

AFFORDABLE HOUSING AND LOAN AGREEMENT
(Pre Development Loan)

This AFFORDABLE HOUSING AND LOAN AGREEMENT (the "Agreement") is entered into this 21 day of July 2009, between the City of Oxnard Community Development Commission (hereinafter referred to as "CDC") on the one hand, and the City of Oxnard Housing Authority (hereinafter referred to as "Developer") on the other hand.

RECITALS

Developer wishes to develop six to eight apartment units and related improvements (the "Project") on an approximate 1/3 acre site (the "Property") located on Cuesta Del Mar, in the City of Oxnard. A legal description of the Property is attached hereto as Exhibit A. Developer has requested that CDC loan to Developer funds necessary to aid in development of the Project. CDC is willing to loan funds under the terms set forth in this Agreement.

CDC has determined that the Project, constructed and operated in accordance with the terms and conditions set forth herein, would implement elements of City's approved housing strategy and that the financial assistance provided herein is necessary to make the project financially feasible.

1. 'PROJECT SCOPE:

A. Definitions. As used in this 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.

- (1) adjusted income;
- (2) annual income;
- (3) housing cost;
- (4) family;
- (5) household;
- (6) low income household or family;
- (7) monthly adjusted income;
- (8) monthly income;
- (9) operating expenses;
- (10) very low income household or family

Affordable Rent shall have the meaning as set forth in California Health and Safety Code section 50053.

B. Project Description and Affordability Requirements.

(1) This Agreement provides funds for engineering, architectural, planning and other pre-development expenses associated with the construction of six to eight affordable

rental units (collectively the “affordable units” or the “Property”). The affordable units shall be made available to and shall be restricted for occupancy by very low and low-income families at an affordable housing cost to such families as provided in this Agreement for a period of fifty-five (55) years after the date of the first occupancy of the affordable unit.

(2) The Project shall meet all City ordinances, conditions, rules and regulations and shall be required to have approval of the City of Oxnard Planning Commission and City Council as provided by City ordinances, resolutions, and other applicable requirements. Nothing in this Agreement requires City to exercise its police or regulatory power in a certain manner.

(3) Developer will execute an Agreement Containing Covenants Affecting Real Property (“Regulatory Agreement”) in the form and substance attached hereto as Exhibit B, restricting rental of the affordable units as set forth above. The restrictions of this Regulatory Agreement are in addition to and independent of restrictions imposed by any other funding or regulatory entity.

(5) Developer will establish a preference for rental of the units. Preference will be established as follows:

- a. Families who reside in Oxnard;
- b. Families who work in Oxnard, but reside elsewhere;

Developer will maintain a waiting list of all persons who apply to become tenants, with information sufficient to rank such persons.

(6) During the entire period of the Regulatory Agreement that homes are rented, units will be made available to persons from the waiting list and among other applicants in the order of priority set forth above.

(7) For purposes of paragraph (4) above, a unit shall be considered to have been made available as follows:

- a. A unit shall be considered to have been made available if Developer actually notifies a potential tenant and a period of 48 hours elapses after such actual notice is given.
- b. At any time during such 48 hour availability period, the potential tenant may notify Developer of his/her election to rent the unit. In such event, Developer and tenant shall negotiate in good faith for rental of the unit.

C. Project Funding. Subject to and in accordance with the terms and conditions set forth in this Agreement, CDC shall loan the following sums to be used solely for the development of the Property.

(1) Loan Amount. CDC will, subject to and in accordance with the terms and

provisions of this Agreement, make available to Developer the sum of three hundred fifty thousand dollars (\$350,000). Such financial assistance is referred to herein as "the Loan". The Loan shall bear interest, at the rate of LAIF plus 1% per annum. The Loan shall be evidenced by this Agreement and by a Promissory Note ("Promissory Note"), secured by a Deed of Trust ("Deed of Trust"), encumbering the Property, both in form and substance reasonably satisfactory to CDC. The Loan shall not require periodic payments of interest and principal. The Loan shall be payable as set forth herein and as set forth in the Note.

(2) CDC shall be required to advance funds only when Developer provides for the benefit of CDC an American Land Title Association (ALTA) lender policy of mortgage title insurance in the original principal amount of the Loan. Said policy shall (1) show fee title to the Project site vested in Developer free and clear; (2) insure CDC as beneficiary under the Deed of Trust; and (3) show title to be free and clear of all liens and encumbrances prior or superior to the lien of the Deed of Trust, except such liens and encumbrances as CDC shall expressly approve in writing, provided, however, CDC will subordinate the Loan as provided in section C (a) below. Developer shall be responsible for the cost of such ALTA policy. CDC may in a writing sign by its director waive the requirement of such ALTA policy.

(3) Escrow. All advances of funds and property will, at the option of CDC, be made through an escrow of CDC's choice.

