time extension granted to PWC to enable PWC to complete the work shall not constitute a waiver of any other rights City has under this Loan Agreement and Implementing Documents.

6.6 QUALITY OF WORK. PWC, shall develop the Project in full conformance with applicable local, state, and federal statutes, regulations, and building and housing codes.

6.7 ADDITIONS OR CHANGES IN WORK. City must be notified in a timely manner of any material changes in the work required to be performed under this Loan Agreement, including any additions, changes, or deletions to the approved Plans and Specifications. A written change order authorized by City must be obtained before any changes, additions, or deletions in work for the Project may be performed, including but not limited to any material change in building materials or equipment, specifications, or the structural or architectural design or appearance of the Project as provided for in the Plans and Specifications.

Consent to any additions, changes, or deletions to the work shall not relieve or release PWC from any other obligations in this Loan Agreement and Implementing Documents, or relieve or release PWC or its surety from any surety bond. City shall have five (5) days following receipt of a change order to approve or deny; failure to so respond within such time period being deemed approval. Any disapproval shall include a detailed explanation.

6.8 RECORDS. PWC shall be accountable to City for all funds disbursed to PWC pursuant to this Loan Agreement and Implementing Documents. PWC agrees to maintain records that accurately and fully show the date, amount, purpose, and payee of all expenditures drawn from Loan funds, and to keep all invoices, receipts, and other documents related to expenditures from said Loan funds for not less than four (4) years after completion of the Project as evidenced by the recording of a Release of Construction Covenants. Records must be kept accurate and current. City shall notify PWC of any records it deems insufficient. PWC shall have 15 calendar days from the date of said notice to correct any deficiency in the records specified by City in said notice, or, if more than 15 days shall be reasonably necessary to correct the deficiency, PWC shall begin to correct the deficiency within 15 days and correct the deficiency as soon as reasonably possible.

PWC shall promptly comply with all requirements or conditions of this Loan Agreement and Implementing Documents relating to notices, extensions, and other events required to be reported or requested. PWC shall promptly supply, upon the request of City, any and all information and documentation which involves the Project and cooperate with City in the development of the Project.

6.9 INSPECTIONS. PWC shall permit and facilitate, and require its contractors to permit and facilitate, observation and inspection at the job site by City and by public authorities during reasonable business hours upon prior written notice for the purposes of determining compliance with this Loan Agreement.

6.10 AUDITS. PWC shall make available for examination at reasonable intervals and during normal business hours to City upon prior written notice all books, accounts, reports, files, and other papers or property with respect to all matters covered by this Loan Agreement, and shall permit City to audit, examine, and make excerpts or transcripts from such records. City may make audits of any conditions relating to this Loan.

6.11 CONSTRUCTION RESPONSIBILITIES. PWC shall be solely responsible for all aspects of PWC's conduct in connection with the Project, including, but not limited to, the quality and suitability of the Plans and Specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by City with reference to the Project is solely for the purpose of determining whether PWC is properly discharging its obligations to City, and should not be relied upon by PWC or by any third parties as a warranty or representation by City as to the quality of the design or construction of the Project.

6.12 MECHANICS LIENS AND STOP NOTICES. If any claim of lien is filed against the Site or a stop notice affecting the Loan is served on City or any other lender or other third party in connection with the Project, PWC shall, within 20 days of such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to City a surety bond in sufficient form and amount, or provide City with other assurance satisfactory to City that the claim of lien or stop notice will be paid or discharged.

If PWC fails to discharge any lien, encumbrance, charge, or claim referred to herein, then in addition to any other right or remedy, City may, but shall be under no obligation to, discharge such lien, encumbrance, charge, or claim at PWC's expense. Alternatively, City may require PWC to immediately deposit with City the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. City may use such deposit to satisfy any claim or lien that is adversely determined against PWC.

PWC shall file a valid notice of cessation or Notice of Completion upon cessation of construction on the Project for a continuous period of 30 days or more, and take all other reasonable steps to forestall the assertion of claims of lien against the Site. PWC authorizes City, but without any obligation, to record any notices of completion or cessation of labor, or any other notice that City deems necessary or desirable to protect its interest in the Project and Site.

6.13 BARRIERS TO THE DISABLED. The Project shall be developed and the Site shall be maintained, for the duration of the Agreement Containing Covenants, to comply with all applicable federal, state, and local requirements for access for disabled persons.

6.14 LEAD-BASED PAINT. PWC and its contractors and subcontractors shall not use lead-based paint in the construction or maintenance of the Site. PWC shall incorporate or cause to be incorporated this provision in all contracts and subcontracts for work performed on the Project which involves the application of paint.

6.15 RELEASE OF CONSTRUCTION COVENANTS. Upon completion of development of the Project, PWC shall submit a certification from the architect for the Project stating that the improvements to the Site have been made in accordance with the Plans and Specifications and the terms of this Loan Agreement and Implementing Documents. Upon (1) submission of this architect's certification, (2) a determination of final Development Costs, (3) a determination by City that PWC has completed the Project in full conformance with the Plans and Specifications, (4) a determination by City that PWC has satisfied all of PWC's development obligations under this Loan Agreement, and (5) and completion of an independent audit of the Development Costs, City shall furnish PWC, within 30 calendar days of a written request by PWC, with a Release of Construction Covenants for the full Project. The Certificate shall be in a recordable form acceptable to City. If City fails to provide the Certificate within the specified time, it shall provide PWC with a written statement indicating in what respects PWC has failed to complete construction of the Project in conformance with this Loan Agreement or is otherwise in violation of the terms of the Implementing Documents, and what measures PWC will need to take or what standards it will need to meet in order to obtain the Certificate. If and when PWC has taken the specified measures or met the specified standards, and is not otherwise in violation

under this Loan Agreement or Implementing Documents, City shall deliver the Release of Construction Covenants to PWC.

Such Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of PWC to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance the improvements or any part thereof. Such Release of Construction Covenants is not notice of completion as referred to in California Civil Code Section 3093.

6.16 FEES, TAXES, AND OTHER LEVIES. PWC shall pay before they become delinquent all taxes, assessments, fees, levies or charges levied against or on account of the Site or Project and shall pay as due all claims for work done on or for services rendered or material furnished to the Site. In the event that PWC wishes to contest the legality of any such charge, PWC shall pay under protest the charge or bond over the same (in an amount 1½ times the amount of such claim item to protect against a claim of lien) prior to delinquency in order to prevent any involuntary lien on the Site.

6.17 DAMAGE TO THE PROJECT. If any building or improvements erected by PWC on the Site is damaged or destroyed by an insurable cause, PWC shall, to the extent of available insurance proceeds, diligently undertake to repair or restore said buildings and improvements consistent with the original Plans and Specifications for the Project. Such work or repair shall be commenced within 180 days after the damage or loss occurs and shall be diligently prosecuted thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration to the extent permitted by Permitted Mortgages.

SECTION 7. LABOR AND EMPLOYMENT REQUIREMENTS

7.1 EQUAL EMPLOYMENT OPPORTUNITY. PWC, for itself and its successors and assigns agrees that in the construction of the improvements on the Site provided for in this Loan Agreement:

(a) PWC will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, disability (actual or perceived), marital status, familial status, sexual orientation/preference, creed source of income, ancestry, medical condition, Acquired Immune Deficiency Syndrome (AIDS), acquired or perceived, or retaliation for having filed a discrimination complaint. PWC will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin, sex, age, disability (actual or perceived), marital status, sexual orientation/preference, creed, source of income, ancestry, medical condition, Acquired Immune Deficiency Syndrome (AIDS), acquired or perceived, or retaliation for having filed a discrimination complaint. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. PWC agrees to post in conspicuous places,

available to employees and applicants for employment, notices to be provided by City setting forth the provisions of this nondiscrimination clause.

(b) PWC will, in all solicitations or advertisements for employees placed by or on behalf of PWC, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, age, disability (actual or perceived), marital status, familial status, sexual orientation/preference, creed, source of income, ancestry, medical condition, Acquired Immune Deficiency Syndrome (AIDS), acquired or perceived, or retaliation for having filed a discrimination complaint.

(c) PWC will cause the foregoing provisions to be inserted in all contracts for any work covered by this Loan Agreement so that such provisions will be binding upon each contractor and subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

(d) PWC and any contractors, subcontractors, and professional service providers for the Project shall comply with all requirements concerning equal employment opportunity and shall incorporate such provisions in all construction contracts, professional services contracts, and subcontracts for work on the Project.

7.2 PROJECT CONSTRUCTION.

(a) Before Commencement of Construction of any portion of the Project, PWC shall obtain or cause to be obtained any and all permits which may be required by the City or any other governmental agencies affected by such construction, development, or work. PWC shall obtain all zone changes, permits, licenses and other approvals that may be necessary in order to legally proceed with the Project. Nothing in this Agreement shall be construed to require or obligate the City to approve any zone changes, to issue any conditional use permits, to issue any building permits, or other permits, to approve any tentative or final maps regarding the Project, or to give or issue any other approvals regarding the Project. Any application by PWC for any such permits and/or approvals shall be processed as any other applications for similar permits or approvals are processed under applicable laws.

(b) PWC shall provide all construction management for the Project, including design development, bid solicitation, contract award, construction supervision and all other usual and customary services of a general contractor.

(c) Work on the Project shall be performed by contractors, licensed under the laws of the State of California, as PWC may employ from time to time to execute such work. PWC agrees that it shall call for bids in connection with the Project. All work shall be performed in a workmanlike and quality fashion, free of encumbrances and liens, in full compliance with all applicable requirements of the Uniform Building Code and the Oxnard City Code. In addition to all other obligations of PWC as set forth in this Agreement, PWC shall seek and obtain all necessary governmental approvals for the Project and shall pay all permit application fees and development exactions then prescribed by local ordinance or resolution at the time of submittal,

unless such fees or exactions are waived by City. Nothing herein excuses compliance by PWC with any or all ordinances, resolutions, or development procedures or standards in connection with development of the Project. PWC shall comply with all applicable labor laws and laws requiring the payment of prevailing wages or Davis Bacon Act wages.

(d) PWC shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which PWC or its agents, or both, perform the services required of it by the terms of this Agreement for the development of the Project. PWC has and hereby retains the right to exercise full control of employment, direction, compensation and discharge of all persons assisting in the performance of services hereunder. In regard to the development of the Project, PWC acknowledges and agrees to be solely responsible for all matters relating to payment of its employees, including wage laws, compliance with Social security, withholding and all other laws and regulations governing such matters, and shall include requirements in each contract that contractors shall be solely responsible for similar matters relating to their employees, PWC agrees to be solely responsible for its own acts and those of its agents and employees.

(e) PWC shall carry out development and construction (as defined by applicable law) of the Project on the Site, including, without limitation, any and all public works, (as defined by applicable law), if any, in conformity with all applicable local, state and federal laws, including, without limitation, all applicable federal and state labor laws (including, without limitation, any applicable requirement to pay state prevailing wages). PWC hereby agrees that PWC shall have the obligation to provide any and all disclosures, representations, statements, rebidding, and/or identifications which may be required by California Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. PWC hereby agrees that PWC shall have the obligation to provide and maintain any and all bonds to secure the payment of contractors (including the payment of wages to workers performing any public work) which may be required by the California Civil Code, California Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. PWC shall indemnify, protect, defend and hold harmless Commission, City and their respective officers, employees, contractors and agents, with counsel reasonably acceptable to Commission and City, from and against any and all loss, liability, damage, claim, cost, expense, and/or "increased costs" (including labor costs, penalties, reasonable attorneys fees, court and litigation costs and fees of expert witnesses) which, in connection with the development and/or construction (as defined by applicable law) of the Project, including, without limitation, any and all public works (if any) (as defined by applicable law) results or arises in any way from any of the following: (i) the noncompliance by PWC of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages), (ii) the implementation of Chapter 804, Statutes of 2003, (iii) the implementation of Sections 1726 and 1781 of the California Labor Code, as the same may be enacted, adopted or amended from time to time, or any other similar law, (iv) failure by PWC to provide any required disclosure representation, statement, rebidding and/or identification which may be required by California Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law and/or (v) failure by PWC

to provide and maintain any and all bonds to secure the payment of contractors (including the payment of wages to workers performing any public work) which may be required by the California Civil Code, California Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. PWC hereby expressly acknowledges and agrees that neither City nor Commission has ever previously affirmatively represented to PWC or its contractor(s) for the Project in writing or otherwise, that the work to be covered by the bid or contract is not a "public work," as defined in Section 1720 of the California Labor Code. It is agreed by the parties hereto that, in connection with the development and construction (as defined by applicable law) of the Project, including, without limitation, any public work (as defined by applicable law), if any, PWC shall bear all risks of payment or non-payment of state prevailing wages and/or the implementation of Chapter 804, Statutes of 2003 and/or California Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, and/or any other provision of law. "Increased costs" as used in this Section shall have the meaning ascribed to it in California Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time. The foregoing indemnity shall survive termination of this Agreement, shall continue issuance of a Release of Construction Covenants and shall not be merged with any other document. Other than the foregoing indemnity, the provisions of this Section 7.2(e) shall not apply if the Project is exempt from prevailing wage requirements.

7.3 GENERAL INFORMATION

(a) During the construction of the Site, PWC shall provide to City such information and documentation as reasonably requested by City.

(b) PWC shall monitor and enforce the affirmative action and equal opportunity requirements imposed by this Loan Agreement. In the event PWC fails to monitor or enforce these requirements City may declare PWC in default of this Loan Agreement and pursue any of the remedies available under this Loan Agreement.

(c) As requested, City shall provide such technical assistance necessary to implement this Section 7.

SECTION 8. OPERATION OF DEVELOPMENT

8.1 OPERATION OF DEVELOPMENT. PWC and PWC's agents shall lease, operate and manage the Project after completion of construction in full conformance with the terms of the Agreement Containing Covenants.

8.2 LEASING THE DEVELOPMENT. Before leasing any portion of the Project, PWC shall submit its proposed form of lease for City's review and approval.

8.3 TENANT SELECTION. Before leasing the Project, PWC must obtain City's approval of PWC's written tenant selection plan.

8.4 INCOME CERTIFICATION. PWC must determine the income eligibility of each tenant household pursuant City's approved tenant certification procedures and submit satisfactory documentation to City for review and approval prior to the household's occupancy of one of the Project's units. PWC shall certify each tenant household's income on an annual basis.

8.5 AFFORDABILITY RESTRICTIONS. The affordability of the Project shall be maintained for fifty-five (55) years from the date of the issuance of a Certificate of Occupancy for the Project.

8.6 MAXIMUM RENTAL CHARGES. The total monthly charges for rent, utilities, and related services to each: (a) Very-Low-Income Household shall not exceed one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of median income for the Oxnard-Thousand Oaks-Ventura, CA Metropolitan Statistical Area as determined by HCD; and (b) Low-Income Household shall not exceed one-twelfth (1/12) of thirty percent (30%) of eighty percent (80%) of median income for the Oxnard-Thousand Oaks-Ventura, CA Metropolitan Statistical Area as determined by HCD. Annual rent increases shall be calculated by City based on the percentage change in the Area Median Income as determined and published annually by HCD. Notwithstanding anything to the contrary, at no point in time shall the above-mentioned rental rates be more than the maximum affordable rent defined in California Health and Safety Code Section 50053, as may be amended from time to time. Notwithstanding the foregoing, if the Apartment Complex is subject to federal low-income housing tax credit requirements, the provisions of those requirements regarding household size and continued occupancy by households whose incomes exceed the eligible income limitations may apply, provided that such deviations: (i) conform to the requirements of California Health and Safety Code Section 50053(c) and 50462; and (ii) are allowed by or do not otherwise conflict with California Redevelopment Law.

8.7 NONDISCRIMINATION. There shall be no discrimination against or segregation of any person, or groups of persons, on account of sex, marital status, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site or the Project, and Sonata Partners for itself (for any person claiming under or through it) shall not 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 Site or the Project.

8.8 FORM OF NONDISCRIMINATION AND NONSEGREGATION CLAUSES.

As a material part of the consideration for this Agreement, Developer covenants and agrees (for itself, its successors, its assigns, and every successor in interest to the Site or any part thereof) that Developer shall refrain from restricting the rental, sale or lease of the Site, or any portion thereof, on the basis of sex, marital status, race, color, religion, creed, ancestry or national origin of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

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

Notwithstanding the above paragraph, with respect to familial status, the above paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in the above paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall also apply to the above paragraph.

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

Notwithstanding the above paragraph, with respect to familial status, the above paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in the above paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the California Government Code shall apply to the above paragraph.'

(c) In contracts: The foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under this Agreement.

8.9 ENCUMBRANCE OF SITE. Except for Permitted Mortgages, PWC shall not engage in any financing or any other transaction creating any security interest or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or allow any encumbrance or lien to be made on or attached to the Property, except with the prior written consent of City. PWC shall notify City in writing in advance of any financing secured by any deed of trust, mortgage, or other similar lien instrument that it proposes to enter into with respect to the Project or Property, and of any encumbrance or lien that has been created on or attached to the Property whether by voluntary act of PWC or otherwise. As used in this Section, the term "Property" means: (i) the Site prior to completion of construction; and (ii) the Apartment Complex upon Release of Construction Covenants.

8.10 TRANSFER OF THE SITE. The qualifications and identity of PWC are of particular concern to City. It is because of PWC's demonstrated qualifications and identity that City has entered into this Agreement with PWC. Therefore, PWC covenants that it has not made or created, and agrees not to make or permit, any sale, assignment, conveyance, lease (except for the grant of leaseholds to qualifying households who will occupy Affordable Units at the Apartment Complex as provided for under the Implementing Documents), or other transfer of this Loan Agreement, the Property or any part thereof or any interest therein with the consent of City, which consent shall not be unreasonably withheld, conditioned or delayed; provided however that PWC is expressly permitted to: (i) transfer the Site and/or assign its rights to and obligations hereunder and under the Implementing Documents to an approved affordable housing developer ("Permitted Transferee") or: (ii) form one or more limited partnership(s) or limited liability companies (collectively "PWC Owner Entities") to acquire the Site and develop the Project, whereupon PWC may (i) admit partners or members to such PWC Owner Entities as necessary to facilitate the development or operation of the Project and (ii) assign all of its right, title, interest and obligations under this Loan Agreement to the Permitted Transferee or PWC Owner Entity that will own the Apartment Complex (whereupon such Owner entity shall become the party to the Implementing Documents), so long as (a) in the case of a PWC Owner Entity, PWC or an affiliate is a partner or member of such entities, (b) the proposed transferee enters into a written assignment and assumption agreement, in a form and content reasonably satisfactory to City's legal counsel, assuming all obligations of PWC imposed by the Agreement Containing Covenants and other Implementing Documents, and, if requested by City, provides an opinion of such transferee's counsel to the effect that this Agreement and the Agreement Containing Covenants are valid, binding and enforceable obligations of such transferee, subject to bankruptcy and other standard limitations affecting creditor's rights; (c) the transferee demonstrates to City's satisfaction that it is capable of and intends to own and operate the Property in full compliance with the Agreement Containing Covenants and the other Implementing Documents. Any subsequent transfer of general or limited partnership interests in an Owner Entity shall not require the consent of the City except that any transfer by PWC or an affiliate of its interest in an Owner Entity or any sale of the Property will require prior written consent of City, which shall not be unreasonably withheld, conditioned or delayed. City shall give its consent to such a sale, transfer, or conveyance provided that all of the following conditions are met: (a) PWC is in compliance with the Implementing Documents; and (b); the transferee demonstrates one of the following: (i) the transferee or its property manager has at least five year's experience in the ownership, operation and management of similar size rental

housing projects, and at least five year's experience in the ownership, operation and management of rental housing projects containing below-market-rate units, without any record of violations of discrimination restrictions or other state or federal laws or regulations or local governmental requirements applicable to such projects, or (ii) the transferee agrees to retain a property management firm with the experience and record described in subclause (i) above; (c) the transferee does not have pending against it, and does not have a history of building code violations or complaints concerning the construction, maintenance, upkeep, operation and regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; and (d) the terms of the sale, transfer, or conveyance shall not jeopardize City's security interest in the Site and/or City's interest in this Agreement, and is in full compliance with all standards, including eligibility requirements and other conditions imposed by any funding sources for the Project and the Loan. As used in this Section, the term "Property" means: (i) the Site prior to completion of construction; and (ii) the Apartment Complex upon Release of Construction Covenants.