(4) Repayment Terms, Failure to Complete Project. If the Project is not complete, as evidenced by certificates of occupancy for all units, on the date provided in Section E below, the Loan shall be repayable with interest at the rate of LAIF plus 1% per annum in one lump sum payment due sixty (60) days after such anniversary, provided, however, that the period for completion of the Project and the repayment date may be extended for a period not to exceed two (2) years by written agreement signed by CDC's Director. Otherwise, the Loan shall be paid commencing January 30, of the year following the issuance of the first certificate of occupancy for the Project from defined net cash flow as provided by and defined the Promissory Note executed concurrently herewith.

(5) Additional Conditions of Loan. In addition to all other conditions precedent to CDC's obligation to advance funds under this Agreement, the following condition is imposed. Prior to requesting any amount of the Loan, Developer shall submit to CDC a development schedule and a "Proforma" showing Developer's anticipated schedule of performance and itemizing the cost of the Project:

(6) Additional Conditions Precedent to Funding. Developer shall not obligate or request disbursement of funds, and CDC shall not disburse funds to Developer, until CDC is provided with environmental studies sufficient to demonstrate to the CDC that the Project site is free of environmental defects or impairments which in CDC's reasonable discretion and judgment require remediation or other action under, local, State, or federal law, or which in CDC's sole discretion and judgment, represent health hazards.

(7) [INTENTIONALLY OMITTED]

(8) [INTENTIONALLY OMITTED]

(9) [INTENTIONALLY OMITTED]

(10) Information Requests. Developer shall, upon request of CDC promptly (and in no event later than thirty (30) days from request) provide all documentation required by CDC necessary and appropriate to audit expenditure of the funds loaned under this Agreement.

D. Affordability Requirements. The affordable units shall be rented strictly in accordance with this Agreement.

E. Schedule of Performance. Subject to the provisions of Paragraph 16 of this Agreement, the construction of the Project shall be completed no later than the dates shown below; provided, however, that any delay caused by CDC's failure to perform an obligation imposed on CDC under this Agreement shall extend the date of completion shown by the same number of days as any such delay caused by CDC.

EVENT	PERFORMANCE DATE
Commencement of construction of the Project	September 30, 2010
Completion of construction	September 30, 2011

A failure to meet the dates for performance shall be a default under this Agreement. In any event, notwithstanding any other provisions of this Agreement, and in addition to any other defaults, failure to complete the Project on or before September 30, 2011 shall be a default, unless the time for performance has been extended by CDC's Director as provided hereinabove.

F. Construction Management. Developer 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.

2. CONSTRUCTION REQUIREMENTS. All work on the Project shall be performed by contractors, licensed under the laws of the State of California, as Developer may employ from time to time to execute such work. Developer 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 Developer as set forth in this Agreement, Developer 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 CDC. Nothing herein excuses compliance by Developer with any or all City ordinances, resolutions, or development procedures or standards in connection with development of the Project. Developer shall comply with all labor laws

and laws requiring the payment of prevailing wages or Davis Bacon Act wages.

3. **LOAN FUND DISBURSEMENT.** Any Loan funds shall be disbursed only upon presentation of an invoice or other document requesting disbursement and identifying the purpose of the request with sufficient detail so that CDC may determine that the request is for purposes permitted by this Agreement.

4. **MAINTENANCE AND REPAIRS.** Developer shall, at all times during the term of this Agreement, cause the Property and the Project to be maintained in good condition and repair regardless of cause of the disrepair. Developer shall be fully and solely responsible for costs of maintenance, repair, addition and improvements. CDC, and any of its employees, agents, contractors or designees shall have the right to enter upon the Project at reasonable times and in a reasonable manner to inspect the Project. Developer shall not be responsible for maintenance of any unit once the unit is sold, and Developer shall not be responsible for maintenance of property dedicated to the public or deeded to a homeowners association after the dedication or deed has been accepted.

5. **MONITORING PERFORMANCE.** Developer shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which Developer or its agents, or both, perform the services required of it by the terms of this Agreement for the development of the Project. Developer 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, Developer 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. Developer agrees to be solely responsible for its own acts and those of its agents and employees. Developer, as between Developer and CDC, shall be responsible for payment of any expense associated with relocating existing occupants of the Property. Notwithstanding the foregoing, At the request of CDC, its agents, employees, or attorneys, Developer shall (1) promptly provide documents and provide specific answers to questions upon which information is desired from time to time relative to the income, expenditures, assets, liabilities, contracts, operations and condition of the Project, (2) provide CDC a photocopy of the certified financial statements of Developer for the past two years, (3) at all reasonable times during normal business hours, and upon reasonable notice, provide access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of Developer until two years after the expiration of this Agreement.

6. **ENFORCEMENT OF THE AGREEMENT.** The affordability requirements of this Agreement, and in the Regulatory Agreement constitute covenants, conditions and restrictions that run with the land and are enforceable by any means permitted by law. Subject to the provisions of Paragraph 16 below, if Developer fails to perform any obligation under this Agreement, the Regulatory Agreement, the Promissory Note, or the Deed of Trust (or fails to cause the Regulatory Agreement and Deed of Trust to be recorded against the Property as soon as Developer becomes the owner of the Property) and fails to cure the default within thirty (30) days after CDC has notified Developer in writing of the default or if the default cannot be cured within thirty (30) days, fails to

commence to cure within thirty (30) days and thereafter diligently pursue such cure, CDC shall have the right to enforce this Agreement by any or all of the following actions as well as any other action available under law:

A. Foreclosure Under Deed of Trust and Recovery of Loan Funds. CDC may declare a default, terminate this Agreement, and proceed to recover the amount of Loan Funds under the Regulatory Agreement (Exhibit A), Deed of Trust (Exhibit B), and Promissory Note (Exhibit C).

B. Action to Compel Performance or for Damages. CDC may bring an action at law or in equity to compel Developer's performance of its obligations under this Agreement, and/or for damages.

C. Remedies provided under Loan Documents. CDC may exercise any other remedy provided under this Agreement, the Regulatory Agreement, Deed of Trust, and Promissory Note.

7. INSURANCE. With respect to any Project activity, and before taking any construction related action under this Agreement, Developer shall obtain and maintain in full force and effect throughout the period of this Agreement, the minimum insurance coverages set forth in the INS-Q form maintained by the City of Oxnard.

8. HOLD HARMLESS, INDEMNIFICATION. During the period commencing with execution of this Agreement by CDC, and continuing until such time as the Developer no longer owns any portion of the Property, Developer agrees to and shall defend, indemnify and hold harmless the CDC, the City and the City of Oxnard Housing Authority, and their respective council members, commissioners, directors, officers, employees, contractors and agents from and against all claims, liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused by any person or to the property of any person which shall occur on or adjacent to the Property, or in connection with the activities of Developer under this Agreement, and which shall be directly or indirectly caused by any acts done (including the failure to pay prevailing wages or Davis-Bacon wages or to comply with any applicable labor laws) or any errors or omissions of Developer or its officer, employees, contractors or agents, save and except claims or litigation arising through the sole negligence or wrongdoing and/or willful misconduct of CDC or any other indemnitee. Developer is not obligated to indemnify CDC or others for claims based upon their use of information provided by Developer, provided the information itself is accurate. Developer shall at all times indemnify and hold harmless CDC, its officers and employees, from all loss, litigation, liability, damage, or expense, including, without limitation, potential tenant relocation costs arising under this Agreement and/or any subcontract which Developer enters into relating to implementation of the Project.

9. SALE OF PROPERTY/CHANGE OF USE. Developer agrees and declares that the Property and the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, operated, sold, and approved subject to all obligations set forth or incorporated in this Agreement, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property and the Project. All of the obligations set forth or incorporated in this Agreement shall constitute covenants which run with the land and shall be binding on Developer and its successors and assigns,

and all parties having or acquiring any right, title or interest in, or to any part of the Property or Project.

10. DEVELOPER TRANSFER. Developer shall not assign or transfer all or any part of this Agreement without the prior written approval of CDC. CDC agrees to give such approval if: (1) the change is to a joint venture entity for financing in which the original Developer remains the managing general partner or possesses controlling ownership and management; (2) in the reasonable determination of CDC, the proposed reconstituted Developer is comparable in all material respects (including experience, character and financial capability) to Developer; (3) original Developer remains fully responsible under this Agreement. Any such change (or assignment of this Agreement in connection therewith) shall be by instruments reasonably satisfactory to the General Counsel of CDC. Evidence of the proposed assignees' qualifications to meet the obligations of the Developer under this Agreement shall be subject to the approval of the CDC's Director or his designee, which approval is not unreasonably to be withheld.

11. PERMITS AND OTHER APPROVALS. Developer 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 CDC or 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 Developer for any such permits and/or approvals shall be processed as any other applications for similar permits or approvals are processed under applicable laws.

12. AUTHORITY TO BIND. By entering into this Agreement, Developer certifies it is qualified and licensed to conduct business in the State of California.

13. NOTICES. Notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Agreement shall be in writing and shall be given by personal delivery, mail or telegram or facsimile and addressed, if to CDC, City of Oxnard Community Development Commission, 214 S. "C" Street, Oxnard, California 93030, Attn: Director, or if to Developer, at 435 South "D" Street, Oxnard, California 93030. Notice by personal delivery shall be deemed effective upon the delivery of such notice to the party for whom it is intended at the recipient's address. Notice by mail shall be deemed effective two (2) business days after depositing such notice, certified or registered mail, postage prepaid, properly stamped and sealed, with the United States Postal Service, properly addressed regardless of whether or when the notice is actually received by the addressee. Notice by telegram shall be deemed effective upon the transmission of the telegram, telegraph charges prepaid, to the party for whom it is intended at the recipient's address. Notice by facsimile shall be effective upon transmission. Notice by overnight guaranteed delivery service shall be deemed effective one (1) business day after depositing such notice with said service, charges prepaid and properly addressed. Either party may give notice of any change of address in accordance with the notice procedures described above.

14. COMPLIANCE WITH LAW. Developer shall comply with all applicable laws and regulations in the implementation of this Agreement.