(a) Notwithstanding the foregoing, and subject to City's review and approval of the Limited Partnership Agreement, the transfer by the "Investor Limited Partner" or the "Special Limited Partner" (as such terms are defined or will be defined in the Amended and Restated Agreement of Limited Partnership) of PWC of its partnership interests in PWC to any other entity which is an affiliate of the Investor Limited Partner or the Special Limited Partner or which is controlled by the Investor Limited Partner or the Special Limited Partner are hereby expressly permitted under this Loan Agreement. The respective interests of PWC's Special Limited Partner and Investor Limited Partner shall be transferable to a non-affiliate of the Special Limited Partner and/or the Investor Limited Partner, with the prior written consent of City, which consent shall not be unreasonably withheld.

(b) Subject to City's review and approval of the Limited Partnership Agreement, the withdrawal, removal, and/or replacement of PWC's general partner(s) for cause in accordance with PWC's Partnership Agreement shall be subject to the conditions set forth above in Subsection 8.10(a) and require the prior written consent of City and shall not constitute a default under any of the Implementing Documents or accelerate the maturity of the Loan. If PWC's special limited partner exercises its right to remove a general partner thereof under the Partnership Agreement, City shall not unreasonably withhold its consent to the substitute general partner. The substitute general partner shall assume all of the rights and obligations of the removed general partner under this Loan Agreement and Implementing Documents.

(c) The authority to effect changes in ownership and partnership interests under this Section 8.10 is subject to, and contingent upon, City review and approval of implementing documents including, without limitation, amendments to the Agreement of Limited Partnership of PWC. Such review shall be for the limited purpose of assuring that the terms of the sale, transfer, or conveyance shall not jeopardize City's security interest in the Site and/or City's interest in this Agreement, and is in full compliance with all standards, including eligibility requirements and other conditions imposed by any funding sources for the Project and the Loan.

8.11 CONDOMINIUM OR OTHER LEGAL SEPARATION. PWC shall have the right without the necessity of obtaining the City's approval to (a) impose a condominium regime on the Project or otherwise legally separate the Commercial Parcel from the Apartment Complex and (b) encumber, sell, transfer or otherwise convey the Commercial Parcel. In addition, the City acknowledges that the Commercial Parcel may be owned by an entity separate from PWC and none of the Loan shall be used to finance the development of the Commercial Parcel.

SECTION 9. INDEMNITY AND INSURANCE

9.1 INDEMNITY. As a material part of the consideration for this Agreement, and to the maximum extent permitted by law, PWC agrees to and shall defend, indemnify, protect and hold harmless Commission, City and their respective officials, officers, employees, agents, consultants, contractors and attorneys (collectively, the "Indemnified Parties") from and against any and all loss, liability, damage, claims, costs and expenses (including reasonable attorneys' fees, court and litigation costs and fees of expert witnesses) resulting or arising from or in any way connected to any of the following, provided, however, that PWC shall not be responsible to the extent of (and such indemnity shall not apply to) any gross negligence or willful misconduct of the Commission, City or Indemnified Parties:

(a) Developer's pre-development, development, construction, use, maintenance, marketing, sale, ownership or operation of the Site in any way;

(b) The existence, release, presence or disposal on, in, under, about or adjacent to the Site of any Hazardous Materials;

(c) Any plans or designs for the development of the Project prepared by or on behalf of Developer, including without limitation any errors or omissions with respect to such plans or designs;

(d) The death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person which shall occur on or adjacent to the Site, or in connection with the activities of Developer under this Agreement;

(e) Any loss or damage to Commission, City and/or Indemnified Parties resulting from any inaccuracy in or breach of any representation or warranty of Developer, or resulting from any breach or default by Developer under this Agreement.

The foregoing indemnity shall survive termination of this Agreement, shall continue after issuance of a Release of Construction Covenants and shall not be merged with any other document.

9.2 INSURANCE COVERAGE.

(a) Scope of Coverage. Within the time set forth in Section 3.15, above, PWC shall furnish or cause to be furnished to City's Risk Manager evidence of the following

policies of insurance (documented on forms acceptable to City's Risk Manager), naming PWC as insured and Commission and City as additional insured's. The insurance shall be kept in force during any period of construction:

(1) Builder's Risk/Fire Policies. PWC shall maintain or cause to be maintained a policy or policies of insurance against loss or damage to the Site and/or the improvements and all property of an insurable nature located upon the Site, resulting from fire, lightning, vandalism, malicious mischief, riot and civil commotion, and such other perils ordinarily included in extended coverage fire insurance policies. Such insurance shall be maintained in an amount not less than 100% of the full insurable value of the improvements, as defined herein.

(2) Liability Insurance. PWC shall maintain or cause to be maintained public liability insurance, to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever on or about the Site and the business of PWC on the Site, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of PWC or its lessees, or any person acting for PWC, or under its control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person occurring on or about the Site, or in connection with the operation thereof, caused directly or indirectly by or from acts or activities of PWC or its tenants, or any person acting for PWC, or under its control or direction. Such property damage and personal injury insurance shall also provide for and protect Commission and City against incurring any legal cost in defending claims for alleged loss. Such personal injury and property damage insurance shall be maintained in a general aggregate amount of not less than \$2,000,000, combined single limit per occurrence. PWC agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which PWC may be held responsible for indemnification hereunder or the payment of damages to persons or property resulting from PWC's activities, activities of its tenants or the activities of any other person or persons for which PWC is otherwise responsible.

(3) Automobile Insurance. To the extent applicable, at all times during period of construction, PWC shall maintain or cause to be maintained automobile insurance, maintained in full force and effect in an amount of not less than \$1,000,000 per accident.

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

maintaining such insurance, self-insure for workers' compensation in which event shall deliver to City evidence that such self-insurance has been approved by the appropriate State authorities.

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

(1) The term "full insurable value" as used in this Section 9.2 shall mean the actual replacement cost (excluding the cost of excavation, foundation and footings below the lowest floor and without deduction for depreciation) of the improvements on the Site immediately before such casualty or other loss, including the cost of construction, architectural and engineering fees, and inspection and supervision. To ascertain the amount of coverage required, PWC shall cause the full insurable value to be determined from time to time by appraisal by the insurer, by agreement between PWC and City or by an appraiser mutually acceptable to Commission, City and PWC, not less often than once every five years, if requested by City or Commission.

(2) All insurance provided under this Section 9.2 shall be for the benefit of PWC, Commission and City. PWC agrees to timely pay all premiums for such insurance and, at its sole cost and expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of such insurance. PWC agrees to submit policies of all insurance required by this Section 9.2, or certificates evidencing the existence thereof, to City within 30 days prior to Loan Closing, indicating full coverage of the contractual liability imposed hereby. Within 30 days, if practicable, but in any event prior to expiration of any such policy, copies of renewal policies or certificates evidencing the existence thereof, shall be submitted to City. All insurance herein provided for under this Section 9.2 shall be affected under policies issued by insurers of recognized responsibility, licensed or permitted to do business in the State of California and reasonably approved by City.

(3) If PWC fails or refuses to procure or maintain insurance as required by this Agreement, then Commission and City shall each have the right, at their election, and upon 5-days prior notice to PWC, to procure and maintain such insurance. The premiums paid by City or Commission shall be treated as a loan, due from PWC, to be paid on the first day of the month following the date on which the premiums were paid and shall in accordance with California Civil Code Section 2881 be a lien on the Site until paid. Any such lien shall be subordinate and subject to Permitted Mortgages.

(4) Coverage provided hereunder by PWC shall be primary insurance and not contributing with any insurance maintained by City and/or Commission, and the policy shall contain such an endorsement. The insurance policy or the certificate of insurance shall contain a waiver of subrogation for the benefit of City and Commission.

(5) PWC shall also furnish or cause to be furnished to the Director evidence satisfactory to the Director that any contractor with whom PWC has contracted for the performance of the development of the Project, or any of them, carries the insurance required by this Section.

9.3 INSURANCE ADVANCES. In the event PWC fails to maintain the full insurance coverage required by this Loan Agreement, City, after at least seven (7) business days prior notice to PWC, may, but shall be under no obligation to, take out the required policies of insurance and pay the premiums on such policies. Any amount so advanced by City, together with interest thereon from the date of such advance at the same rate of indebtedness as specified in the Note (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 allowed by applicable law), shall become an additional obligation of PWC to City and shall be secured by the Deed of Trust.

9.4 NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS. City shall not be personally liable to PWC for any obligation created under the terms of this Loan Agreement and Implementing Documents.

SECTION 10. HAZARDOUS MATERIALS

10.1 REPRESENTATIONS AND WARRANTIES. PWC hereby represents and warrants to the best of its knowledge, as of the date of this Loan Agreement, that, based on PWC's reasonable investigation and inquiry prior to Closing (which is limited to a phase I environmental report) and except as disclosed in said environmental report: (a) the Site is not and has not been a site for the use, generation, manufacture, transportation, storage, or disposal of Hazardous Materials; (b) the Site is in compliance with all applicable environmental and health and safety laws, regulations, ordinances, administrative decisions, common law decisions (whether federal, state, or local) with respect to Hazardous Materials, including those relating to soil and groundwater conditions ("Hazardous Materials Laws"); (c) there are no claims or actions pending or threatened with respect to the Site by any governmental entity or agency or any other person relating to Hazardous Materials; and (d) there has been no release or threatened release of any Hazardous Materials on, under, or near the Site (including in the soil, surface water, or groundwater under the Site) or any other occurrences or conditions on the Site or on any other real property that could cause the Site or any part thereof to be classified as a "hazardous waste property" or as a "border zone property" under California Health and Safety Code Sections 25220, et seq., or regulations adopted therewith.

10.2 NOTIFICATION TO CITY. PWC shall promptly notify City in writing of any of the following: (a) the discovery of any concentration or amount of Hazardous Materials on or under the Site; (b) any knowledge by PWC that the Site does not comply with any Hazardous Materials Laws; (c) the receipt by PWC of written notice of any Hazardous Materials claims; (d) the discovery by PWC of any occurrence or condition on the Site or on any real property located in the vicinity of the Site that could cause the Site or any part thereof to be designated as a "hazardous waste property" or as a "border zone property" under California Health and Safety

Code Sections 25220, et seq., or regulations adopted therewith; and (e) any knowledge by PWC of any pending claims based on any Hazardous Material Laws in connection with the Site.

10.3 USE AND OPERATION OF SITE. Neither PWC, nor any agent, employee, or contractor of PWC, nor any authorized user of the Site shall use the Site or allow the Site to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials. PWC shall comply and cause the Project to comply with Hazardous Materials Laws.

10.4 REMEDIAL ACTIONS. If PWC has actual knowledge of the presence of any Hazardous Materials on or under the Site, PWC shall promptly take, at no cost or expense to City, all handling, treatment, removal, storage, decontamination, cleanup, transport, disposal or other remedial action, if any, required by any Hazardous Materials Laws or by any orders or requirements of any governmental entity or agency or any judgment, consent decree, settlement or compromise with respect to any Hazardous Materials claims.

10.5 ENVIRONMENTAL INDEMNITY. PWC shall defend, indemnify, and hold the Indemnitees free and harmless against any claims, demands, administrative actions, litigation, liabilities, losses, damages, response costs, and penalties, including all costs of legal proceedings and attorney's fees, that the Indemnitees may directly or indirectly sustain or suffer as a consequence of any inaccuracy or breach of any representation, warranty, agreement, or covenant contained in this Loan Agreement with respect to Hazardous Materials, or as a consequence of any use, generation, manufacture, storage, release, or disposal (whether or not PWC knew of same) of any Hazardous Materials occurring prior to or during PWC's ownership, use or occupancy of the Site.

SECTION 11. DEFAULT AND REMEDIES

11.1 RESERVED.

11.2 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. For defaults under this Agreement, the complaining party shall give written notice of default to the party in default. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Loan Agreement, any failures or delays by either party hereto in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either party hereto in asserting any of its rights and remedies shall not deprive either party hereto of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

(a) Monetary Event. If a monetary event of default occurs, then prior to exercising any remedies hereunder, the aggrieved party shall give the party in default written notice of such default. The party in default shall have a period of ten (10) days after such notice is given within which to cure the default.

(b) Non-Monetary Event. If a non-monetary event of default occurs, then prior to exercising any remedies hereunder, the aggrieved party shall give the party in default notice of such default. If the default is reasonably capable of being cured within 30 days, the party in default shall have such period to effect a cure prior to exercise of remedies by the aggrieved party. If the default is such that it is not reasonably capable of being cured within 30 days, and the party in default (i) initiates corrective action within said period and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then the party in default shall have such additional time as is reasonably necessary to cure the default, but no longer than 90 days or shorter period of time if City's rights become or are about to become materially jeopardized by any failure to cure a default or the default.

(c) If a Permitted Mortgagee or the tax credit investor so requests in writing, City shall provide concurrent written notice and opportunity to cure such defaults to said party so requesting.

11.3 CITY'S REMEDIES. Upon the happening of a default by PWC and a failure to cure said default within the applicable cure period, City's obligation to disburse Loan proceeds shall terminate, and City may also, in addition to other rights and remedies permitted by this Loan Agreement and Implementing Documents or applicable law, proceed with any or all of the following remedies in any order or combination City may choose in its sole discretion:

(a) Terminate this Loan Agreement, in which event the entire principal amount outstanding and all accrued interest under the Note, as well as any other monies advanced to PWC by City under this Loan Agreement and Implementing Documents including administrative costs, shall immediately become due and payable at the option of City;

(b) Bring an action in equitable relief (1) seeking the specific performance by PWC of the terms and conditions of this Loan Agreement and Implementing Documents, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief;

(c) Accelerate the Loan, and demand immediate full payment of the principal amount outstanding and all accrued interest under the Note, as well as any other monies advanced to PWC by City under this Loan Agreement and Implementing Documents;

(d) Enter the Site and take any actions necessary in its judgment to complete construction of the Project, including without limitation (1) making changes in the Plans and Specifications or other work or materials with respect to the Project, (2) entering into, modifying, or terminating any contractual arrangements (subject to City's right at any time to discontinue work without liability), and (3) taking any remedial actions with respect to Hazardous Materials that City deems necessary to comply with Hazardous Materials Laws or to render the Site suitable for occupancy;

(e) Seek appointment from a court of competent jurisdiction of a receiver with the authority to complete construction as needed to preserve City's interest in seeing the Project

developed in a timely manner (including the authority to take any remedial actions with respect to Hazardous Materials that City or the receiver deems necessary to comply with Hazardous Materials Laws or to render the Site suitable for occupancy);

(f) Order immediate stoppage of construction and demand that any condition leading to the default be corrected before construction may continue;

(g) Disburse from Loan proceeds any amount necessary to cure any monetary default;

(h) Enter upon, take possession of, and manage the Site, either in person, by agent, or by a receiver appointed by a court, and collect rents and other amounts specified in the assignment of rents in the Deed of Trust and apply them to operate the Site or to pay off the Loan or any advances made under this Loan Agreement and Implementing Documents, as provided for by the Deed of Trust or PILOT Deed of Trust;

(i) With respect to obligations set forth in this Loan Agreement and Implementing Documents, initiate and pursue any private and/or judicial foreclosure action allowed under applicable law and the power of sale provision in the Deed of Trust;

(j) With respect to obligations set forth in the Agreement Containing Covenants, which is attached to the Loan Agreement as Exhibit F, initiate and pursue any legal action including without limitation an action for specific performance;

(k) With respect to defaults under Hazardous Materials provisions herein, pursue the rights and remedies permitted under California Civil Code Section 2929.5, and California Code of Civil Procedure Sections 564, 726.5, and 736;

(l) With respect to defaults by PWC under another loan obligation, advance funds to cure such default on behalf of PWC, with any amount so advanced by City, together with interest thereon from the date of such advance at the maximum rate specified in the Note, becoming an additional obligation of PWC to City secured by the Deed of Trust;

(m) With respect to a default relating to any sale, transfer, assignment, or conveyance without City's prior written consent in violation of Section 8.10, PWC shall pay City the Net Proceeds from such transaction if that transaction occurs prior to the final issuance of the Release of Construction Covenants; and/or

(n) Pursue any other remedy allowed at law or in equity.

Nothing in this section is intended or shall be construed as precluding City from proceeding with a non-judicial foreclosure under the power of sale contained in the Deed of Trust or PILOT Deed of Trust in the event of a default by PWC. City's delay or failure to pursue any remedy above does not constitute a waiver of the right to pursue that remedy.

SECTION 12. GENERAL PROVISIONS

12.1 PWC'S WARRANTIES. PWC represents and warrants (1) that it is financially capable and has access to professional advice and support to the extent necessary to enable PWC to fully comply with the terms of this Loan Agreement and Implementing Documents, and to otherwise carry out the Project, (2) that it is duly organized, validly existing and in good standing under the laws of the State of Idaho, (3) that it has the full power and authority to undertake the Project and to execute this Loan Agreement and Implementing Documents, and (4) that the persons executing and delivering these documents are authorized to execute and deliver such documents on behalf of PWC.

12.2 MONITORING AND EVALUATION. PWC shall maintain and submit records to City within ten business days of City's request which clearly document PWC's performance under each requirement of the Loan Documents.

12.3 CONFLICTS OF INTEREST. No member, official or employee of City shall have any personal interest, direct or indirect, in this Loan Agreement nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested.

12.4 POLITICAL ACTIVITY. None of the funds, materials, property or services contributed by City or PWC under this Loan Agreement shall be used for any partisan political activity or the election or defeat of any candidate for public office.

12.5 PUBLICITY. Any publicity generated by PWC for the Project during the term of this Loan and for one year thereafter shall make reference to the contribution of City in making the Project possible. The words "Oxnard Community Development City" will be prominently displayed in any and all pieces of publicity, including but not limited to flyers, press releases, posters, signs, brochures, public service announcements, interviews, and newspaper articles. PWC further agrees to cooperate with authorized staff and officials of City in any City-generated publicity or promotional activities undertaken with respect to the Project.

12.6 TERM OF THIS AGREEMENT. This Loan Agreement shall commence on the date set forth above and remain in full force and effect throughout the longer of the term of the Loan or the Agreement Containing Covenants.