15. **CONTRACTUAL RELATIONSHIP.** The contractual relationship between CDC and Developer is independent and under no circumstances shall Developer be considered an agent, partner, or joint venturer of CDC.

16. **ENFORCED DELAY; EXTENSION OF TIMES OF PERFORMANCE.** In addition to specific provisions of this Agreement, performance by any of the parties hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, terrorist attacks, epidemics, quarantine restrictions, freight embargos, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, acts or omissions of another party, acts or failures to act of any public or governmental agency or entity (other than the acts or failures to act of CDC which shall not excuse performance by CDC), or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the mutual agreement of CDC and Developer.

17. Provided that Developer has complied with all provisions of this Agreement with respect to a particular affordable unit and has rented the unit to an eligible renter subject to the affordability restrictions set forth herein, Developer shall be deemed to have satisfied Developer's obligations under this Agreement with respect to such affordable unit and shall be released from further obligations of this Agreement with respect to such affordable unit. CDC shall, upon request of Developer, provide written evidence of the satisfaction of such obligations and release of such further responsibility. When all obligations under this Agreement have been satisfied, CDC shall, upon request, provide Developer with written evidence of the satisfaction of such obligations and release from further responsibility.

18. **BENEFIT OF AGREEMENT.** This Agreement and every provision hereof is for the exclusive benefit of Developer and CDC and not for the benefit of any other party. There shall be no incidental or other beneficiaries of any of Developer's or CDC's obligations under this Agreement.

19. **FORMS AND SUBSTANCE OF EXHIBITS.** Documents in the form and substance of the attached Exhibits are an integral part of this Agreement. Such documents, however, may be changed prior to execution in manners that in the opinion of CDC's General Counsel, do not affect the substance of the Agreement contained therein.

20. **ENFORCEMENT OF AGREEMENT.** If any terms, provisions, conditions or covenants in this Agreement, or the application thereof to any party or circumstances, shall to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms, provisions, conditions or covenants to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

21. GOVERNING LAW. The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of Ventura County.

22. SUPERSEDES PRIOR AGREEMENTS. The provisions of this Agreement supersede all prior agreements and understandings between the parties hereto with regard to the subject matter hereof. This Agreement sets forth the parties' entire and only understanding with respect to the subject matter hereof.

23. CONSENT OR APPROVALS, FURTHER AGREEMENT BY CDC'S DIRECTOR. Wherein under this Agreement, CDC consent or approval is required, such consent or approval may be manifested by a writing executed by the CDC's Director. The Regulatory Agreement, Promissory Note, and Deed of Trust, as well as other documents, may be accepted or executed by the CDC's Director, upon the advice of the General Counsel that such documents implement the agreements contained in this Agreement.

COMMUNITY DEVELOPMENT
COMMISSION

CITY OF OXNARD HOUSING
AUTHORITY

By: _____
Dr. Thomas E. Holden, Chairman

By _____
Dr. Thomas E. Holden, Chairman

ATTEST:

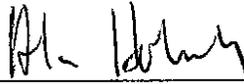
ATTEST:

Daniel Martinez, Secretary Designate

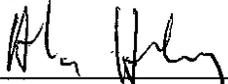
Daniel Martinez, Secretary Designate

APPROVED AS TO FORM:

APPROVED AS TO FORM:

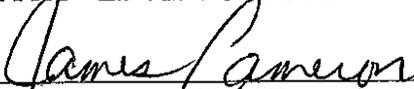


Alan Holmberg, General Counsel



Alan Holmberg, General Counsel

APPROVED AS TO INSURANCE:



James Cameron, Chief Financial Officer

EXHIBIT LIST

- A - Legal Description
- B - Regulatory Agreement
- C - Promissory Note
- D - INS Q Form

EXHIBIT "A"

LEGAL DESCRIPTION
(behind this page)

LEGAL DESCRIPTION

EXHIBIT "A"

Lot 22 of Tract 1365, in the City Of Oxnard, County of Ventura, State of California, as shown on a map recorded in book 31, page 52 of Maps, in the office of the County Recorder of said Ventura County.

EXCEPTING THEREFROM all oil, gas minerals and other hydrocarbon substances, without the right of entry to a depth of 500 feet for the removal of said substances, as reserved in deeds of record, and as reserved herein.

APN: 222-0-095-085

ATTACHMENT #1
EXHIBIT A
PAGE 12 OF 35

EXHIBIT "B"

REGULATORY AGREEMENT

(behind this page)

ATTACHMENT #1
EXHIBIT B
PAGE 13 OF 35

Recording Requested by and
When Recorded Return to:

City of Oxnard
305 West Third Street
Oxnard, California 93030

No Recording Fee Required In Accordance
With California Government Code Section 6103

SPACE ABOVE THIS LINE FOR RECORDING USE

AGREEMENT CONTAINING COVENANTS

THIS AGREEMENT CONTAINING COVENANTS (“Regulatory Agreement”) is entered into effective July 21, 2009 by **The City of Oxnard Housing Authority (“Developer”)** in favor of the City of Oxnard (“Community Development Commission” or “CDC”) pursuant to and in evidence of an “Affordable Housing and Loan Agreement” executed by Borrower concurrently herewith (the “Agreement”).

WHEREAS, Developer is or will be the owner of that certain real property in the City of Oxnard (“City”), County of Ventura, State of California (“Property”) described in Exhibit “A” attached hereto and incorporated herein by this reference; and

WHEREAS, Developer and CDC have entered into the Agreement in which Developer has agreed to maintain and operate the Property as an affordable housing project, and CDC has loaned \$350,000 to assist development of the affordable housing project (the “Project”):

NOW, THEREFORE, IN CONSIDERATION FOR CDC’S ASSISTANCE, DEVELOPER COVENANTS AND AGREES FOR THE BENEFIT OF CDC AS FOLLOWS:

AGREEMENT

1. Definitions
 - a. As used in this Regulatory Agreement, unless a different meaning is apparent from the context or is specified elsewhere in this Regulatory Agreement, the following words and terms shall have the same meaning given or attributed to them in Title 25 of the Code of Regulations.

affordable rent
housing costs;
family;
household;
lower income household or family
monthly adjusted income;
monthly income;
rent;
very low income household or family.

2. Term. The provisions of this Regulatory Agreement shall remain in effect for a period of 55 years from the date of first occupancy of a unit in the Project.

3 CDC Contributions. The CDC has provided funds for pre development costs of approximately six to eight apartment units.

4. City Conditions. The Project shall meet all City conditions, rules and regulations and shall be required to have approval of the Oxnard Planning Commission and City Council as required by City ordinances, resolutions, regulations and requirements.

5. Affordability Requirement All units shall be made available and rented only to lower income households or families.

6. Oxnard Preference. To the extent permitted by applicable law, Developer will establish a preference for rental of the units. Preference will be established as follows:

- a. Families who live in Oxnard;
- b. Families who work in Oxnard and live elsewhere
- c. All other families

Developer will maintain a waiting list of all persons who apply to become tenants, with information sufficient to rank such persons.

During the entire period of the Regulatory Agreement that units are rented, units will be made available to persons from the waiting list and among other applicants in the order of priority set forth above.

For purposes of this paragraph 6, units shall be considered to have been made available as follows:

- a. A unit shall be considered to have been made available if Developer actually notifies a potential tenant and a period of 48 hours elapses after such actual notice is given.
- b. At any time during such 48 hour availability period, the potential tenant may notify Developer of his/her election to rent the unit. In such event, Developer and tenant shall negotiate in good faith for rental of the unit.

7. Construction. All work on the Project shall be performed by contractors, licensed under the laws of the State of California, as Developer may employ from time to time to execute such work. Developer shall comply with all federal, State and local laws and regulations pertaining to construction of the Project, including laws relating to competitive bidding and payment of prevailing wages, to the extent the same may be applicable. 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 Developer as set forth in this Regulatory Agreement, Developer shall seek and obtain all necessary governmental approvals for the Project and shall pay all permit application fees and development exactions then prescribed by City ordinance or resolution at the time of submittal, unless such fees or exactions are waived by CDC. Nothing herein excuses compliance by Developer with any or all City ordinances, resolutions, or procedures in connection with development of the Project.

8. Maintenance. Developer shall, at all times during the term of this Regulatory Agreement, cause the Property and the Project to be maintained in good condition and repair regardless of cause of the disrepair. Developer shall be fully and solely responsible for costs of maintenance, repair, addition and improvements. CDC, and any of its employees, agents, contractors or designees shall have the right to enter upon the Project at reasonable times and in reasonable manner to inspect the project.

9. Reports. Developer will provide CDC with reports and records as follows:

- a. Developer understands and agrees that CDC may, at any time, request information that may be required for the purpose of making necessary reports to the Department of Housing and Urban Development and State Department of Housing and Community Development, or for otherwise evaluating Developer's progress and performance pursuant to this Regulatory Agreement. In the event of such requests, Developer shall comply by providing the appropriate data within 15 working days from the date of any such request.
- b. Developer further understands and agrees that the records and additional information described in this paragraph are required to be retained on a continuing basis for a period of 5 years after this Regulatory Agreement has expired.
- c. Developer further understands and agrees that its failure to comply with any and all reporting and data submission requirements of this paragraph 9 may be deemed by City to be evidence of cessation of operation under the Regulatory Agreement or conversion to an unapproved change in use, requiring recovery of loan funds pursuant to the Regulatory Agreement, provided, however, that a failure to comply with the reporting and data submission requirements shall not be deemed to be cessation of operation under the Regulatory Agreement or a conversion to an unapproved change unless Developer has failed to cure such failure to comply within 30 days after CDC gives Developer a "notice to cure", or if the failure cannot be cured within 30 days, fails to commence to cure within 30 days and thereafter diligently pursue such cure.