12.7 INSTITUTION OF LEGAL ACTIONS. Subject to the notice and cure provisions of Section 11.2, in addition to any other rights or remedies, either party hereto may institute legal action to cure, correct or remedy any default, to obtain the specific performance of obligations hereunder to enjoin, abate or prevent any further violation or default, to appoint a receiver to operate the Project, to require Developer to return any rent amounts received by Developer in excess of the amounts permitted hereunder, to recover damages for any default or to obtain any other remedy available at law or in equity consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of Ventura County, State

of California, in any other appropriate court of that county, or in the United States District Court for the Central District of California.

12.8 GOVERNING LAW. This Loan Agreement and Implementing Documents shall be interpreted under and be governed by the laws of the State of California.

12.9 STATUTORY REFERENCES. All references in this Loan Agreement and Implementing Documents to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, or the City shall be deemed to include the same statute, regulation, ordinance, or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject as the provision to which specific reference was made.

12.10 TIME. Time is of the essence in this Loan Agreement and Implementing Documents.

12.11 UNAVOIDABLE DELAY IN PERFORMANCE. The time for performance of non-monetary provisions of this Loan Agreement by either party shall be extended for a period equal to the period of any delay directly affecting the Project or this Loan Agreement which is beyond the reasonable control of either party, is not the fault of such party and is caused by: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of a public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; unseasonable weather conditions or other events outside of such party's reasonable control. Any financial inability to perform on the part of PWC shall not constitute an unavoidable delay for the purpose of this Loan Agreement, and no extension shall be available therefore. An extension of time for any of the above-specified causes will be deemed granted only if written notice by the party claiming such extension is sent to the other party within twenty (20) calendar days from the commencement of the delay, and such extension of time is either accepted by the other party in writing, or is not rejected in writing by the other party within ten (10) calendar days of receipt of the notice. No such request shall be unreasonably rejected.

12.12 CONSENTS AND APPROVALS. Any consent or approval of City or PWC required under this Loan Agreement or Implementing Documents shall not be unreasonably withheld. Any approval required under this Loan Agreement and Implementing Documents shall be in writing and executed by an authorized representative of the party granting the approval. Nothing contained in this Loan Agreement or Implementing Documents shall constitute consent by the City with respect to any of its discretionary actions.

12.13 NOTICES, DEMANDS AND COMMUNICATIONS. Unless otherwise specified, all notices, requests, demands, directions, and other communications provided for hereunder and under any other Implementing Documents (a "Notice") must be in writing and must be mailed, delivered, or sent by facsimile transmission to the appropriate party at its respective address set forth below or, as to any party, at any other address as may be designated by it in a written notice sent to the other parties in accordance with this Section 12.14. Any notice given by facsimile transmission must be confirmed within three (3) Business Days by

prompt delivery of a "hard" copy, or by personal delivery (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), to the appropriate party at its respective address. If any notice is given by mail it will be effective three (3) Business Days after being deposited in the mails with first-class or airmail postage prepaid; if given by facsimile transmission, when sent; or if given by personal delivery, when delivered.

City: City of Oxnard
Community Development Department
214 South C Street
Oxnard, CA 93030
Attn: Curtis P. Cannon, Director
Facsimile: 805.385.7407
Phone: 805.385.7408

PWC: Pacific West Communities, Inc.
430 East State Street, Suite 100
Eagle, ID 83616
Attn: Caleb Roope, President/CEO
Facsimile: 208.461.3267
Phone: 208.461.0022

12.14 BINDING UPON SUCCESSORS. All provisions of this Loan Agreement and Implementing Documents shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the parties; provided, however, that this section does not waive the prohibition on assignment of this Loan Agreement by PWC without City's consent.

12.15 RELATIONSHIP OF PARTIES. The relationship of PWC and City for this Project under this Loan Agreement is and at all times shall remain solely that of a debtor and a creditor, and shall not be construed as a joint venture, equity venture, partnership, or any other relationship. City neither undertakes nor assumes any responsibility or duty to PWC or any third party with respect to the Project, the Site, or the Loan. PWC shall have no authority to act as an agent of City or to bind City to any obligation.

12.16 ASSIGNMENT AND ASSUMPTION. PWC shall not assign any of its interests under this Loan Agreement or the Implementing Documents to any other party, except as specifically permitted under the terms of this Loan Agreement, without the prior written consent of City. Any unauthorized assignment shall be void.

12.17 WAIVER. Any waiver by City of any obligation in this Loan Agreement and Implementing Documents must be in writing. No waiver will be implied from any delay or failure by City to take action on any breach or default of PWC or to pursue any remedy allowed under the Loan Agreement and Implementing Documents or applicable law. Any extension of time granted to PWC to perform any obligation under this Loan Agreement and Implementing

Documents shall not operate as a waiver or release from any of its obligations under this Loan Agreement or Implementing Documents. Consent by City to any act or omission by PWC shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for City's written consent to future waivers.

12.18 INTEGRATION. This Loan Agreement and the other Implementing Documents, including exhibits, executed by PWC for the Site, if any, contain the entire agreement of the parties and supersede any and all prior negotiations.

12.19 OTHER AGREEMENTS. PWC represents that it has not entered into any agreements that are inconsistent with the terms of this Loan Agreement and Implementing Documents. PWC shall not enter into any agreements that are inconsistent with the terms of this Loan Agreement and Implementing Documents without an express waiver by City in writing.

12.20 AMENDMENTS AND MODIFICATIONS. Any amendments or modifications to this Loan Agreement or Implementing Documents must be in writing, and shall be made only if executed by both PWC and City. The Director is hereby authorized to agree to any amendments to this Agreement or the other Implementing Agreements reasonably requested by a Permitted Mortgagee or tax credit investor necessary to cause Commencement of Construction.

12.21 SEVERABILITY. Every provision of this Loan Agreement is intended to be severable. If any provision of this Loan 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.

12.22 COUNTERPARTS. The Loan Agreement may be executed in several counterparts, all of which shall be an original and all of which together shall constitute but one and the same Loan Agreement.

12.23 USE OF IMAGES. PWC hereby consents to and approves the use by City of images of the Project, its models, plans and other graphical representations of the Project and its various elements in connection with websites, presentations, and other uses required by any of such authorities or agencies in connection with the Project. Such right to use the Project images shall not be assignable by City to any other party (including, without limitation, any private party without the prior written consent of PWC). PWC shall obtain any rights and/or consents from any third parties necessary to provide these rights to City.

12.24 ATTORNEY FEES. If either party hereto brings any action or files any proceeding to declare the rights granted herein or to enforce any of the terms of this Loan Agreement, the Implementing Documents or as a consequence of any breach by the other party hereto of its obligations hereunder, then the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees and costs and out-of-pocket expenditures paid by the losing party. The attorneys' fees and costs so recovered shall include fees and costs for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees and

costs to the prevailing party, the prevailing party in any lawsuit on this Loan Agreement and Implementing Documents shall be entitled to its attorneys' fees and costs incurred in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive any termination of this Loan Agreement, the Implementing Documents, completion of the Project and the merger of this Loan Agreement or Implementing Documents into any judgment on this Loan Agreement or the Implementing Documents.

12.25 CONSTRUCT AND INTERPRETATION OF LOAN AGREEMENT.

(a) The language in all parts of this Loan Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. The parties hereto acknowledge and agree that this Loan Agreement has been prepared jointly by the parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Loan Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Loan Agreement, this Loan Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

(b) If any term or provision of this Loan Agreement, the deletion of which would not adversely affect the receipt of any material benefit by any party hereunder, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Loan Agreement shall not be affected thereby and each other term and provision of this Loan Agreement shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the parties hereto that in lieu of each clause or provision of this Loan Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Loan Agreement an enforceable clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible.

(c) The captions of the articles, sections, and subsections herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as part of this instrument.

(d) References in this instrument to this "Loan Agreement" mean, refer to and include this instrument, the Implementing Documents as well as any riders, exhibits, addenda and attachments hereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in this instrument. Any references to any covenant, condition, obligation, and/or undertaking "herein," "hereunder," or "pursuant hereto" (or language of like import) shall mean, refer to, and include the covenants, obligations, and undertakings existing pursuant to this instrument and any riders, exhibits, addenda, and attachments or other documents affixed to or expressly incorporated by reference in this instrument.

(e) As used in this Loan Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and vice versa.

12.26 DATE OF LOAN AGREEMENT. The date of this Loan Agreement shall be the date it is executed by City.

IN WITNESS WHEREOF, the parties hereby have executed this Loan Agreement as of the date first above written.

CITY:

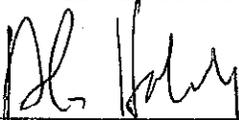
CITY OF OXNARD

By: _____
Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

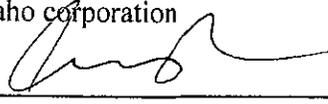
APPROVED AS TO INSURANCE:

N/A

James Cameron, Chief Financial Officer

PWC:

PACIFIC WEST COMMUNITIES, INC.
an Idaho corporation

By: 

Name: CALEB DOORE

Title: PRESIDENT

Date: MARCH 17, 2011

By: _____

Name: _____

Title: _____

Date: _____

**EXHIBIT A-1
TO LOAN AGREEMENT**

LEGAL DESCRIPTION OF SITE

Real property in the City of Oxnard, County of Ventura, State of California, described as follows:

PARCEL 1: (APN 200-0-252-120)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Plffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Beginning at a point on the Westerly line of State Highway Route 60 known as Oxnard Boulevard, said point being North 60 feet from the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on the Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence, 1st: Westerly 280 feet, more or less, parallel with the Northerly line of said land of Willard W. Shepherd and Helen L. Shepherd, in the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map; thence, 2nd: Northerly 280 feet along said Northerly prolongation of the East line of "A" Street to a point; thence, 3rd: Easterly 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 4th: Southerly 280 feet along said Westerly line of State Highway Route 60 to the Point of Beginning.

EXCEPT that portion thereof lying within the land described in Deed to Lloyd V. Dunkin, a married man, recorded September 6, 1972, as Instrument No. 63333, in Book 4005, Page 640 of Official Records.

PARCEL 2: (APN 200-0-252-020)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition File No: 11852928 Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Plffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Beginning at a point on the Westerly line of State Highway Route 60 known as Oxnard Boulevard, said point being the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on the Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence, 1st: Westerly 280 feet, more or less, parallel with the Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, in the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map; thence, 2nd: Northerly 60 feet along said Northerly prolongation of the East line of "A" Street to a point; thence, 3rd: Easterly 280 feet, more or less, parallel with the

said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 4th: Southerly 60 feet along said Westerly line of State Highway Route 60 to the Point of Beginning.

PARCEL 3: (APN 200-0-252-130)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Pliffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Commencing at a point on the Westerly line of State Highway Route 60, known as Oxnard Boulevard, said point being North 65 feet from the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence West 280 feet, more or less, parallel with the Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map, said point being the True Point of Beginning; thence, 1st: North 275 feet along said Northerly prolongation of the East line of "A" Street; thence, 2nd: East 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 3rd: South 151 feet along said Westerly line of State Highway Route 60; thence parallel with said Northerly line of Shepherd, 4th: West 127.30 feet; thence parallel with said "A" Street, 5th: South 64 feet; thence parallel with said Northerly line of Shepherd, , 6th: West 15 feet; thence parallel with said "A" Street, 7th: South 60 feet to the intersection with a line which bears West and passes through the True Point of Beginning; thence along said line, 8th: West 130 feet to the True Point of Beginning.

EXHIBIT A-2 TO LOAN AGREEMENT

SITE MAP

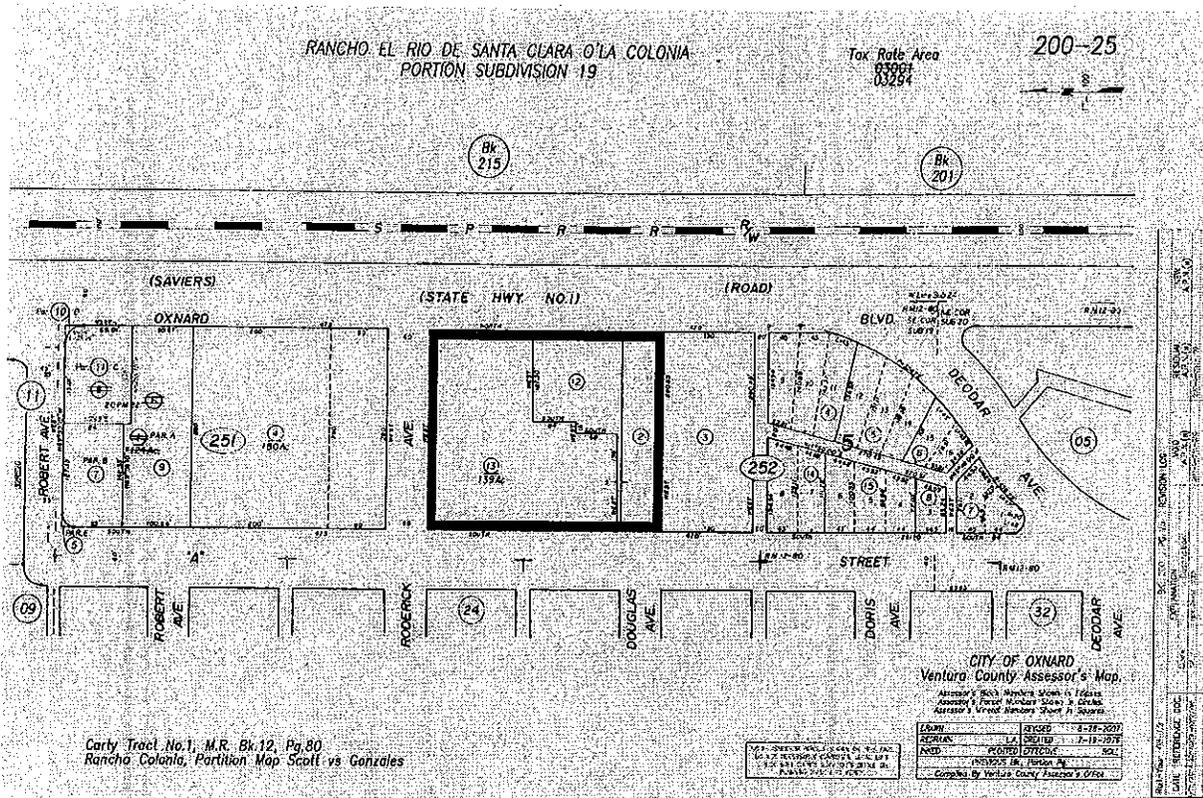
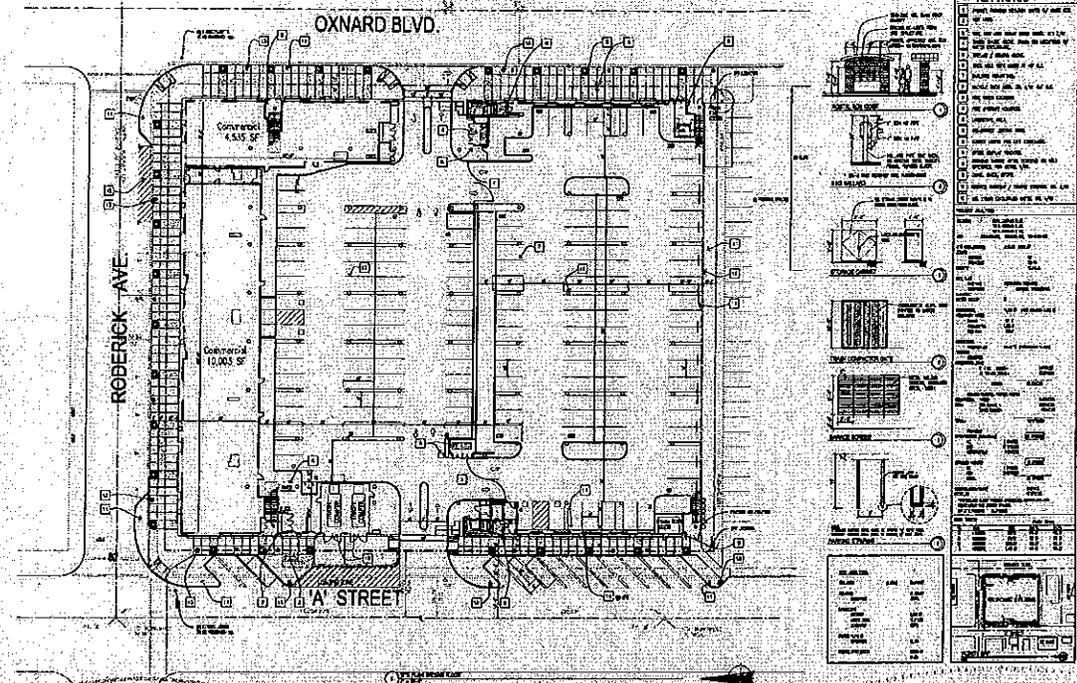


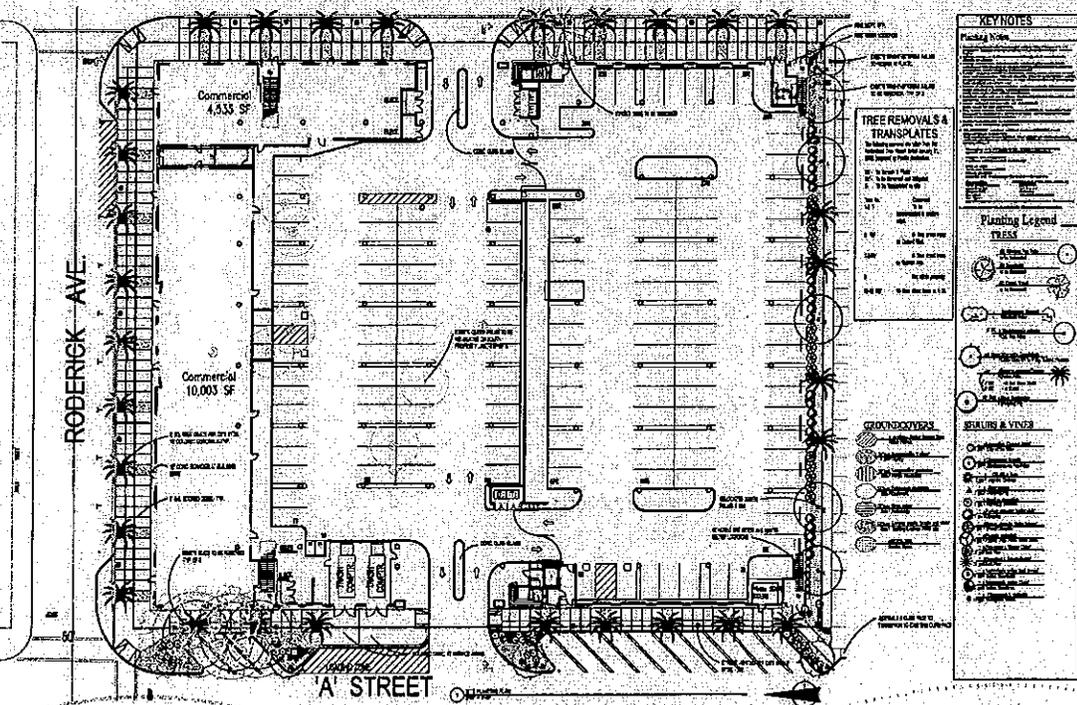
EXHIBIT A-3 TO LOAN AGREEMENT PROJECT SITE PLAN



KEY NOTES	
1	SEE PLAN FOR ALL UTILITIES AND SERVICE AREAS.
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50	SEE PLAN FOR ALL UTILITIES AND SERVICE AREAS.