- d. All financial transactions must be supported by complete and verifiable source documents. Records shall provide a clear audit trail.
- e. Without limiting the foregoing, Developer shall provide each and all of the reports described in Paragraph F.5. of the Agreement.

The affordability requirements contained in this Regulatory Agreement constitute covenants, conditions and restrictions that run with the land. Subject to the provisions of paragraph 17 below, if Developer fails to perform any obligation under this Regulatory Agreement, and fails to cure the default within 30 days after CDC has notified Developer in writing of the default or if the default cannot be cured within 30 days, fails to commence to cure within 30 days and thereafter diligently pursue such cure, CDC shall have the right to enforce this Regulatory Agreement by any means permitted by law, including an action at law or in equity to compel Developer's performance of its obligations, and/or for damages.

10. Hold Harmless Indemnification.

a. Developer shall at all times defend, indemnify and save CDC, the City of Oxnard Community Development Commission and the City of Oxnard Housing Authority, including their boards, council members, commissioners, agencies, departments, officers, employees, agents and volunteers, harmless against any and all claims, lawsuits, judgment, demands and liability against City, CDC, or the City of Oxnard Housing Authority, all of their boards, council members, commissioners, agencies, departments, officers, employees, agents and volunteers, including those arising from injuries or death of persons and for damages to property, arising directly or indirectly out of the operations conducted or subsidized in whole or in part by CDC related to this Regulatory Agreement, save and except claims or litigation arising through the sole negligence or wrongdoing and/or sole willful misconduct of CDC or any other indemnitee. Developer is not obligated to indemnify CDC or others for claims based upon their use of information provided by Developer, provided the information itself is accurate. Developer shall at all times indemnify and hold harmless CDC, its officers and employees, from all loss, litigation, liability, damage, or expense, including, without limitation, potential tenant relocation costs arising under this Regulatory Agreement and/or any subcontract which Developer enters into relating to implementation of the Project.

b. Developer's obligation to defend shall arise when a claim, demand or action is made or filed, whether or not such claim, demand or action results in a determination of liability or damages as to which Borrower is obligated to indemnify and hold harmless.

11. Modifications. This Regulatory Agreement is subject to written modification and termination as necessary by CDC in accordance with requirements contained in any future federal legislation and regulations. All other modifications must be in written form and approved by both parties. To the extent that any lender to, or equity investor in, the Project requires changes to this Regulatory Agreement, which changes do not materially affect the basic affordability, reporting, and enforcement provisions hereof, the CDC agrees to cooperate to effect such changes within a reasonable time.

12. Sale Of Property/Change Of Use. Developer agrees and declares that the Property and the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied,

floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargos, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, acts or omissions of another party, acts or failures to act of any public or governmental agency or entity (other than the acts or failures to act of CDC which shall not excuse performance by CDC), or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. Notwithstanding anything to the contrary in this Regulatory Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Regulatory Agreement may also be extended in writing by the mutual agreement of CDC's Director and Developer.

18. Benefit Of Agreement. This Regulatory Agreement and every provision hereof is for the exclusive benefit of Developer and CDC and not for the benefit of any other party. There shall be no incidental or other beneficiaries of any of Developer's or CDC's obligations under this Regulatory Agreement.

19. Enforcement Of Agreement. If any terms, provisions, conditions or covenants in this Regulatory Agreement, or the application thereof to any party or circumstances, shall to any extent be held invalid or unenforceable, the remainder of this Regulatory Agreement, or the application of such terms, provisions, conditions or covenants to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Regulatory Agreement shall be valid and enforceable to the fullest extent permitted by law.

20. Governing Law. The terms of this Regulatory Agreement shall be interpreted according to the laws of the State of California.

21. Rights of Mortgage Holders. The provisions of these Covenants do not limit the right of the holder of any mortgage, deed of trust or other lien or encumbrance to exercise any of its remedies for the enforcement of any pledge or lien upon the Property, recorded prior in time to this Regulatory Agreement or to which this Regulatory Agreement has been subordinated in writing. In the event of any foreclosure under any such mortgage, deed of trust, or other lien or encumbrance, or a sale pursuant to any power of sale included in any such mortgage or deed of trust, the purchaser or purchasers and their successors and assigns and the Property shall not be subject to conditions, restrictions and covenants contained in Paragraphs 5, 6, and 9 hereinabove.

22. City Successors. CDC, its successors and assigns, is deemed the beneficiary of the covenants contained herein, without regard to technical classification and designation. The covenants shall run in favor of CDC, its successors and assigns, without regard to whether CDC has been, remains, or is an owner of any land or interest therein.

23. Modification. CDC and its successors and assigns, and Developer and its successors and assigns shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in these covenants without the consent of any tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust or

any other person or entity having any interest less than a fee in the Property: provided, however, that the obligations set forth in paragraph 21 shall not be subject to modification without the consent of any affected lienholder.