Colonial House Apartments
 705, 711 & 747 N. Oxnard Blvd., Oxnard, CA 93000
 Pacific West Communities, Inc.
 401 E. 9th Street, Suite 100 Oxnard, CA 93000

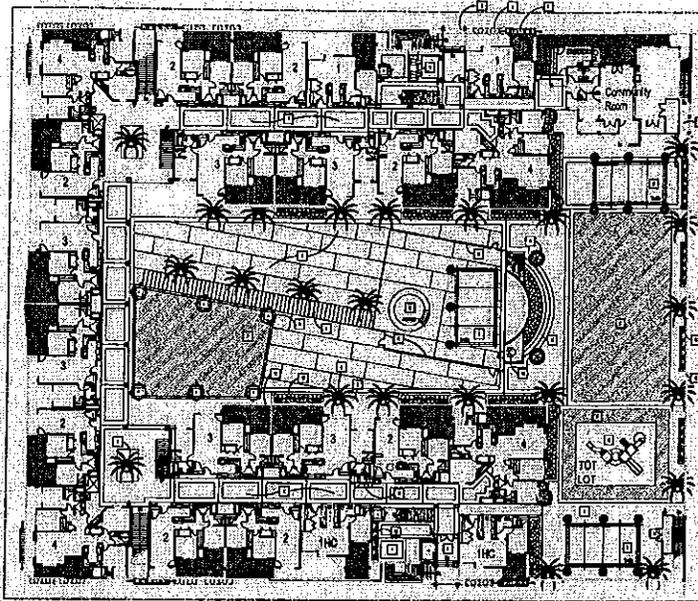
APR 1, 2010
 SITE PLAN
A1



KEY NOTES	
1	SEE PLAN FOR ALL UTILITIES AND SERVICE AREAS.
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50	SEE PLAN FOR ALL UTILITIES AND SERVICE AREAS.

Colonial House Apartments
 705, 711 & 747 N. Oxnard Blvd., Oxnard, CA 93000
 Pacific West Communities, Inc.
 401 E. 9th Street, Suite 100 Oxnard, CA 93000

APR 1, 2010
 PRELIMINARY PLANTING PLAN
L1



KEY NOTES

1. All plants to be installed in the ground.
2. All plants to be installed in the ground.
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19. All plants to be installed in the ground.
20. All plants to be installed in the ground.

Planting Legend

TREES

- 1. 12" DBH Redwood
- 2. 12" DBH Sycamore
- 3. 12" DBH Maple
- 4. 12" DBH Oak
- 5. 12" DBH Elm
- 6. 12" DBH Birch
- 7. 12" DBH Cedar
- 8. 12" DBH Juniper
- 9. 12" DBH Cypress
- 10. 12" DBH Palm
- 11. 12" DBH Magnolia
- 12. 12" DBH Dogwood
- 13. 12" DBH Hawthorn
- 14. 12" DBH Linden
- 15. 12" DBH Tulip
- 16. 12" DBH Yew
- 17. 12" DBH Boxwood
- 18. 12" DBH Holly
- 19. 12" DBH Rose
- 20. 12" DBH Lavender

SHRUBS & VINES

- 1. 12" DBH Azalea
- 2. 12" DBH Camellia
- 3. 12" DBH Hibiscus
- 4. 12" DBH Jasmine
- 5. 12" DBH Lilac
- 6. 12" DBH Magnolia
- 7. 12" DBH Nandina
- 8. 12" DBH Oleander
- 9. 12" DBH Philadelphus
- 10. 12" DBH Rhododendron
- 11. 12" DBH Spirea
- 12. 12" DBH Viburnum
- 13. 12" DBH Weigela
- 14. 12" DBH Yucca
- 15. 12" DBH Zinnia
- 16. 12" DBH Begonia
- 17. 12" DBH Impatiens
- 18. 12" DBH Petunia
- 19. 12" DBH Salvia
- 20. 12" DBH Verbena

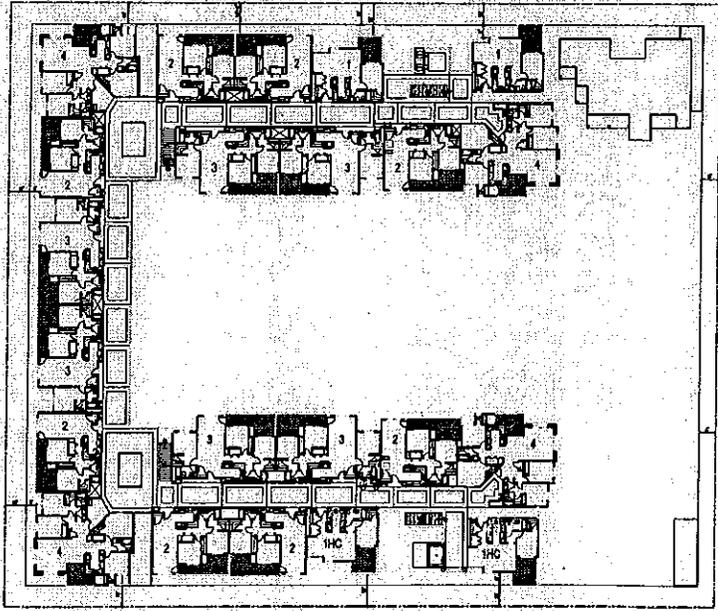
LANDSCAPE COVERS

- 1. Turfgrass
- 2. Groundcover
- 3. Mulch
- 4. Gravel
- 5. Sand
- 6. Concrete
- 7. Asphalt
- 8. Brick
- 9. Stone
- 10. Pavers

Pacific West Communities, Inc.
 430 E. Main Street, Suite 100 - Oxnard, CA 93030

Colonial House Apartments
 705, 711 & 747 N. Oxnard Blvd., Oxnard, CA 93030

April 1, 2003
 2nd FLOOR PLAN
 PRELIMINARY PLANTING PLAN
A2



Pacific West Communities, Inc.
 430 E. Main Street, Suite 100 - Oxnard, CA 93030

Colonial House Apartments
 705, 711 & 747 N. Oxnard Blvd., Oxnard, CA 93030

April 1, 2003
 3rd FLOOR PLAN
 PRELIMINARY PLANTING PLAN
A3

**EXHIBIT B
TO LOAN AGREEMENT**

(BUDGET)

CONSTRUCTION PHASE		PERMANENT PHASE	
<u>Sources of Funds</u>		<u>Sources of Funds</u>	
Tax Credit Financing	\$ 1,284,390	Total Tax Credit Financing	\$ 6,421,950
Oxnard RDA	\$ 2,200,000	Permanent Loan	\$ 5,000,000
Oxnard RDA Accrued Interest	\$ 147,000	Oxnard RDA	\$ 4,200,000
Other	\$ -	Oxnard RDA Accrued Interest	\$ 147,000
Other	\$ -	Other	\$ -
Other	\$ -	Other	\$ -
Deferred Costs	\$ 124,889	Other	\$ -
Deferred Contractor Profit	\$ -	Other	\$ -
Deferred Developer Fee	\$ 1,767,051	Other	\$ -
Construction Loan	\$ 11,045,620	Other	\$ -
Total Sources of Funds	\$ 16,568,950	Deferred Developer Fee	\$ 800,000
		Total Sources of Funds	\$ 16,568,950
<u>Uses of Funds</u>		<u>Uses of Funds</u>	
Total Land Costs	\$ 2,505,000	Total Land Costs	\$ 2,505,000
Total Acquisition Costs	\$ -	Total Acquisition Costs	\$ -
New Construction and/or Rehabilitation	\$ 7,723,842	New Construction and/or Rehabilitation	\$ 7,723,842
Construction Contingency	\$ 600,000	Construction Contingency	\$ 600,000
Financing Costs	\$ 1,290,162	Financing Costs	\$ 1,290,162
Architecture & Engineering	\$ 490,000	Architecture & Engineering	\$ 490,000
Other Soft Costs	\$ 1,968,006	Other Soft Costs	\$ 1,968,006
Developer Fees	\$ 1,767,051	Developer Fees	\$ 1,767,051
Soft Cost Contingency	\$ 100,000	Soft Cost Contingency	\$ 100,000
Reserves	\$ 124,889	Reserves	\$ 124,889
Total Uses of Funds	\$ 16,568,950	Total Uses of Funds	\$ 16,568,950

**EXHIBIT C
TO LOAN AGREEMENT**

SCHEDULE OF PERFORMANCE

<u>Submission – Corporate Authorizing Documents, Certificate of Status, Legal Opinion.</u> Section 4.3(3), (11).	Prior to, and as a condition precedent to City execution of the Loan Agreement.
<u>Submission – ALTA Lender’s Policy.</u> Section 4.3(8)	Prior to, and as a condition precedent to City execution of the Loan Agreement.
<u>Submission – Insurance Policies.</u> Section 4.3(9).	Prior to, and as a condition precedent to City execution of the Loan Agreement.
<u>Submission – Permits, Licenses, & Approvals.</u>	Within sixty (60) days prior to the Second Draw.
<u>Construction Sign.</u> PWC shall cause to be erected on the Site a construction sign describing the development and the participants in accordance with City specifications.	Within sixty (60) days after the date of the Loan Agreement.
<u>Submission – Plans and Specifications.</u> Section 5.4.	Prior to Commencement of Construction.
<u>Review and Approval - Plans and Specification.</u> Section 5.4.	Within thirty (30) days after submission by PWC (applies only to City)
<u>Orientation.</u> PWC shall coordinate a preconstruction orientation meeting with PWC’s general contractors and City.	Prior to Commencement of Construction.
<u>Submission – Management Plan.</u> Section 5.6.	Within ninety (90) days prior to completion of construction.
<u>Review and Approval – Management Plan.</u> Section 5.6.	Within thirty (30) days after submission by PWC.
<u>Submission – Final Project Budget.</u> Section 5.1.	Thirty (30) days prior to the First Draw.
<u>Review and Approval - Construction Budget.</u> Section 5.1.	Within thirty (30) days after submission by PWC.

<u>Submission – Construction Contract and Construction Schedule. Section 5.5.</u>	Thirty (30) days prior to the First Draw.
<u>Commencement of Construction. Section 6.3.</u>	No later than the first (1 st) anniversary of the date of the Loan Agreement, as the same may be extended hereinabove
<u>Completion of Construction.</u> PWC shall complete construction of the Project as evidenced by issuance of a Certificate of Occupancy by City.	Within thirty-six (36) months after the date of the Loan Agreement.
<u>Final Inspection.</u> City shall conduct a final inspection of all Improvements.	Within fifteen (15) days after request by PWC.
<u>Submission - Audit of Development Costs.</u> PWC shall submit a certified breakdown of Development Costs.	Within one hundred and twenty (120) days after the issuance of the Certificate of Occupancy by City.
<u>Audit Approval.</u> City shall approve or disapprove the certified audit of Development Costs.	Within 30 days after receipt of the audit by City.
<u>Issuance of City Release of Construction Covenants.</u> City shall issue in recordable form the Release of Construction Covenants.	Within thirty (30) days after receipt by City of PWC's written request, provided all requirements for issuance have been satisfied.

**EXHIBIT D
TO LOAN AGREEMENT**

FORM OF PROMISSORY NOTE SECURED BY DEED OF TRUST

(Loan # _____)

\$4,200,000

DATE: _____

FOR VALUE RECEIVED, Pacific West Communities, Inc., an Idaho corporation ("Borrower"), hereby promises to pay to the order of the City of Oxnard, a public body, corporate and politic, whose address is 214 South C Street, Oxnard, CA 93030 ("Lender"), a principal amount equal to FOUR MILLION TWO HUNDRED THOUSAND DOLLARS (\$4,200,000), or so much thereof as may be advanced by Lender to Borrower (the "Loan") pursuant to the loan agreement of even date herewith between Borrower and Lender, which is incorporated herein by this reference as of fully set forth (the "Loan Agreement"). The amount of the Loan, and repayment of principal, is expressly subject to the provisions of Section 3.2 of the Loan Agreement.

1. **BORROWER'S OBLIGATION.** This Promissory Note ("Note") evidences the obligation of Borrower to Lender for the repayment of funds loaned to Borrower by Lender Eligible Costs for development of the real property (the "Site") described in the Loan Agreement with a 44 residential apartment units (including one manager's unit) affordable to persons or families of low income and very-low income (the "Apartment Complex") and is secured by that certain deed of trust of even date herewith executed by Borrower for Lender's benefit (the "Deed of Trust"). As used herein, all references to the "Project" shall mean: (i) the Site prior to completion of construction; and (ii) the Apartment Complex upon Release of Construction Covenants.

2. **INTEREST.** The Loan shall bear simple interest at a rate of 3 % per annum from the date of this Note, except as otherwise provided herein. At all times when Borrower is in default hereunder by reason of Borrower's failure to pay principal or interest due under this Note or any amounts due under any Loan Agreement, the interest rate on the sums as to which Borrower is in default, shall be the lower of the highest rate then allowed by law or five percent (5%) over the prime interest rate announced by Wells Fargo Bank, N.A., as of the date of the default.

3. **TERM, AMOUNT AND TIME OF PAYMENT.** Unless sooner due pursuant to this Note or the Loan Agreement (including such adjustments as provided in Section 3.2 of the Loan Agreement), the principal of the Loan and all accrued interest thereon shall be due and payable on the earliest of (a) _____, _____, **[DRAFTING NOTE: INSERT THE EARLIER OF: (i) TERM OF THE PERMITTED MORTGAGES; (ii) TWENTY-FOUR YEARS FROM THE DATE OF THE NOTE (SUBJECT TO APPROVAL OF THE PERMITTED MORTGAGEES); OR (iii) THE DURATION OF THE AGREEMENT**

CONTAINING COVENANTS], (b) the date any portion of or interest in the Site or Project is sold, transferred, assigned, conveyed, financed or refinanced without the Lender's prior written consent, or (c) a default by Borrower which has not been cured as provided for in the Loan Agreement (the "Term"). On April 1 of every Calendar Year starting the Calendar Year after the year during which a Certificate of Occupancy for the Project is issued and continuing through the Term or until the Loan is paid in full, whichever comes first (each a "Payment Date"), the Borrower shall pay to Lender fifty percent (50%) of the Residual Receipts, as defined in and in accordance with the Loan Agreement. If Residual Receipts (as they may be available from time to time) are not sufficient to pay in full the Loan principal and all accrued interest thereon by the time the balance of the Loan is due and payable, then Borrower shall pay Lender at that time the entire unpaid balance of the Loan (principal and interest) in one lump sum payment.

4. **PLACE AND MANNER OF PAYMENT.** All amounts due and payable under this Note and the Loan Agreement are payable at the office of Lender as set forth above, or at such other place as Lender may designate to Borrower in writing from time to time, in any coin or currency of the United States which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts.

5. **APPLICATION OF PAYMENTS.** All payments received on account of the Note shall be first applied to accrued interest and the remainder shall be applied to the reduction of principal; except that if Lender shall have made additional advances under the terms of the Loan Agreement and such advances have not been repaid, any payments received by Lender, at its option, may be applied first to the repayment of such advances and interest thereon.

6. **PREPAYMENT OF LOAN.** Borrower shall have the right to prepay the Loan in whole or in part prior to the end of the Loan term. No prepayment penalty will be charged to Borrower for payment of all or any portion of this Note prior to the end of the Loan term described herein.

7. **WAIVERS.** Presentment, notice of dishonor, and protest are waived by all makers, sureties, guarantors, and endorsers of this Note.

8. **DEFAULT AND ACCELERATION.** This Note is secured by the Deed of Trust. All covenants, conditions and agreements contained in the Deed of Trust and the Loan Agreement are hereby made a part of the Note. Borrower agrees that the unpaid balance of the then principal amount of this Note, together with all accrued interest thereon and charges owing, shall, at the option of Lender, become immediately due and payable upon a default by Borrower which has not been cured pursuant to the Loan Agreement, including without limitation the failure of Borrower to make any payment when due. Upon any Event of Default, Lender may exercise any other right or remedy permitted under the Loan Agreement or any other agreement or at law or in equity.

9. **LIMITED RECOURSE.** The obligation to repay the Loan is a nonrecourse obligation of Borrower. Neither Borrower, nor any other party, shall have any personal liability for repayment of the Loan. The sole recourse of Lender with respect to repayment of the Loan

shall be the exercise of its rights against the Site as described in the Deed of Trust and related security documents. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by this Note or the Deed of Trust; (b) limit the right of the Lender to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (c) release or impair this Note or the Deed of Trust; (d) prevent or in any way hinder Lender from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Site or any other instrument securing this Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder Lender from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; (f) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to Lender. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of any default, Borrower and its successors and assigns shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Borrower, its principals, shareholders, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Site, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the mortgaged Site after the occurrence of such default, ordinary and reasonable capital improvements to the mortgaged Site, debt service, real estate taxes in respect of the mortgaged Site and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Borrower in connection with the operation of the mortgaged Site, which are then due and payable. Notwithstanding the foregoing, Lender:

(a) may obtain a judgment or order (including, without limitation, an injunction) requiring Borrower or any other party to perform (or refrain from) specified acts other than repayment of the Loan; and

(b) may recover directly from Borrower or any other party for such party's actions that result in:

(i) any damages, costs or expenses incurred by Lender as a result of fraud or any criminal act or acts of Borrower or any member, manager, partner, shareholder, officer, director or employee of Borrower;

(ii) any damages, costs or expenses incurred by Lender as a result of any misappropriation of funds provided for the construction of the Project, as described in the Loan Agreement, rents and revenues from the operation of the Project or the portion of the Site on which the Project is located or proceeds of insurance policies or condemnation proceeds;

(iii) any and all amounts owing by Borrower pursuant to Borrower's indemnification regarding Hazardous Materials pursuant to the Loan Agreement and attachments thereto; and/or

(iv) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that Lender shall pay Borrower's reasonable court costs and attorneys' fees if Borrower is the prevailing party in any such enforcement or collection action).

10. **CONSENTS AND APPROVALS.** Any consent or approval of Lender required under the Note shall not be unreasonably withheld.

11. **NOTICES.** Except as may be otherwise specifically provided herein, any approval, notice, direction, consent request or other action by Lender shall be in writing and may be communicated to Borrower at the principal office of Borrower set forth above, or at such other place or places as Borrower shall designate in writing, from time to time, for the receipt of communications from Lender.

12. **BINDING UPON SUCCESSORS.** All provisions of this Note shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of Borrower and Lender; provided, however, that this section does not waive the prohibition in the Loan Agreement on assignment of the Loan by Borrower without Lender's consent.

13. **ASSIGNMENT AND ASSUMPTION.** Borrower shall not assign any of its interests under the Note to any other party, except as specifically permitted under the terms of the Loan Agreement, without the prior written consent of Lender. Any unauthorized assignment shall be void.

14. **DEFINITIONS.** Capitalized terms not defined in the Note shall have the same meaning as defined terms in the Loan Agreement.

15. **GOVERNING LAW.** This Note shall be interpreted under and governed by the laws of the State of California.

16. **LOAN AGREEMENT CONTROLS.** In the event that any provisions of the Note and the Loan Agreement conflict, the terms of the Loan Agreement shall control.

17. **SEVERABILITY.** Every provision of the Note is intended to be severable. If any provision of the Note 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.

18. **TIME.** Time is of the essence in the Note.

19. **WAIVER.** Any waiver by Lender of any obligation in the Note must be in writing. No waiver shall be implied from any failure of Borrower to take, or any delay or failure by Lender to take action on any breach or default by Borrower or to pursue any remedy allowed

under the Note or applicable law. Any extension of time granted to Borrower to perform any obligation under the Note shall not operate as a waiver or release from any of its obligations under the Note. Borrower hereby waives all defenses and pleas on the grounds of any extensions of the time for repayment of any amounts due under the Note, unless Lender has granted such extensions in writing. Consent by Lender to any act or omission by Borrower shall not be construed to be consent to any other act or omission or to waive the requirement for Lender's written consent to future waivers.

20. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to the Note must be in writing, and shall be made only if executed by both Borrower and Lender.

Executed _____, 20____, at _____, California.

BORROWER:

PACIFIC WEST COMMUNITIES, INC.
an Idaho corporation

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT E
TO LOAN AGREEMENT

FORM OF DEED OF TRUST

Recording Requested By and
When Recorded Mail to:

City of Oxnard
Department of Community Development
214 South C Street
Oxnard, California 93030
Attention: Community Development Dir.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

No recording fee pursuant to California Government Code Section 27383

**DEED OF TRUST,
SECURITY AGREEMENT AND FIXTURE FILING RECORDED AGAINST
PROPERTY
(WITH ASSIGNMENT OF RENTS)**

This Deed of Trust, Security Agreement and Fixture Filing Recorded Against Property (With Assignment of Rents) is made as of _____, 20__ by PACIFIC WEST COMMUNITIES, INC., an Idaho corporation ("**Trustor**"), whose address is Pacific West Communities, Inc., 430 East State Street, Suite 100, Eagle, ID 83616, Attention: Caleb Roope, to _____ TITLE INSURANCE COMPANY ("**Trustee**"), for the benefit of the CITY OF OXNARD, a public body, corporate and politic ("**Beneficiary**"), whose address is City of Oxnard, Community Development Department, 214 South C Street, Oxnard, California 93030, Attention: Community Development Director.

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION the following property (the "**Trust Estate**");

(a) That certain real property in the City of Oxnard, County of Ventura, State of California more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "**Site**");

(b) All buildings, structures and other improvements now or in the future located or to be constructed on the Site (the "**Improvements**");

(c) All tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefitting or otherwise relating to the Site or the Improvements, including easements, rights-of-way and development rights (the

“Appurtenances”). (The Appurtenances, together with the Site and the Improvements, are hereafter referred to collectively as the **“Real Property”**);

(d) Subject to the assignment to Beneficiary set forth in Paragraph 4 below, all rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid;

(e) All present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the **“UCC”**), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (**“Goods”**, and together with the Real Property, the **“Property”**); and

(f) All present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the Property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate): (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (v) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vi) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (vii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types of intangible personal property of any kind or nature and (viii) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (**“Intangibles”**).

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estate described above in which a security interest may be created under the UCC (collectively, the "**Personal Property**"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9313 and 9402(6) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

(1) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained in the following:

(a) a promissory note in the original principal amount of FOUR MILLION TWO HUNDRED THOUSAND DOLLARS (\$4,200,000.00) evidencing the Loan, executed by Trustor ("Borrower" therein) of even date herewith ("**Note**");

(b) the Loan Agreement, dated as of _____, 20____, by and between Trustor ("PWC" therein) and Beneficiary ("City" therein), pertaining to the obligations for the Property therein ("**Project**");

(c) the Agreement Containing Covenants dated as of _____, 20____ between Trustor ("Owner" therein) and Beneficiary ("City" therein) ("**Agreement Containing Covenants**");

(2) payment of indebtedness of the Trustor to the Beneficiary not to exceed FOUR MILLION TWO HUNDRED THOUSAND DOLLARS (\$4,200,000.00) according to the terms of the Note;

(3) All present and future obligations of Trustor to Beneficiary under this Deed of Trust; and

(4) All additional present and future obligations of Trustor to Beneficiary under any other agreement or instrument (whether existing now or in the future) which states that it is, or such obligations are, secured by this Deed of Trust; in each case as such other obligations may from time to time be supplemented, modified, amended, renewed and extended, whether evidenced by new or additional documents.

The Note, Loan Agreement, and Agreement Containing Covenants (collectively referred to as the "**Secured Obligations**") and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals

thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby. Any capitalized term that is not otherwise defined in this Deed of Trust shall have the meaning ascribed to such term in the Loan Agreement.

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

1. That Trustor shall pay the Note at the time and in the manner provided therein, and perform the obligations of Trustor as set forth in the Secured Obligations at the time and in the manner respectively provided therein.
2. Reserved.
3. That the Secured Obligations are incorporated in and made a part of this Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.
4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the Loan Agreement.
5. That upon default hereunder or under the aforementioned agreements, and after the giving of notice and the expiration of any applicable cure period, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom.
6. That Trustor will keep the Improvements to be constructed on the Site insured against loss by fire and such other hazards, casualties, and contingencies as may reasonably be required in writing from time to time by Beneficiary, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies. In no event shall the amounts of coverage be less than 100% of the insurable value of the Property. Such policies shall be endorsed with standard mortgage clause with loss payable to Beneficiary and certificates thereof together with copies of original policies shall be deposited with Beneficiary.
7. To pay, prior to delinquency, any taxes and assessments affecting said Property; to pay, 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 to pay all costs, fees and expenses of this trust.
8. To keep said Property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation, not to remove or demolish any buildings thereon, to complete

or, restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws affecting said Property or requiring any alterations or improvements to be made thereon (subject to Trustor's right to contest the validity or applicability of laws or regulations), not to commit or permit waste thereof, not to commit, suffer or permit any act upon said Property in violation of law and/or covenants, conditions and/or restrictions affecting said Property and not to permit or suffer any material alteration of or addition to the buildings or improvements hereafter constructed in or upon said Property without the consent of Beneficiary.

9. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period, to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do 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. Following default, after the giving of notice and the expiration of any applicable cure period, Beneficiary or Trustee being authorized to enter upon said Property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, may 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, may pay necessary expenses, employ counsel and pay its reasonable fees. Notwithstanding the foregoing, in the event of default under this Deed of Trust, Beneficiary may also require Trustor to maintain and submit additional records. Beneficiary shall specify in writing the particular records that must be maintained and the information or reports that must be submitted.

11. Beneficiary shall have the right to pay fire and other property insurance premiums when due should Trustor fail to make any required premium payments. All such payments made by Beneficiary shall be added to the principal sum secured hereby.

12. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, under permission given under this Deed of Trust, with interest from date of expenditure at the highest rate permitted by law.

13. That the funds to be advanced hereunder are to be used in accordance with the Secured Obligations and upon the failure of Trustor, after the giving of notice and the expiration of any applicable cure period, to keep and perform all the covenants, conditions and agreements of said agreements, the principal sum and all arrears of interest and other charges provided for in the Note shall at the option of Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding.

14. Trustor further covenants that it will not voluntarily create, suffer or permit to be created against the property subject to this Deed of Trust any lien or liens except as permitted by the Secured Obligations or otherwise approved by Beneficiary, and further that it will keep and maintain such property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be obligated to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting, provided that Trustor shall, at Beneficiary's written request, within 30 days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request, prior to foreclosure) record in the Office of the Ventura County Registrar-Recorder/County Clerk ("**County Recorder**") a surety bond in an amount 1½ times the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary.

15. That any and all improvements made or about to be made upon the premises covered by this Deed of Trust, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful promulgation, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of Beneficiary a reasonable charge for providing a statement regarding the obligation secured by this Deed of Trust as provided by Section 2954, Article 2, Chapter 2 Title 14, Division 3, of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, earthquake or in any other manner, then Beneficiary shall be entitled to all compensation, awards and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting said Property, are hereby assigned to Beneficiary. After deducting therefrom all its expenses, including attorneys' fees, the balance of the proceeds which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, shall be applied to the amount due under the Note. No amount applied to the reduction of the principal shall relieve Trustor from making regular payments as required by the Note.

18. Upon default by Trustor in making any payments provided for in the Note or in this Deed of Trust, or in performing any obligation set forth in any of the Secured Obligations, and if such default is not cured within the respective time provided therefor in Section 34 below, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the Property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby.

19. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said Property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. Trustee shall apply the proceeds of sale to payment of (i) the expenses of such sale, together with the reasonable expenses of this trust including therein reasonable Trustee's fees or attorneys' fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale, (ii) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's deed, (iii) all sums expended under the terms hereof, not then repaid, with accrued interest at the highest rate permitted by law, (iv) all other sums then secured hereby and (v) the remainder, if any, to the person or persons legally entitled thereto.

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

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

22. Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees,

Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

23. The trust created hereby is irrevocable by Trustor.

24. This Deed of Trust applies to, inures to the benefit of, and binds all parties described herein, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder including pledgees, of the Note. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

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

26. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address set forth on the first page of this Deed of Trust.

27. Trustor agrees at any time and from time to time upon receipt of a written request from Beneficiary, to furnish to Beneficiary detailed statements in writing of income, rents, profits and operating expenses of the premises, and the names of the occupants and tenants in possession, together with the expiration dates of their leases and full information regarding all rental and occupancy agreements, and the rents provided for by such leases and rental and occupancy agreements, and such other information regarding the premises and their use as may be requested by Beneficiary.

28. Trustor agrees that the Loan secured by this Deed of Trust is made expressly for the purpose of financing the development and construction of the Affordable Units.

29. Trustor agrees that upon sale or refinancing of the Property or any part thereof, the entire principal balance of the debt secured by this Deed of Trust, plus any accrued but unpaid interest thereon, shall at the option of Beneficiary be immediately due and payable.

30. The obligation to repay the Loan is a nonrecourse obligation of Trustor. Neither Trustor, nor any other party, shall have any personal liability for repayment of the Loan. The sole recourse of Beneficiary with respect to repayment of the Loan shall be the exercise of its rights against the Property. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by the Note or this Deed of Trust; (b) limit the right of the Beneficiary to name Trustor as a party defendant in any action or suit for judicial foreclosure and sale under

the Note and this Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Trustor; (c) release or impair the Note or this Deed of Trust; (d) prevent or in any way hinder Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Note; (f) relieve Trustor of any of its obligations under any indemnity delivered by Trustor to Beneficiary. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of a default, Trustor and its successors and assigns shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Trustor, its principals, shareholders, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the mortgaged Property after the occurrence of such default, ordinary and reasonable capital improvements to the mortgaged Property, debt service, real estate taxes in respect of the mortgaged Property and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Trustor in connection with the operation of the mortgaged Property, which are then due and payable. Notwithstanding the foregoing, Beneficiary:

(a) may obtain a judgment or order (including, without limitation, an injunction) requiring Trustor or any other party to perform (or refrain from) specified acts other than repayment of the Loan; and

(b) may recover directly from Trustor or any other party for such party's actions that result in:

(i) any damages, costs or expenses incurred by Beneficiary as a result of fraud or any criminal act or acts of Trustor or any member, manager, partner, shareholder, officer, director or employee of Trustor;

(ii) any damages, costs or expenses incurred by Beneficiary as a result of any misappropriation of funds provided for the construction of the Affordable Units, as described in the Loan Agreement and Agreement Containing Covenants, rents and revenues from the operation of the Affordable Units or the portion of the Property on which the Affordable Units are located or proceeds of insurance policies or condemnation proceeds;

(iii) any and all amounts owing by Trustor pursuant to Trustor's indemnification regarding Hazardous Materials pursuant to the Loan Agreement and attachments thereto; and/or

(iv) all court costs and attorneys' fees reasonably incurred in enforcing

or collecting upon any of the foregoing exceptions (provided that Beneficiary shall pay Trustor's reasonable court costs and attorneys' fees if Trustor is the prevailing party in any such enforcement or collection action).

31. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, then the unsecured portion of such obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the obligations.

32. (a) Failure or delay by Trustor to perform any term or provision required to be performed under the Secured Obligations or this Deed of Trust constitutes a default under this Deed of Trust.

(b) Beneficiary shall give written notice of default to Trustor, specifying the default complained of by Beneficiary. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

(d) Subject to subsection (g) below, if a monetary event of default occurs, then prior to exercising any remedies hereunder, Beneficiary shall give Trustor written notice of such default. Trustor shall have a period of 10 days after such notice is given within which to cure the default.

(e) Subject to subsection (g) below, if a non-monetary event of default occurs, then prior to exercising any remedies hereunder, Beneficiary shall give Trustor written notice of such default. If the default is reasonably capable of being cured within 30 days, then Trustor shall have such period to effect a cure prior to exercise of remedies by Beneficiary. If the default is such that it is not reasonably capable of being cured within 30 days, and Trustor (i) initiates corrective action within said period and (ii) diligently, continually and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to any exercise of remedies by Beneficiary, but no longer than 90 days or shorter period of time if Beneficiary's rights become or are about to become materially jeopardized by any failure to cure a default or the default.

(f) Formal notices, demands and communications to Trustor shall be deemed sufficiently given if dispatched by first class mail, registered or certified mail, postage prepaid, return receipt requested, or by electronic facsimile transmission followed by prompt delivery of a "hard" copy, or by personal delivery (including by means of professional messenger service,

courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), to the address of Trustor as set forth above. Such written notices, demands and communications may be sent in the same manner to such other addresses as Trustor may from time to time designate by mail. Any notice that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

(g) There shall be no additional cure periods under this Deed of Trust for defaults under the Secured Obligations. Any cure periods shall be deemed to run concurrently.

IN WITNESS WHEREOF Trustor has executed this Deed of Trust as of the day and year set forth above.

TRUSTOR:

PACIFIC WEST COMMUNITIES, INC.
an Idaho corporation

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

BENEFICIARY:

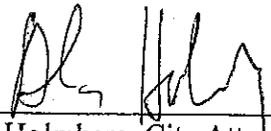
CITY OF OXNARD

By: _____
Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

THIS DOCUMENT MUST BE NOTARIZED FOR RECORDING

**ATTACHMENT 1 TO EXHIBIT E
LOAN AGREEMENT**

LEGAL DESCRIPTION OF SITE

Real property in the City of Oxnard, County of Ventura, State of California, described as follows:

PARCEL 1: (APN 200-0-252-120)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Plffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Beginning at a point on the Westerly line of State Highway Route 60 known as Oxnard Boulevard, said point being North 60 feet from the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on the Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence, 1st: Westerly 280 feet, more or less, parallel with the Northerly line of said land of Willard W. Shepherd and Helen L. Shepherd, in the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map; thence, 2nd: Northerly 280 feet along said Northerly prolongation of the East line of "A" Street to a point; thence, 3rd: Easterly 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 4th: Southerly 280 feet along said Westerly line of State Highway Route 60 to the Point of Beginning.

EXCEPT that portion thereof lying within the land described in Deed to Lloyd V. Dunkin, a married man, recorded September 6, 1972, as Instrument No. 63333, in Book 4005, Page 640 of Official Records.

PARCEL 2: (APN 200-0-252-020)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition File No: 11852928 Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Plffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Beginning at a point on the Westerly line of State Highway Route 60 known as Oxnard Boulevard, said point being the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on the Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence, 1st: Westerly 280 feet, more or less, parallel with the Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, in the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map; thence, 2nd: Northerly 60 feet along said Northerly prolongation of the

East line of "A" Street to a point; thence, 3rd: Easterly 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 4th: Southerly 60 feet along said Westerly line of State Highway Route 60 to the Point of Beginning.

PARCEL 3: (APN 200-0-252-130)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Plffs. vs. Rafael Gonzales, et al., Defts.," described as follows:

Commencing at a point on the Westerly line of State Highway Route 60, known as Oxnard Boulevard, said point being North 65 feet from the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence West 280 feet, more or less, parallel with the Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map, said point being the True Point of Beginning; thence, 1st: North 275 feet along said Northerly prolongation of the East line of "A" Street; thence, 2nd: East 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 3rd: South 151 feet along said Westerly line of State Highway Route 60; thence parallel with said Northerly line of Shepherd, 4th: West 127.30 feet; thence parallel with said "A" Street, 5th: South 64 feet; thence parallel with said Northerly line of Shepherd, , 6th: West 15 feet; thence parallel with said "A" Street, 7th: South 60 feet to the intersection with a line which bears West and passes through the True Point of Beginning; thence along said line, 8th: West 130 feet to the True Point of Beginning.

**EXHIBIT F
TO LOAN AGREEMENT**

FORM OF AGREEMENT CONTAINING COVENANTS

Recording Requested By and
When Recorded Mail to:

City of Oxnard
Community Development Department
214 South C Street
Oxnard, California 93030
Attention: Community Development Dir.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

No recording fee pursuant to California Government Code Section 27383

**AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY
(INCLUDING RENTAL RESTRICTIONS)**

This AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY (INCLUDING RENTAL RESTRICTIONS) (this "**Regulatory Agreement**") is entered into as of _____, 20____, by and between the CITY OF OXNARD, a public body, corporate and politic ("**City**"), and PACIFIC WEST COMMUNITIES, INC., an Idaho corporation ("**Developer**"), with reference to the following:

A. Developer has acquired certain real property located within the HERO Redevelopment Project (as more particularly described in Attachment I hereto and incorporated herein by this reference) (the "**Site**") for the development 44 residential apartment units (including one manager's unit) affordable to persons or families of low and moderate income (the "**Apartment Complex**") that is within a larger mixed use project that contains commercial uses in addition to the Apartment Complex. As used herein, all references to the "Project" shall mean: (i) the Site prior to completion of construction; and (ii) the Apartment Complex upon Release of Construction Covenants.

B. The Project is the subject of that certain Loan Agreement entered into by and between City and Developer, dated _____, _____ (the "**Loan Agreement**"). The Loan Agreement imposes certain affordable housing obligations on Developer.

C. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement. Unless a different meaning is apparent from the context or is specified elsewhere in this Agreement, the following words and terms shall have the same meaning given or attributed to them in the California Health and Safety Code and in Title 25 of the California Code of Administrative Regulations: (a) adjusted income; (b) annual income; (c) housing cost; (d) family; (e) household; (f) persons and families of low and moderate income; (g) monthly adjusted income; (h) monthly income; (i) operating expenses; and (j) affordable rent (as

expressly defined in California Health and Safety Code section 50053). Notwithstanding the foregoing, provided that the Project is subject to federal low-income housing tax credit requirements and regulations, the provisions of those requirements and regulations regarding household/family size and continued occupancy by households whose incomes exceed the eligible income limitations may apply in place of the provisions set forth in the California Health and Safety Code and in Title 25 of the California Code of Administrative Regulations, provided that such deviations: (i) conform to the requirements of California Health and Safety Code Section 50053(c) and 50462; and (ii) are allowed by or do not otherwise conflict with California Redevelopment Law.

NOW, THEREFORE CITY AND DEVELOPER COVENANT AND AGREE AS FOLLOWS:

1. Purpose of this Regulatory Agreement. This Regulatory Agreement is in furtherance of and is subject to requirements of the provisions of the California Community Redevelopment Law (California Health and Safety Code Sections 33000 *et seq.*) and the Loan Agreement.