24. No Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, national origin, sex, age, disability, marital status, sexual preference, creed, ancestry, familial status, medical condition, or retaliation for having filed a discrimination complaint, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Developer itself or any person claiming under or through it, establish or permit any such practice or practices or discrimination or segregation with reference to the selection, location, number use or occupancy of buyers, tenants, lessees, subtenants, sublessees, or vendees of the Property.

The Developer shall refrain from restricting the rental, sale or lease of the Property to any person on the basis of race, color, religion, ancestry, familial status, national origin, sex, age, disability, marital status, sexual preference, creed, ancestry, medical condition, or retaliation for having filed a discrimination complaint. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

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.

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.”

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

IN WITNESS WHEREOF, CDC and Developer have executed this Regulatory Agreement.

(NOTARIZATION REQUIRED)

CDC:

Developer:

THE CITY OF OXNARD COMMUNITY DEVELOPMENT COMMISSION

CITY OF OXNARD HOUSING AUTHORITY

By: _____
Dr. Thomas E. Holden, Chairman

By: _____
Dr. Thomas E. Holden, Chairman

ATTEST:

ATTEST:

Daniel Martinez, Secretary Designate

Daniel Martinez, Secretary Designate

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Alan Holmberg, General Counsel

Alan Holmberg, General Counsel

EXHIBIT "C"

PROMISSORY NOTE
(behind this page)

PROMISSORY NOTE
Affordable Housing Assistance
(Secured by Deed of Trust)

\$350,000.00

Oxnard, California
July 21, 2009

FOR VALUE RECEIVED, the undersigned, City of Oxnard Housing Authority ("Borrower"), hereby promises to pay to the order of the Community Development Commission of the City of Oxnard, ("Lender"), the principal sum of Three Hundred Fifty Thousand Dollars (\$350,000.00), with interest on the unpaid balance thereof from the date of each advance evidenced by this Note set forth above until repaid at the rate of ___ percent (___%) per annum, (except as otherwise provided herein). The term Loan as used herein, means the Loan evidenced by this Note. The Loan is made pursuant to the terms of Affordable Housing and Loan Agreement (the "Loan Agreement") and a Regulatory Agreement ("Regulatory Agreement") both executed concurrently herewith between Borrower and Lender. Both principal and interest are payable as hereinafter provided, to Lender at 214 S. "C" Street, Oxnard, California 93030, Attention: Director, or at such other place as from time to time may be designated by the holder of this Promissory Note ("Note").

All of the provisions of this Note are agreements which are secured by the Deed of Trust securing this Note. A default in observance of any of the provisions is a default with consequences under the Deed of Trust. All terms not otherwise defined in this Note have the meaning assigned to such terms in the Agreement.

1. **DEFINITIONS.** The following definitions apply to this Note:
- A. **Borrower:** Housing Authority of the City of Oxnard;
 - B. **Lender:** The City of Oxnard Community Development Commission;
 - C. **Property:** Certain real property and improvements located in the City of Oxnard, described in the Deed of Trust;
 - D. **Deed of Trust:** The deed of trust, of even date with this Note, which deed of trust secures performance of Borrower's obligations under this Note;
 - E. **Note:** This promissory note;

ATTACHMENT #1
EXHIBIT C
PAGE 23 OF 35

F. Defined Net Cash Flow: means, in a particular calendar year, the amount by which Gross Revenue (as defined below) exceeds Annual Operating Expenses (as defined below).

- (a) Gross Revenue. "Gross Revenue," with respect to a particular calendar year, shall mean all revenue, income, receipts, and other consideration actually received from operation and leasing of the Project. "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 resulting in actual income; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Project (or applied toward the cost of recovering such proceeds); and condemnation awards for a taking of part or all of the Project for a temporary period. "Gross Revenue" shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances.
- (b) Annual Operating Expenses. "Annual Operating Expenses" with respect to a particular calendar year shall mean the following costs reasonably and actually incurred for operation and maintenance of the Project: property taxes and assessments imposed on the Project; debt service and issuer fee, if any, currently due on a non-optional basis (excluding debt service due from residual receipts, net cash flow, or surplus cash of the Project) on loans the proceeds of which were used for acquisition and development of the Project; property management fees and reimbursements, premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, and trash collection; maintenance and repair; any annual license or certificate of occupancy fees required for operation of the Project; security services; advertising and marketing; cash deposited into reserves for capital replacements of the Project, cash deposited into an operating reserve; partnership management fees (including any asset management fee) payable to any partner or affiliate of any partner of Borrower, (allowable only if the Project receives a low income housing tax credit allocation and only for the fifteen (15) year compliance period as described in Section 42(i)(1) of the Internal Revenue Code of 1986, as amended); extraordinary operating costs specifically approved in advance and in writing by the Lender, special property management fee for resident services, if any, with prior Lender approval of scope of services and amount of fee; payments of deductibles in connection with casualty

insurance claims not normally paid from reserves; the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves; and other ordinary and reasonable operating expenses approved in advance by the Lender and not listed above. Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses or any amount expended from a reserve account.