2. Use Restrictions. As a material part of the consideration for the Loan Agreement, Developer covenants and agrees (for itself, its successors, its assigns, and every successor in interest to the Project or any part thereof) that Developer, such successors, and such assigns shall perform all of the following:

- a. Develop the Affordable Units (hereinafter described in Paragraph 3 herein) in accordance with the terms and conditions of the Loan Agreement and this Regulatory Agreement.
- b. Maintain the Project in accordance with the Loan Agreement and this Regulatory Agreement.
- c. Not permit the use of the Affordable Units or the Project for any purpose other than permitted by the Loan Agreement and this Regulatory Agreement without the prior written approval of City.
- d. Pay when due all real estate taxes and assessments assessed and levied on the Project or any portion thereof or any improvements thereon or any interest therein.
- e. Refrain from making any assignment of transfer in violation of the Loan Agreement.
- f. Comply with the following standards:
 - (1) Municipal Code Compliance. Neither the Project nor any part of it shall be used and no building or other improvements shall be constructed, maintained, or used for any purposes other than those which is allowed by City's Municipal Code and development permits, if any, issued therefor.

- (2) Prohibited Operations and Nuisances. No use or operation will be made, conducted or permitted on or with respect to all or any part of the Project, which use or operation is obnoxious to or out of harmony with the development, including, without limitation, the following:
- (i) Any public or private nuisance (as defined in California Civil Code Section 3479) connected with business operations conducted on the Project;
 - (ii) Any obnoxious odor;
 - (iii) Any noxious, toxic or caustic or corrosive fuel or gas;
 - (iv) Any dust, dirt or particulate matter in excessive quantities;
 - (v) Any unusual fire, explosion or other damaging or dangerous hazard;
 - (vi) Any warehouse, other than that which is incidental to the primary commercial use or business operation, and any assembly, manufacturing, distillation, refining, smelting, agriculture or mining operation;
 - (vii) Any pawn shop or retail sales operation involving second-hand merchandise;
 - (viii) Any adult business or facility as defined and regulated in City's Municipal Code. Such uses include, without limitation, massage establishments, adult news racks, adult bookstores, adult motion picture theaters and paraphernalia businesses;
 - (ix) Any gun shop or retail sales operation for which the main commercial use or business operation is the sale of guns;
 - (x) Any retail sales operation for which the average price of merchandise is \$5 or less, unless otherwise first approved in writing by the Director;
 - (xi) Any use or operation which is incompatible with the proposed uses or operations at the Project as reasonably determined by City; and
 - (xii) Any noise or sound that is objectionable due to intermittence, beat frequency, shrillness or loudness.

3. Affordable Housing Requirements. As a material part of the consideration for the Loan Agreement, Developer covenants and agrees (for itself, its successors, its assigns, and every successor in interest to the Project or any part thereof or any interest therein) that:

- a. All of the residential dwellings comprising the Apartment Complex shall be made available exclusively to (and occupied by) persons and families of low and moderate income as follows:
 - (i) At least forty-nine percent (49%) of the total dwellings shall be made available exclusively to (and occupied by) persons and families of low and very low income at Affordable Rents.
 - (ii) A minimum of three (3) dwellings shall be made available exclusively to (and occupied by) persons and families of low and very low income at Affordable Rents.
- b. The bedroom mix of the Affordable Units (i.e., number of units according to the number of bedrooms) shall be as follows:

	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Total
Very Low Income*	1	1	1		3
Lower Income*	5	5	5	5	20
Moderate Income+	2	10	6	3	21
Total	8	16	12	8	44
* Minimum number required.					
+ Maximum number allowed.					

- c. One (1) Affordable Unit may be used as a "manager's unit," which unit shall be occupied by a hereinafter defined Eligible Household employed as an on-site manager of the Project at a rate that is affordable to such household.
- d. INTENTIONALLY DELETED.
- e. Developer shall not permit any of the Affordable Units to be used on a transient basis (i.e., on a term of less than 30 days) and shall not permit the rental of any Affordable Unit for a period of less than 30 days.
- f. Developer shall use commercially reasonable efforts to rent all Affordable Units so that any rent-ready Affordable Unit does not become or remain vacant for any longer period than is necessary in the ordinary course of business.
- g. Developer shall maintain complete and accurate records pertaining to (1) the occupancy of each Affordable Unit and (2) the maintenance, management, operation, preservation and repair of each Affordable Unit. Developer agrees to

permit the Director to inspect and audit the books and records of Developer pertaining to the Affordable Units. In furtherance of this requirement, Developer shall require tenants or managers to submit to the Director an annual report (the "**Annual Report**") required by California Health and Safety Code section 33418, as amended from time to time, or any successor statute thereto. The Annual Report shall contain for each Affordable Unit the rental rate and the income and family size of the occupants. The income information required by Section 33418 and this subsection shall be supplied by each tenant in a certified statement on a form provided by the Director.

- h. Developer shall manage and operate the Affordable Units in accordance with the Management Plan (as hereinafter defined).
- i. Prior to occupancy of any of the Affordable Units, Developer shall submit a written plan describing the proposed Affordable Unit tenant selection process to City for its approval or disapproval thereof in writing within the times set forth in the Schedule of Performance. To the extent permitted by law, the tenant selection policies and criteria shall require that preference be given first to persons and families who reside in Oxnard; and second to households who work in Oxnard, but reside elsewhere, subject to conformance with applicable federal and state fair housing requirements.
- j. Prior to occupancy of any of the Affordable Units, Developer shall submit the proposed rental rate of each Affordable Unit to City for its approval or disapproval.
- k. The maximum incomes of residential tenants eligible to rent the Affordable Units shall be determined on the basis of the Area Median Income, subject to the following:
 - (i) Examination of Income Eligibility. All proposed tenants must be income-eligible ("Eligible Household").
 - (ii) Maximum Rents. The maximum rents that may be charged to tenants for the Affordable Units, including a reasonable utility allowance, shall not exceed the Affordable Rent.
- l. "Affordable Rent" shall mean for purposes of this Regulatory Agreement and the Loan Agreement:
 - (1) As to very low income households, Affordable Rent shall not exceed one-twelfth (1/12) times the product of 30% times 50% of area median income adjusted for family size appropriate to the Affordable Unit.

- (2) As to lower income households, Affordable Rent shall not exceed one-twelfth (1/12) times the product of 30% times 60% of area median income adjusted for family size appropriate to the Affordable Unit.
 - (3) As to moderate income households, Affordable Rent shall not exceed one-twelfth (1/12) times the product of 30% times 110% of area median income adjusted for family size appropriate to the Affordable Unit.
- m. "Household Income" shall mean for purposes of this Regulatory Agreement and the Accords:
- (1) "Very Low Income Household" means a household whose annual income does not exceed fifty percent (50%) of the median income for the Oxnard-Thousand Oaks-Ventura, CA Metropolitan Statistical Area as determined by HCD with adjustments for smaller and larger households.
 - (2) "Low Income Household" means a household whose annual income does not exceed eighty percent (80%) of the median income for the Oxnard-Thousand Oaks-Ventura, CA Primary Metropolitan Statistical Area as determined by the California Department of Housing and Community Development ("HCD") with adjustments for smaller and larger households.
 - (3) "Moderate Income Household" means a household whose annual income does not exceed one-hundred twenty percent (120%) of the median income for the Oxnard-Thousand Oaks-Ventura, CA Primary Metropolitan Statistical Area as determined by the California Department of Housing and Community Development ("HCD") with adjustments for smaller and larger households.

Notwithstanding the foregoing, provided that the Project is subject to federal low-income housing tax credit requirements and regulations, the provisions of those requirements and regulations regarding household/family size and continued occupancy by households whose incomes exceed the eligible income limitations may apply in place of the provisions set forth in the California Health and Safety Code and in Title 25 of the California Code of Administrative Regulations, provided that such deviations: (i) conform to the requirements of California Health and Safety Code Section 50053(c) and 50462; and (ii) are allowed by or do not otherwise conflict with California Redevelopment Law.

5. Maintenance. As a material part of the consideration for the Loan Agreement, Developer covenants and agrees (for itself, its successors, its assigns, and every successor in interest to the Project or any part thereof or any interest therein) that Developer, its successors and assigns shall maintain, repair and operate the Project and all other improvements constructed or to be constructed thereon (including landscaping, lighting and signage) in a first-quality condition, free

of debris, waste and graffiti, and in compliance with the terms of the Redevelopment Plan and the following:

- a. All improvements on the Project shall be maintained in first-quality condition in accordance with the custom and practice generally applicable to comparable projects in Ventura County, and in conformance and compliance with all plans, drawings and related documents approved by the City and City pursuant to the Loan Agreement, and all conditions adopted by the City or the City Planning Department or Planning Commission (as the same may be amended from time to time), including painting and cleaning of all exterior surfaces of all private improvements and public improvements to the curbline.
- b. Landscape maintenance shall be consistent with the custom and practice generally applicable to comparable projects in Ventura County, including, without limitation, watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning, trimming and shaping of trees and shrubs to maintain a natural and healthy appearance, road visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.
- c. Clean-up maintenance shall be consistent with the custom and practice generally applicable to comparable projects in Ventura County, including, without limitation, maintenance of all sidewalks, paths and other paved areas in a clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping; clearance and cleaning of all areas maintained prior to the end of each day on which maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.
- d. If City gives written notice to Developer that the maintenance or condition of the Project, or any portion thereof or any improvements thereon does not comply with this Regulatory Agreement and such notice describes the deficiencies, Developer shall correct, remedy or cure the deficiency within thirty (30) days following the submission of such notice, unless the notice states that the deficiency is an urgent matter relating to public health and safety in which case Developer shall cure, or shall cause the cure of, the deficiency within forty-eight (48) hours following the submission of the notice. In the event Developer fails to maintain the Project, or any portion thereof or any improvements thereon in accordance with this Regulatory Agreement and fails to cure any deficiencies within the applicable period described above, City shall have, in addition to any other rights and remedies hereunder, the right to maintain the Project, or any portion thereof or any improvements thereon or to contract for the correction of any deficiencies, and Developer shall be responsible for payment of all such costs actually and

reasonably incurred by City and such payment shall constitute a lien on the Project until paid by the Developer pursuant to California Civil Code section 2881. Any such lien shall be subordinate and subject to Permitted Mortgages.

6. Management. As a material part of the consideration for the Loan Agreement, Developer covenants and agrees (for itself, its successors, its assigns, and every successor in interest to the Project or any part thereof or any interest therein) that Developer, and its successors or assigns, shall manage and operate the Affordable Units in accordance with a management plan prepared by Developer and submitted to and approved in writing by the Director as provided herein (the "**Management Plan**"), including such amendments as may be requested by Developer and approved by the Director from time to time. The Management Plan shall include, at a minimum, the following components:

- a. Management Agent. Developer shall submit to the Director for review and approval in writing the name and qualifications of the proposed management agent. The Director shall approve or disapprove the proposed management agent in writing based on the experience and qualifications of the management agent; and
- b. Management Plan. Developer shall submit to the Director for review and approval in writing a copy of the proposed Management Plan specifying the amount of the management fee, and the relationship and division of responsibilities between Developer and management agent.

7. Non-Discrimination. Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Project or any part thereof, that there shall be no discrimination against or segregation of any person, or groups of persons, on account of sex, marital status, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Project, and Developer itself (for any person claiming under or through it) shall not 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 Project.

8. Non-Discrimination Clause. Developer, on behalf of itself and its successors, assigns, and each successor in interest to the Project or any part thereof, hereby covenants and agrees that Developer, and its successors or assigns, shall refrain from restricting the rental, sale or lease of the Project, or any portion thereof, on the basis of sex, marital status, race, color, religion, creed, ancestry or national origin of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

- a. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections

12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

Notwithstanding the above paragraph, with respect to familial status, the above paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in the above paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall also apply to the above paragraph.

- b. In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

Notwithstanding the above paragraph, with respect to familial status, the above paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in the above paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the California Government Code shall apply to the above paragraph.

- c. In contracts: The foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the Loan Agreement.

9. Effect and Duration of Covenants. The covenants established in this Regulatory Agreement and any amendments hereto duly approved by the parties hereto shall, without regard to technical classification and designation, be binding on Developer and any successor in interest to the Project, or any part thereof, the Project or any part thereof for the benefit and in favor of City and its respective successors and assigns. All of the terms and provisions and covenants of this Regulatory Agreement shall remain in effect for fifty-five (55) years following issuance of a Certificate of Occupancy for the Project, except that the prohibitions against non-discrimination shall remain in effect in perpetuity.

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

11. Covenants Run with the Land. The covenants and agreements contained herein shall run with the land.

12. Enforcement. If a violation of any of the covenants or provisions of this Regulatory Agreement occurs, then City, without regard to whether City is an owner of any land or interest therein to which these covenants relate, may each, institute and prosecute any proceedings at law or in equity to abate, prevent or enjoin any such violation or attempted violation or to compel specific performance by Developer of its obligations hereunder. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

13. Counterparts. This Regulatory Agreement may be executed in counterparts, each of which when so executed shall be deemed an original, and all of which, when taken together, shall constitute but one and the same instrument.

14. Waivers. All waivers of the provisions of this Regulatory Agreement must be in writing and executed by the appropriate authorities of City or Developer, and all amendments hereto must be in writing and executed by the appropriate authorities of City and Developer.

15. Inspection of Books and Records. City has the right at all reasonable times to inspect, audit and copy, at no cost to City, the books and records of Developer pertaining to the Project and each Affordable Unit as pertinent to the purposes of this Regulatory Agreement, upon reasonable advance notice provided to Developer.

IN WITNESS WHEREOF, City and Developer have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized, as of the date first set forth hereinabove.

Executed this _____ day of _____, 20_____

CITY:

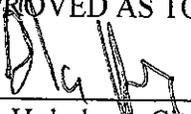
CITY OF OXNARD

By: _____
Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

DEVELOPER:

PACIFIC WEST COMMUNITIES, INC.
an Idaho corporation

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

THIS DOCUMENT MUST BE NOTARIZED FOR RECORDING

EXHIBIT G
TO LOAN AGREEMENT

FORM OF NOTICE OF AFFORDABILITY RESTRICTIONS

Recording Requested By and
When Recorded Mail to:

City of Oxnard
Community Development Department
214 South C Street
Oxnard, California 93030
Attention: Community Development Director

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Notice of Affordability Restrictions on Transfer of Property

NOTICE IS HEREBY GIVEN that pursuant to California Health and Safety Code section 33334.3(f)(3), as amended effective January 1, 2008, the City of Oxnard, a public body, corporate and politic ("City"), is recording this Notice of Affordability Restrictions on Transfer of Property ("Notice") with regard to the property located within the City of Oxnard, California, and more particularly described in Attachment 1 hereto and incorporated herein by reference ("Site").

A. The Site is subject to that certain Loan Agreement dated as of _____, _____, ("Loan Agreement"), by and between City and Pacific West Communities, Inc., an Idaho corporation ("Developer"), and that certain Agreement Containing Covenants Affecting Real Property dated as of _____, _____, ("Regulatory Agreement") and recorded concurrently herewith. Any capitalized terms not defined herein shall have the meaning ascribed to them in the Loan Agreement.

B. The Loan Agreement provides funds for Eligible Costs associated with design and development of 44 residential apartment units (including one manager's unit) affordable to persons or families of low and moderate income (the "Apartment Complex") which is part of a larger mixed use project that contains commercial in addition to the Apartment Complex. As used herein, all references to the "Project" shall mean: (i) the Site prior to completion of construction; and (ii) the Apartment Complex upon Release of Construction Covenants.

C. All of the residential dwellings developed as part of the Project shall be made available to and shall be restricted for occupancy by income eligible households at an affordable rent to such persons and families as provided in the Loan Agreement and Regulatory Agreement for a period of fifty-five (55) years following the issuance of the a Certificate of Occupancy for the Project.

D. Except as otherwise provided in this Notice, use of the Site and occupancy of the Affordable Units shall be restricted as follows:

1. All of the residential dwellings comprising the Apartment Complex shall be made available exclusively to (and occupied by) persons and families of low and moderate income as follows:
 - a. At least forty-nine percent (49%) of the total dwellings shall be made available exclusively to (and occupied by) persons and families of low and very low income at Affordable Rents.
 - b. A minimum of three (3) dwellings shall be made available exclusively to (and occupied by) persons and families of low and very low income at Affordable Rents.
2. The bedroom mix of the Affordable Units (i.e., number of units according to the number of bedrooms) shall be as follows:

	1 Bdrm	2 Bdrm	3 Bdrm	4 Bdrm	Total
Very Low Income*	1	1	1		3
Lower Income*	5	5	5	5	20
Moderate Income+	2	10	6	3	21
Total	8	16	12 [^]	8	44
* Minimum number required.					
+ Maximum number allowed.					
[^] Includes One Manager's Unit.					

3. One (1) Affordable Unit may be used as a "manager's unit," which unit shall be occupied by an Eligible Household employed as an on-site manager of the Project at a rate that is affordable to such household.
4. INTENTIONALLY DELETED
5. Developer shall not permit any of the Affordable Units to be used on a transient basis (i.e., on a term of less than 30 days) and shall not permit the rental of any Affordable Unit for a period of less than 30 days.
6. Developer shall use commercially reasonable efforts to rent all Affordable Units so that any rent-ready Affordable Unit does not become or remain vacant for any longer period than is necessary in the ordinary course of business.
7. Developer shall maintain complete and accurate records pertaining to (i) the occupancy of each Affordable Unit and (ii) the maintenance, management, operation, preservation and repair of each Affordable Unit. Developer agrees to permit the Director to inspect and audit the books and

records of Developer pertaining to the Affordable Units. In furtherance of this requirement, Developer shall require tenants or managers to submit to the Director an annual report (the "Annual Report") required by California Health and Safety Code section 33418, as amended from time to time, or any successor statute thereto. The Annual Report shall contain for each Affordable Unit the rental rate and the income and family size of the occupants. The income information required by Section 33418 shall be supplied by each tenant in a certified statement on a form provided by the Director.

8. Developer shall manage and operate the Affordable Units in accordance with a written "Management Plan" approved in writing by the Director as required by the Loan Agreement and Regulatory Agreement.
9. Prior to occupancy of any of the Affordable Units, Developer shall submit a written plan describing the proposed Affordable Unit tenant selection process to City for the Director's written approval.
10. Prior to occupancy of any of the Affordable Units, Developer shall submit the proposed rental rate of each Affordable Unit to City for the Director's written approval.
11. The maximum incomes of residential tenants eligible to rent the Affordable Units shall be determined on the basis of the area median income, subject to the following:
 - (i) All proposed tenants must be income-eligible.
 - (ii) The maximum rents that may be charged to tenants for the Affordable Units, including a reasonable utility allowance, shall not exceed the Affordable Rent (as defined in Paragraph 14 below).
12. The affordability covenants and restrictions imposed on the Site by the Loan Agreement shall expire 55 years following the issuance of a Certificate of Occupancy for the Project.
13. "Affordable Rent" shall mean:
 - (i) As to very low income households, annual affordable rent shall not exceed 30% of 50% of area median income, adjusted for family size appropriate to the Affordable Unit.

- (ii) As to low income households, annual affordable rent shall not exceed 30% of 60% of area median income, adjusted for family size appropriate to the Affordable Unit.

14. "Area Median Income" shall mean the area median income for the County of Ventura ("County") as published annually by the California Department of Housing and Community Development and determined in accordance with the U.S. Department of Housing and Urban Development published criteria from time to time in effect. Qualifying limits shall be those limits for the County, as set forth in Title 25, California Code of Regulations, Section 6932, as that section may be amended, modified or recodified from time to time. If the California Code of Regulations is amended or modified so that such regulations do not specify the area median income for the County, then City and Developer shall negotiate in good faith to determine an equivalent authoritative source which determines median income for the County. Notwithstanding the foregoing, provided that the Project is subject to federal low-income housing tax credit requirements and regulations, the provisions of those requirements and regulations regarding household/family size and continued occupancy by households whose incomes exceed the eligible income limitations may apply in place of the provisions set forth in the California Health and Safety Code and in Title 25 of the California Code of Administrative Regulations, provided that such deviations: (i) conform to the requirements of California Health and Safety Code Section 50053(c) and 50462; and (ii) are allowed by or do not otherwise conflict with California Redevelopment Law.

- (i) "Very Low Income Household" means a household whose annual income does not exceed fifty percent (50%) of the median income for the Oxnard-Thousand Oaks-Ventura, CA Metropolitan Statistical Area as determined by HCD with adjustments for smaller and larger households.
- (ii) "Low Income Household" means a household whose annual income does not exceed eighty percent (80%) of the median income for the Oxnard-Thousand Oaks-Ventura, CA Primary Metropolitan Statistical Area as determined by the California Department of Housing and Community Development ("HCD") with adjustments for smaller and larger households.
- (iii) "Moderate Income Household" means a household whose annual income does not exceed one-hundred twenty percent (120%) of the median income for the Oxnard-Thousand Oaks-Ventura, CA Primary Metropolitan Statistical Area as determined by the California Department of Housing and Community Development ("HCD") with adjustments for smaller and larger households.

E. The current owner of the Site is Pacific West Communities, Inc., an Idaho corporation.

F. This Notice is recorded for the purpose of providing notice only and it in no way modifies the provisions of the Loan Agreement or the Regulatory Agreement.

IN WITNESS WHEREOF, the undersigned has duly executed this Notice of Affordability Restrictions on Transfer of Property as of the date indicated above.

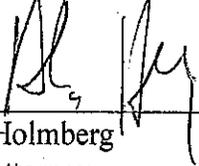
CITY:

Date: _____

By: _____
Dr. Thomas E. Holden, Mayor

APPROVED AS TO FORM:

By:



Alan Holmberg
City Attorney

**ATTACHMENT 1 TO EXHIBIT G
LOAN AGREEMENT**

LEGAL DESCRIPTION OF SITE

Real property in the City of Oxnard, County of Ventura, State of California, described as follows:

PARCEL 1: (APN 200-0-252-120)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Pliffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Beginning at a point on the Westerly line of State Highway Route 60 known as Oxnard Boulevard, said point being North 60 feet from the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on the Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence, 1st: Westerly 280 feet, more or less, parallel with the Northerly line of said land of Willard W. Shepherd and Helen L. Shepherd, in the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map; thence, 2nd: Northerly 280 feet along said Northerly prolongation of the East line of "A" Street to a point; thence, 3rd: Easterly 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 4th: Southerly 280 feet along said Westerly line of State Highway Route 60 to the Point of Beginning.

EXCEPT that portion thereof lying within the land described in Deed to Lloyd V. Dunkin, a married man, recorded September 6, 1972, as Instrument No. 63333, in Book 4005, Page 640 of Official Records.

PARCEL 2: (APN 200-0-252-020)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition File No: 11852928 Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Pliffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Beginning at a point on the Westerly line of State Highway Route 60 known as Oxnard Boulevard, said point being the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on the Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence, 1st: Westerly 280 feet, more or less, parallel with the Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, in the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map; thence, 2nd: Northerly 60 feet along said Northerly prolongation of the East line of "A" Street to a point; thence, 3rd: Easterly 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 4th: Southerly 60 feet along said Westerly line of State Highway Route 60 to the Point of Beginning.

PARCEL 3: (APN 200-0-252-130)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Pliffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Commencing at a point on the Westerly line of State Highway Route 60, known as Oxnard Boulevard, said point being North 65 feet from the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence West 280 feet, more or less, parallel with the Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map, said point being the True Point of Beginning; thence, 1st: North 275 feet along said Northerly prolongation of the East line of "A" Street; thence, 2nd: East 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 3rd: South 151 feet along said Westerly line of State Highway Route 60; thence parallel with said Northerly line of Shepherd, 4th: West 127.30 feet; thence parallel with said "A" Street, 5th: South 64 feet; thence parallel with said Northerly line of Shepherd, , 6th: West 15 feet; thence parallel with said "A" Street, 7th: South 60 feet to the intersection with a line which bears West and passes through the True Point of Beginning; thence along said line, 8th: West 130 feet to the True Point of Beginning.

EXHIBIT H
TO LOAN AGREEMENT

FORM OF ASSIGNMENT OF ARCHITECT'S CONTRACT

**ASSIGNMENT OF ARCHITECT'S CONTRACT
AND PLANS AND SPECIFICATIONS AND PERMITS
(With Architect's Consent and Certificate)
(Loan # _____)**

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged Pacific West Communities, Inc., an Idaho corporation (the "Borrower"), as security for the obligations incurred and to be incurred by Borrower pursuant to the Loan Agreement of _____, 20____ (the "Loan Agreement") between Borrower and the City of Oxnard, a public body, corporate and politic ("City"), relating to certain real property located in the City of Oxnard, County of Ventura, California (the "Site"), as described in the Loan Agreement, hereby assigns and transfers to City, its successors and assigns, all of (1) Borrower's rights in and to those certain Plans and Specifications together with all amendments, modifications, supplements, general conditions and addenda thereto relating to the Site, prepared pursuant to the Loan Agreement (the "Plans") by _____, ("Architect"), (2) Borrower's right, title and interest in that certain agreement dated _____, _____, between Borrower and Architect, a true and complete copy of which is attached hereto and incorporated herein by reference as Attachment 1 (the "Contract"), and (3) all permits to be obtained by or for the benefit of Borrower relating to the Plans or the Project ("Permits"). Architect consents to this Assignment, and has executed the Consent and Certificate attached hereto as Attachment 2 and incorporated herein by this reference.

Neither this Assignment nor any action or actions on the part of City shall constitute an assumption by City of any of Borrower's obligations under the Contract unless and until City shall have given written notice to Architect of its election to complete construction of the Project following a default by Borrower under the Loan Agreement. Borrower shall continue to be liable for all obligations under the Contract and Borrower hereby agrees to perform each and all such obligations. In the event of a default under the Loan Agreement, City may elect to reassign its rights to the Plans, the Permits and the specifications under the Contract to any person or entity selected by City to complete the Project. Such person or entity shall succeed to all of the rights of Borrower thereunder without the necessity of any consent from Borrower or Architect and City shall have no liability for any failure of such person or entity to perform the obligations under the Contract. Provided, however, that in the event City reassigns its rights to the Plans to another person or entity, the Architect's name shall not be used in connection therewith unless the Architect so approves in writing.

Borrower hereby represents and warrants to City that (1) the Contract is in full force and effect with no defaults thereunder by either Borrower or Architect, (2) no event has occurred that would constitute a default under the Contract upon the giving of notice or the lapse of time or

both, and (3) Borrower has made no previous assignment of, and granted no security interest in, its rights to the Plans, the Permits or the specifications under the Contract. Borrower agrees that (a) it will not assign, transfer or encumber its rights to the Plans, the Permits or under the Contract so long as any obligation under the Loan Agreement remains unsatisfied, (b) it will not agree to any amendment of the Contract without the prior written consent of City, (c) it will not terminate the Contract or accept a surrender thereof, or waive, excuse, condone or in any manner release or discharge Architect of or from the obligations and agreements by Architect to be performed thereunder, in the manner and at the place and time specified therein without the prior written consent of City, and (d) it will indemnify City against any liabilities, losses, costs and expenses, including reasonable attorneys' fees, which may be incurred by City as a result of the exercise of its rights under this Assignment.

City shall have the right at any time (but shall have no obligation) to take in its name or in the name of Borrower or otherwise such action as City may at the time or from time to time determine to be necessary to cure any default under the Contract, to protect the rights of Borrower or City thereunder, or enforce all rights of Borrower under the Contract, Borrower hereby irrevocably constitutes and appoints the Agency its true and lawful attorney in Borrower's name or in City's name or otherwise to take all such action. The exercise of City's rights hereunder shall not constitute a waiver of any of the remedies of City under the Loan Agreement or any other document or agreement or otherwise existing at law or otherwise.

Executed this _____ day of _____, 20____

BORROWER:

PACIFIC WEST COMMUNITIES, INC.
an Idaho corporation

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

ATTACHMENT 1 TO EXHIBIT H

(ARCHITECT'S CONTRACT)

[To Be Inserted]

**ATTACHMENT 2 TO EXHIBIT H
LOAN AGREEMENT**

CONSENT AND CERTIFICATE

Pursuant to that certain assignment of Architect's Contract and Plans and Specifications and Permits (the "Assignment") executed by Pacific West Communities, Inc., an Idaho corporation ("Borrower") on _____, _____, the undersigned, as Architect, hereby consents to the assignment by Borrower of the Plans (all defined terms herein shall have the meaning defined in the Assignment), the Permits and the Contract to the Community Development Department of the City of Oxnard, a public body, corporate and politic ("City"), and to each and all of the terms and conditions of such attached assignment and confirms to Commission that (a) the Contract constitutes the entire agreement between the undersigned and Borrower relating to the Project, (b) the Contract is in full force and effect with no defaults thereunder, (c) no event has occurred that would constitute a default under the Contract upon the giving of notice or the lapse of time or both, (d) no material modification shall be made in the Contract without the prior written consent of City, (e) the undersigned agrees to be bound by the provisions of the Loan Agreement restricting the ability of Borrower to make changes in the Plans without the prior written consent of City, (f) the undersigned is not aware of any prior assignment of the Plans, the Permits or the Contract by Borrower, and (g) a complete copy of the Plans and all Permits will be delivered to City. The undersigned agrees that in the event of any default by Borrower under the Contract, the undersigned will give written notice to City thereof and City shall have the right, but not the obligation, to cure said default within sixty (60) days from City's receipt of such notice.

The undersigned further agrees that in the event City becomes the owner of the Project, or undertakes to complete construction thereof, or assigns its rights to the Plans, the Permits and the specifications under the Contract to another person or entity, or otherwise requires the use of the Plans, the Permits and the specifications, City, its successors and assigns are authorized to use the Plans, the Permits and the specifications without additional cost or expense beyond that stated in the Contract, all rights under the Contract otherwise exercisable by Borrower may be exercised by City or such successor or assign, and the undersigned will perform its obligations in conformity with the Contract for the benefit of City, its successors or assigns.

In order for the Borrower to induce City to enter into the Loan Agreement and make the advances contemplated therein, the undersigned certifies to City as follows:

- (a) As represented in the Plans, the Project will comply with (1) all statutes, rules, regulations and ordinances of all governmental agencies having jurisdiction over the Project, including, without limitation, those relating to zoning, building, pollution control and energy use; (2) all applicable covenants, conditions and restrictions affecting the Site and the Project, and (3) the requirements of the appropriate board of fire underwriters.

- (b) Construction of the Project in accordance with the Plans will not result in any encroachment on any adjoining property or on any surface easement.
- (c) The undersigned is duly licensed to conduct its business in the jurisdiction where its services are to be performed and will maintain such license in full force and effect throughout the term of the Contract.

City shall have the right at any time to use all plans, specifications and drawings from the Project prepared by or for the undersigned for the Project, including, without limitation, the Plans, and the ideas, designs and concepts contained therein, without payment of any additional fees or charges to the undersigned for such use.

The undersigned hereby assigns to City all of the undersigned's right, title and interest in, to and under all subcontracts which are now or hereafter entered into by the undersigned in furtherance of its obligations under the Contract; provided, however, that until a default occurs by the undersigned under the Contract, City shall not exercise any rights in the subcontracts which are hereby assigned. The undersigned acknowledges that City is relying on, among other things, the Consent, confirmations, agreements and assurances provided herein in entering into the Loan Agreement and agreeing to advance funds thereunder to Borrower for construction of the Project.

DATED: _____, _____.

ARCHITECT:

By: _____

Print Name _____

Title _____

**EXHIBIT I
TO LOAN AGREEMENT**

FORM OF PILOT PROMISSORY NOTE SECURED BY DEED OF TRUST

(PILOT # _____)

\$\$ _____ [DRAFTING NOTE: INSERT AMOUNT CALCULATED ACCORDING TO SECTION 3.11 OF THE LOAN AGREEMENT, WITH THE PRINCIPAL SUM COMPUTED THROUGH THE YEAR 2044]

OXNARD, CALIFORNIA

DATE: _____, _____

FOR VALUE RECEIVED, Pacific West Communities, Inc., an Idaho corporation ("PWC"), hereby promises to pay to the order of the City of Oxnard, a public body, corporate and politic, whose address is City of Oxnard, Community Development Department, 214 South C Street, Oxnard, CA 93030 ("Commission"), a principal amount equal to DOLLARS (\$ _____) [DRAFTING NOTE: INSERT AMOUNT CALCULATED ACCORDING TO SECTION 3.11 OF THE LOAN AGREEMENT, WITH THE PRINCIPAL SUM COMPUTED THROUGH THE YEAR 2044] or so much thereof as may be owed to Commission in the form of lost property tax revenue (the "PILOT ") pursuant to the loan agreement of even date herewith between PWC and Commission, which is incorporated herein by this reference as of fully set forth (the "Loan Agreement").

1. **PWC'S OBLIGATION.** This Promissory Note ("Note") evidences the obligation of PWC to compensate City for the loss of tax increment revenue as a result of the tax exempt status of PWC's manager general partner regarding the acquisition and development of the real property (the "Site") described in the Loan Agreement with a mixed-use project encompassing 44 residential apartment units (including one manager's unit) affordable to persons or families of low and moderate income (the "**Apartment Complex**") that is within a larger mixed use project that contains commercial uses in addition to the Apartment Complex. The Note is secured by that certain deed of trust of even date herewith executed by PWC for City's benefit (the "Deed of Trust"). The obligation of PWC to pay City under this Note is secondary and subordinate to that certain loan of even date herewith executed by PWC for City's benefit in the amount of Three Million Dollars (the "City Loan") and described in the Loan Agreement. As used herein, all references to the "Project" shall mean: (i) the Site prior to completion of construction; and (ii) the Apartment Complex upon Release of Construction Covenants.

2. **INTEREST.** Except in the event of default as hereinafter provided, the PILOT shall be non-interest bearing. At all times when PWC is in default hereunder by reason of PWC's failure to pay principal due under this Note or any amounts due under any Loan Agreement, the interest rate on the sums as to which PWC is in default, shall be the lower of the

highest rate then allowed by law or five percent (5%) over the prime interest rate announced by Wells Fargo Bank, N.A., as of the date of the default.

3. **TERM AND TIME OF PAYMENT.** Unless sooner due pursuant to this Note or the Loan Agreement, the principal of the PILOT and all accrued interest thereon (if any apply) shall be due and payable on the earliest of (a) _____, which is fifty-five (55) years from the date of this Note, (b) the date any portion of or interest in the Site or Project is sold, transferred, assigned, conveyed, financed or refinanced without City's prior written consent, or (c) a default by PWC which has not been cured as provided for in the Loan Agreement (the "Term"). On April 1 of each year commencing on the year following the issuance of a Certificate of Occupancy for the Project and terminating on April 1, 2044, City shall be owed the sum of Ninety-Nine Thousand Six Hundred Eighteen Dollars (\$TBD); the "Base Amount"). Commencing on April 1 of the second year following the issuance of a Certificate of Occupancy for the Project, the Base Amount shall be increased at annual rate of 2%.[TBD] PILOT shall accrue each year, but payments shall be deferred until City's Loan is repaid in full.

4. **PLACE AND AMOUNT OF PAYMENT.** All amounts due and payable under this Note and the Loan Agreement are payable at the office of City as set forth above, or at such other place as City may designate to PWC in writing from time to time, in any coin or currency of the United States which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts. On April 1 of each year commencing on the year following the issuance of a Certificate of Occupancy for the Project and terminating on April 1, 2044, City shall be owed the greater of: (i) \$75,575; (ii) 0.6% of the combined costs of land, construction, contractor fees and developer fees as reported to TCAC; or (iii) 0.6% of the combined costs of land, construction, contractor fees and developer fees at Project completion as determined by the Certified Statement of Costs (the "Base Amount"). The calculation of the Base Amount owed to City shall be made once at Project completion and the same amount will be due City on each Payment Date. . If Residual Receipts (as they may be available from time to time) are not sufficient to pay in full the PILOT by the end of the Term, then: (i) the unpaid balance of the PILOT shall be exonerated; and (ii) this Note shall be cancelled and the Deed of Trust shall be re-conveyed.

5. **APPLICATION OF PAYMENTS.** All payments received on account of the Note shall be first applied to accrued interest (if any applies) and the remainder shall be applied to the reduction of principal; except that if City shall have made additional advances under the terms of the Loan Agreement and such advances have not been repaid, any payments received by City, at its option, may be applied first to the repayment of such advances and interest thereon.

6. **PREPAYMENT OF NOTE.** PWC shall have the right to prepay the PILOT in whole or in part prior to the end of the Term. No prepayment penalty will be charged to PWC for payment of all or any portion of this Note prior to the end of the Term described herein.

7. **WAIVERS.** Presentment, notice of dishonor, and protest are waived by all makers, sureties, guarantors, and endorsers of this Note.

8. **DEFAULT AND ACCELERATION.** This Note is secured by the Deed of Trust. All covenants, conditions and agreements contained in the Deed of Trust and the Loan Agreement are hereby made a part of the Note. PWC agrees that the unpaid balance of the then principal amount of this Note, together with all accrued interest thereon and charges owing, shall, at the option of City, become immediately due and payable upon a default by Developer which has not been cured pursuant to the Loan Agreement, including without limitation the failure of PWC to make any payment when due. Upon a default, City may exercise any other right or remedy permitted under this Note, the Loan Agreement or law or in equity.

9. **LIMITED RECOURSE.** The obligation to pay the PILOT is a nonrecourse obligation of PWC. Neither PWC, nor any other party, shall have any personal liability for payment of the PILOT. The sole recourse of City with respect to payment of the PILOT shall be the exercise of its rights against the Site as described in the Deed of Trust and related security documents. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by this Note or the Deed of Trust; (b) limit the right of City to name PWC as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against PWC; (c) release or impair this Note or the Deed of Trust; (d) prevent or in any way hinder City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Site or any other instrument securing this Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; (f) relieve PWC of any of its obligations under any indemnity delivered by PWC to City. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of a default, PWC and its successors and assigns shall have personal liability hereunder for any deficiency judgment, but only if and to the extent PWC, its principals, shareholders, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Site, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the mortgaged Site after the occurrence of such default, ordinary and reasonable capital improvements to the mortgaged Site, debt service, real estate taxes in respect of the mortgaged Site and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with PWC in connection with the operation of the mortgaged Site, which are then due and payable. Notwithstanding the foregoing, City:

(a) may obtain a judgment or order (including, without limitation, an injunction) requiring PWC or any other party to perform (or refrain from) specified acts other than payment of the PILOT; and

(b) may recover directly from PWC or any other party for such party's actions that result in:

(i) any damages, costs or expenses incurred by City as a result of fraud or any criminal act or acts of PWC or any member, manager, partner, shareholder, officer, director or employee of PWC;

(ii) any damages, costs or expenses incurred by City as a result of any misappropriation of funds provided for the construction of the Project, as described in the Loan Agreement, rents and revenues from the operation of the Project or the portion of the Site on which the Project is located or proceeds of insurance policies or condemnation proceeds;

(iii) any and all amounts owing by PWC pursuant to PWC's indemnification regarding Hazardous Materials pursuant to the Loan Agreement and attachments thereto; and/or

(iv) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that City shall pay PWC's reasonable court costs and attorneys' fees if PWC is the prevailing party in any such enforcement or collection action).

10. **CONSENTS AND APPROVALS.** Any consent or approval of City required under the Note shall not be unreasonably withheld.

11. **NOTICES.** Except as may be otherwise specifically provided herein, any approval, notice, direction, consent request or other action by City shall be in writing and may be communicated to PWC at the principal office of PWC set forth above, or at such other place or places as PWC shall designate in writing, from time to time, for the receipt of communications from City.

12. **BINDING UPON SUCCESSORS.** All provisions of this Note shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of PWC and City; provided, however, that this section does not waive the prohibition in the Loan Agreement on assignment of the PILOT by PWC without City's consent.

13. **ASSIGNMENT AND ASSUMPTION.** PWC shall not assign any of its interests under the Note to any other party, except as specifically permitted under the terms of the Loan Agreement, without the prior written consent of City. Any unauthorized assignment shall be void.

14. **DEFINITIONS.** Capitalized terms not defined in the Note shall have the same meaning as defined terms in the Loan Agreement.

15. **GOVERNING LAW.** This Note shall be interpreted under and governed by the laws of the State of California.

16. **LOAN AGREEMENT CONTROLS.** In the event that any provisions of the Note and the Loan Agreement conflict, the terms of the Loan Agreement shall control.

17. **SEVERABILITY.** Every provision of the Note is intended to be severable. If any provision of the Note 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.

18. **TIME.** Time is of the essence in the Note.

19. **WAIVER.** Any waiver by City of any obligation in the Note must be in writing. No waiver shall be implied from any failure of PWC to take, or any delay or failure by City to take action on any breach or default by PWC or to pursue any remedy allowed under the Note or applicable law. Any extension of time granted to PWC to perform any obligation under the Note shall not operate as a waiver or release from any of its obligations under the Note. PWC hereby waives all defenses and pleas on the grounds of any extensions of the time for repayment of any amounts due under the Note, unless City has granted such extensions in writing. Consent by City to any act or omission by PWC shall not be construed to be consent to any other act or omission or to waive the requirement for City's written consent to future waivers.

20. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to the Note must be in writing, and shall be made only if executed by both PWC and City.

Executed _____, _____ at _____, California.

PWC: PACIFIC WEST COMMUNITIES, INC.
an Idaho corporation

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

**EXHIBIT J
TO LOAN AGREEMENT**

FORM OF DEED OF TRUST FOR PAYMENT OF PILOT

Recording Requested By and
When Recorded Mail to:

City of Oxnard
Community Development Department
214 South C Street
Oxnard, California 93030
Attention: Community Development Dir.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

No recording fee pursuant to California Government Code Section 27383

**DEED OF TRUST,
SECURITY AGREEMENT AND FIXTURE FILING RECORDED AGAINST
PROPERTY
(WITH ASSIGNMENT OF RENTS)**

This Deed of Trust, Security Agreement and Fixture Filing Recorded Against Property (With Assignment of Rents) is made as of _____, 20__ by PACIFIC WEST COMMUNITIES, INC., an Idaho corporation ("**Trustor**"), whose address is Pacific West Communities, 430 East State Street, Suite 100, Eagle, ID 83616, Attention: Caleb Roope, to _____ TITLE INSURANCE COMPANY ("**Trustee**"), for the benefit of the CITY OF OXNARD, a public body, corporate and politic ("**Beneficiary**"), whose address is City of Oxnard, Community Development Department, 214 South C Street, Oxnard, California 93030, Attention: Community Development Director.

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION the following property (the "**Trust Estate**"):

- (a) That certain real property in the City of Oxnard, County of Ventura, State of California more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "**Site**");
- (b) All buildings, structures and other improvements now or in the future located or to be constructed on the Site (the "**Improvements**");
- (c) All tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefitting or otherwise relating to the Site or the

Improvements, including easements, rights-of-way and development rights (the "Appurtenances"). (The Appurtenances, together with the Site and the Improvements, are hereafter referred to collectively as the "Real Property");

(d) Subject to the assignment to Beneficiary set forth in Paragraph 4 below, all rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid;

(e) All present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "UCC"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor ("Goods", and together with the Real Property, the "Property"); and

(f) All present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the Property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate): (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (v) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vi) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (vii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types of

intangible personal property of any kind or nature and (viii) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (“Intangibles”).

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estate described above in which a security interest may be created under the UCC (collectively, the “Personal Property”). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a “secured party” under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9313 and 9402(6) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

(1) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained in the following:

(a) a PILOT Promissory Note in the original principal amount of DOLLARS (\$ _____) **[DRAFTING NOTE: INSERT AMOUNT CALCULATED ACCORDING TO SECTION 3.11 OF THE LOAN AGREEMENT, WITH THE PRINCIPAL SUM COMPUTED THROUGH THE YEAR 2044]**, executed by Trustor (“Borrower” therein) of even date herewith (“Note”);

(b) the Loan Agreement, dated as of _____, 20____, by and between Trustor (“PWC” therein) and Beneficiary (“City” therein), pertaining to the obligations for the Property therein (“Project”);

(2) payment of indebtedness of the Trustor to the Beneficiary not to exceed DOLLARS (\$ _____) **[DRAFTING NOTE: INSERT AMOUNT CALCULATED ACCORDING TO SECTION 3.11 OF THE LOAN AGREEMENT, WITH THE PRINCIPAL SUM COMPUTED THROUGH THE YEAR 2044]** according to the terms of the Note;

(3) All present and future obligations of Trustor to Beneficiary under this Deed of Trust; and

(4) All additional present and future obligations of Trustor to Beneficiary under any other agreement or instrument (whether existing now or in the future) which states that it is, or such obligations are, secured by this Deed of Trust; in each case as such other obligations may

from time to time be supplemented, modified, amended, renewed and extended, whether evidenced by new or additional documents.

The Note and Loan Agreement (collectively referred to as the "Secured Obligations") and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby. Any capitalized term that is not otherwise defined in this Deed of Trust shall have the meaning ascribed to such term in the Loan Agreement.

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

1. That Trustor shall pay the Note at the time and in the manner provided therein, and perform the obligations of Trustor as set forth in the Secured Obligations at the time and in the manner respectively provided therein.

2. Reserved.

3. That the Secured Obligations are incorporated in and made a part of this Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.

4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the Loan Agreement.

5. That upon default hereunder or under the aforementioned agreements, and after the giving of notice and the expiration of any applicable cure period, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom.

6. That Trustor will keep the Improvements to be constructed on the Site insured against loss by fire and such other hazards, casualties, and contingencies as may reasonably be required in writing from time to time by Beneficiary, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies. In no event shall the amounts of coverage be less than 100% of the insurable value of the Property. Such policies shall be endorsed with standard mortgage clause with loss payable to Beneficiary and certificates thereof together with copies of original policies shall be deposited with Beneficiary.

7. To pay, prior to delinquency, any taxes and assessments affecting said Property; to pay, 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 to pay all costs, fees and expenses of this trust.

8. To keep said Property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation, not to remove or demolish any buildings thereon, to complete or, restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws affecting said Property or requiring any alterations or improvements to be made thereon (subject to Trustor's right to contest the validity or applicability of laws or regulations), not to commit or permit waste thereof, not to commit, suffer or permit any act upon said Property in violation of law and/or covenants, conditions and/or restrictions affecting said Property and not to permit or suffer any material alteration of or addition to the buildings or improvements hereafter constructed in or upon said Property without the consent of Beneficiary.

9. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period, to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do 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. Following default, after the giving of notice and the expiration of any applicable cure period, Beneficiary or Trustee being authorized to enter upon said Property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, may 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, may pay necessary expenses, employ counsel and pay its reasonable fees. Notwithstanding the foregoing, in the event of default under this Deed of Trust, Beneficiary may also require Trustor to maintain and submit additional records. Beneficiary shall specify in writing the particular records that must be maintained and the information or reports that must be submitted.

11. Beneficiary shall have the right to pay fire and other property insurance premiums when due should Trustor fail to make any required premium payments. All such payments made by Beneficiary shall be added to the principal sum secured hereby.

12. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, under permission given under this Deed of Trust, with interest from date of expenditure at the highest rate permitted by law.

13. That the funds to be advanced hereunder are to be used in accordance with the Secured Obligations and upon the failure of Trustor, after the giving of notice and the expiration of any applicable cure period, to keep and perform all the covenants, conditions and agreements of said agreements, the principal sum and all arrears of interest and other charges provided for in the Note shall at the option of Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding.

14. Trustor further covenants that it will not voluntarily create, suffer or permit to be created against the property subject to this Deed of Trust any lien or liens except as permitted by the Secured Obligations or otherwise approved by Beneficiary, and further that it will keep and maintain such property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be obligated to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting, provided that Trustor shall, at Beneficiary's written request, within 30 days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request, prior to foreclosure) record in the Office of the Ventura County Registrar-Recorder/County Clerk ("**County Recorder**") a surety bond in an amount 1½ times the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary.

15. That any and all improvements made or about to be made upon the premises covered by this Deed of Trust, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful promulgation, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of Beneficiary a reasonable charge for providing a statement regarding the obligation secured by this Deed of Trust as provided by Section 2954, Article 2, Chapter 2 Title 14, Division 3, of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, earthquake or in any other manner, then Beneficiary shall be entitled to all compensation, awards and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the Property or part

thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting said Property, are hereby assigned to Beneficiary. After deducting therefrom all its expenses, including attorneys' fees, the balance of the proceeds which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, shall be applied to the amount due under the Note. No amount applied to the reduction of the principal shall relieve Trustor from making regular payments as required by the Note.

18. Upon default by Trustor in making any payments provided for in the Note or in this Deed of Trust, or in performing any obligation set forth in any of the Secured Obligations, and if such default is not cured within the respective time provided therefor in Section 34 below, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the Property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby.

19. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said Property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. Trustee shall apply the proceeds of sale to payment of (i) the expenses of such sale, together with the reasonable expenses of this trust including therein reasonable Trustee's fees or attorneys' fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale, (ii) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's deed, (iii) all sums expended under the terms hereof, not then repaid, with accrued interest at the highest rate permitted by law, (iv) all other sums then secured hereby and (v) the remainder, if any, to the person or persons legally entitled thereto.

20. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this trust. Upon such appointment, and

without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

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

22. Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

23. The trust created hereby is irrevocable by Trustor.

24. This Deed of Trust applies to, inures to the benefit of, and binds all parties described herein, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder including pledgees, of the Note. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

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

26. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address set forth on the first page of this Deed of Trust.

27. Trustor agrees at any time and from time to time upon receipt of a written request from Beneficiary, to furnish to Beneficiary detailed statements in writing of income, rents, profits and operating expenses of the premises, and the names of the occupants and tenants in possession, together with the expiration dates of their leases and full information regarding all rental and occupancy agreements, and the rents provided for by such leases and rental and

occupancy agreements, and such other information regarding the premises and their use as may be requested by Beneficiary.

28. Trustor agrees that the Note secured by this Deed of Trust is made expressly for the purpose of financing the development and construction of the Affordable Units.

29. Trustor agrees that upon sale or refinancing of the Property or any part thereof, the entire principal balance of the debt secured by this Deed of Trust, plus any accrued but unpaid interest thereon, shall at the option of Beneficiary be immediately due and payable.

30. The obligation to pay the Note is a nonrecourse obligation of Trustor. Neither Trustor, nor any other party, shall have any personal liability for payment of the Note. The sole recourse of Beneficiary with respect to payment of the Note shall be the exercise of its rights against the Property. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by the Note or this Deed of Trust; (b) limit the right of the Beneficiary to name Trustor as a party defendant in any action or suit for judicial foreclosure and sale under the Note and this Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Trustor; (c) release or impair the Note or this Deed of Trust; (d) prevent or in any way hinder Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Note; (f) relieve Trustor of any of its obligations under any indemnity delivered by Trustor to Beneficiary; or (g) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by the Note and this Deed of Trust. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of a default, Trustor and its successors and assigns shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Trustor, its principals, shareholders, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the mortgaged Property after the occurrence of such default, ordinary and reasonable capital improvements to the mortgaged Property, debt service, real estate taxes in respect of the mortgaged Property and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Trustor in connection with the operation of the mortgaged Property, which are then due and payable. Notwithstanding the foregoing, Beneficiary:

(a) may obtain a judgment or order (including, without limitation, an injunction) requiring Trustor or any other party to perform (or refrain from) specified acts other than payment of the Note; and

(b) may recover directly from Trustor or any other party for such party's actions that result in:

(i) any damages, costs or expenses incurred by Beneficiary as a result of fraud or any criminal act or acts of Trustor or any member, manager, partner, shareholder, officer, director or employee of Trustor;

(ii) any damages, costs or expenses incurred by Beneficiary as a result of any misappropriation of funds provided for the construction of the Affordable Units, as described in the Loan Agreement and Agreement Containing Covenants, rents and revenues from the operation of the Affordable Units or the portion of the Property on which the Affordable Units are located or proceeds of insurance policies or condemnation proceeds;

(iii) any and all amounts owing by Trustor pursuant to Trustor's indemnification regarding Hazardous Materials pursuant to the Loan Agreement and attachments thereto; and/or

(v) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that Beneficiary shall pay Trustor's reasonable court costs and attorneys' fees if Trustor is the prevailing party in any such enforcement or collection action).

31. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, then the unsecured portion of such obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the obligations.

32. (a) Failure or delay by Trustor to perform any term or provision required to be performed under the Secured Obligations or this Deed of Trust constitutes a default under this Deed of Trust.

(b) Beneficiary shall give written notice of default to Trustor, specifying the default complained of by Beneficiary. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

(d) Subject to subsection (h) below, if a monetary event of default occurs, then prior to exercising any remedies hereunder, Beneficiary shall give Trustor written notice of such default. Trustor shall have a period of 7 days after such notice is given within which to cure the default.

(e) Subject to subsection (h) below, if a non-monetary event of default occurs, then prior to exercising any remedies hereunder, Beneficiary shall give Trustor written notice of such default. If the default is reasonably capable of being cured within 30 days, then Trustor shall have such period to effect a cure prior to exercise of remedies by Beneficiary. If the default is such that it is not reasonably capable of being cured within 30 days, and Trustor (i) initiates corrective action within said period and (ii) diligently, continually and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to any exercise of remedies by Beneficiary, but no longer than 90 days or shorter period of time if Beneficiary's rights become or are about to become materially jeopardized by any failure to cure a default or the default.

(f) Formal notices, demands and communications to Trustor shall be deemed sufficiently given if dispatched by first class mail, registered or certified mail, postage prepaid, return receipt requested, or by electronic facsimile transmission followed by prompt delivery of a "hard" copy, or by personal delivery (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), to the address of Trustor as set forth above. Such written notices, demands and communications may be sent in the same manner to such other addresses as Trustor may from time to time designate by mail. Any notice that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

(g) There shall be no additional cure periods under this Deed of Trust for defaults under the Secured Obligations. Any cure periods shall be deemed to run concurrently.

IN WITNESS WHEREOF Trustor has executed this Deed of Trust as of the day and year set forth above.

Executed this _____ day of _____, _____

[Signatures to follow on next page.]

TRUSTOR:

PACIFIC WEST COMMUNITIES, INC.
an Idaho corporation

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

BENEFICIARY:

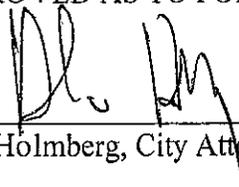
CITY OF OXNARD

By: _____
Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

THIS DOCUMENT MUST BE NOTARIZED FOR RECORDING

ATTACHMENT 1 TO EXHIBIT J
LOAN AGREEMENT

LEGAL DESCRIPTION OF SITE

Real property in the City of Oxnard, County of Ventura, State of California, described as follows:

PARCEL 1: (APN 200-0-252-120)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Plffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Beginning at a point on the Westerly line of State Highway Route 60 known as Oxnard Boulevard, said point being North 60 feet from the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on the Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence, 1st: Westerly 280 feet, more or less, parallel with the Northerly line of said land of Willard W. Shepherd and Helen L. Shepherd, in the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map; thence, 2nd: Northerly 280 feet along said Northerly prolongation of the East line of "A" Street to a point; thence, 3rd: Easterly 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 4th: Southerly 280 feet along said Westerly line of State Highway Route 60 to the Point of Beginning.

EXCEPT that portion thereof lying within the land described in Deed to Lloyd V. Dunkin, a married man, recorded September 6, 1972, as Instrument No. 63333, in Book 4005, Page 640 of Official Records.

PARCEL 2: (APN 200-0-252-020)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition File No: 11852928 Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Plffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Beginning at a point on the Westerly line of State Highway Route 60 known as Oxnard Boulevard, said point being the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on the Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence, 1st: Westerly 280 feet, more or less, parallel with the Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, in the Northerly prolongation of the East line of said "A" Street, as shown upon the

last above described Map; thence, 2nd: Northerly 60 feet along said Northerly prolongation of the East line of "A" Street to a point; thence, 3rd: Easterly 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 4th: Southerly 60 feet along said Westerly line of State Highway Route 60 to the Point of Beginning.

PARCEL 3: (APN 200-0-252-130)

A portion of Subdivision 19, Rancho El Rio De Santa Clara O' La Colonia, in the City of Oxnard, County of Ventura, State of California, as per Partition Map filed in the Office of the County Clerk of the County of Ventura, in an action entitled "Thomas A. Scott, et al., Pliffs. vs. Rafael Gonzales, et al., Defts.", described as follows:

Commencing at a point on the Westerly line of State Highway Route 60, known as Oxnard Boulevard, said point being North 65 feet from the Northeast corner of lands of Willard W. Shepherd and Helen L. Shepherd, as shown on Licensed Surveyor's Map filed in Book 6, Page 49 of Records of Survey, in the Office of the County Recorder of said County; thence West 280 feet, more or less, parallel with the Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Northerly prolongation of the East line of said "A" Street, as shown upon the last above described Map, said point being the True Point of Beginning; thence, 1st: North 275 feet along said Northerly prolongation of the East line of "A" Street; thence, 2nd: East 280 feet, more or less, parallel with the said Northerly line of said lands of Willard W. Shepherd and Helen L. Shepherd, to the Westerly line of said State Highway Route 60; thence, 3rd: South 151 feet along said Westerly line of State Highway Route 60; thence parallel with said Northerly line of Shepherd, 4th: West 127.30 feet; thence parallel with said "A" Street, 5th: South 64 feet; thence parallel with said Northerly line of Shepherd, , 6th: West 15 feet; thence parallel with said "A" Street, 7th: South 60 feet to the intersection with a line which bears West and passes through the True Point of Beginning; thence along said line, 8th: West 130 feet to the True Point of Beginning.

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