- (c) Gross Revenue, Operating Expenses, and any other information necessary to establish Defined Net Cash Flow shall be determined by agreement between Borrower and Lender or by such Certified Public Accountants as may be chosen by Borrower and accepted in writing by Lender. Lender's acceptance of accountant chosen by Borrower shall not unreasonably be withheld.

2. **PAYMENT PROVISIONS:** The following payment provisions apply to this Note:

- A. **Promise to Pay.** Borrower promises to pay to the order of Lender the principal sum of Three Hundred Fifty Thousand Dollars (\$350,000), plus interest thereon and other charges due under this Note, all in the manner provided below. Interest shall accrue at the rate of LAIF plus 1% per annum on funds advanced, commencing on the date of each advance. All payments received shall be applied first to the charges which Lender is entitled to impose under this Note and the Deed of Trust, then to interest, and then to principal.
- B. **Payments.** Borrower promises to pay interest, principal, and all other sums which may become due on the Note as follows:
- (1) All sums outstanding under this Note shall be due and payable in no event later than December 31, 2036.
 - (2) All sums outstanding under this note are payable in accordance with the provisions of paragraph C.4, of the Loan Agreement in the event the project is not completed pursuant to the requirement of the Loan Agreement. Otherwise, the Loan is payable from Defined Net Cash Flow as provided in Paragraph 2.b.(4) herein below.
 - (3) All sums outstanding under this Note shall without any reduction become immediately due and payable upon any default under this Note, or upon any transfer (including hypothecation) of the Property securing payment of this Note not permitted by the Loan Agreement, upon any change in ownership or composition of the Borrower not permitted, or upon any breach or default of the Loan

Agreement or the Regulatory Agreement.

- (4) All other payments shall be made annually, commencing on January 30, of the year following the issuance of the first Certificate of Occupancy for the Project, and each January 30 thereafter;
- i. Payments shall be in the amount of 50% of Defined Net Cash Flow for the year preceding the date on which payment is due; no offsets or credits shall be allowed for quarters in which Defined Net Cash Flow may have been a negative figure; and
 - ii. The first payment shall be due January 30 of the year following the issuance of the first Certificate of Occupancy for the Project and shall be based upon Defined Net Cash Flow calculated for the year in which the City issued the first Certificate of Occupancy for the Project.

3. **PAST DUE PRINCIPAL AND INTEREST.** Any amount of principal or interest on the Loan or any fee or expense or other amount payable hereunder shall, to the extent permitted by law, bear interest from such payments due date until paid at the rate of 10% per annum, which interest shall be immediately due and payable.

4. **NO DEDUCTIONS, NO OFFSETS.** All payments of principal and interest hereunder shall be made without deduction of any present and future taxes, levies, duties, imposts, deductions, charges or withholdings imposed by any existing or future law, rule, regulation, treaty, directive or requirement whether or not having the force of law, which amounts shall be paid by Borrower. Borrower will pay the amounts necessary such that the gross amount of the principal and interest received by Lender is not less than that required by this Note. All stamp and documentary taxes shall be paid by Borrower. If, notwithstanding the foregoing, Lender pays any such taxes, Borrower will reimburse Lender for the amount paid, as additional interest, within five (5) days of Lender's demand for payment. Borrower will furnish Lender official tax receipts or other evidence of payment of all such amounts.

5. **ABSENCE OF USURY.** Borrower and Lender intend that the Loan be exempt from the restrictions contained in the California usury law, or if not exempt, that the Loan shall be in compliance with any applicable usury law. In furtherance thereof, Borrower and Lender agree that none of the terms and provisions contained in this Note, or in any other instrument executed in connection herewith, shall ever be construed to create a contract to pay for the use, forbearance or detention of money, or interest at a rate in excess of the maximum interest rate permitted to be charged by applicable law. Therefore, if a court ultimately determines that the Loan is not exempt from the California usury law, or if a court determines that the usury law of another jurisdiction

should be applied to the Loan: (a) neither Borrower nor any endorsers or other parties now or hereafter becoming liable for payment of this Note shall ever be required to pay interest on this Note at a rate in excess of the maximum interest that may be lawfully charged under applicable law, and the provisions of this Section shall control over all other provisions of this Note and any other instruments now or hereafter executed in connection herewith; (b) if the maturity hereof shall be accelerated for any reason or if the principal of this Note is paid prior to the end of the term of this Note, and as a result thereof the interest received for the actual period of existence of the Loan would be unlawful, the holder of this Note shall refund to Borrower the amount of such excess or shall credit the amount of such excess against the principal balance of the Note then outstanding; and (c) in the event that Lender or any other holder of this Note shall collect monies which are deemed to constitute interest which would increase the effective interest rate on this Note to a rate in excess of that permitted to be charged by applicable law, all such sums deemed to constitute interest in excess of the legal rate shall, upon such determination, at the option of the holder of this Note, be first, credited against the principal balance of this Note then outstanding, and second, returned to the Borrower.

6. **PREPAYMENT.** This Note may be prepaid in whole or in part without penalty or charge.

7. **ATTORNEY'S FEES.** Should the indebtedness represented by this Note or any part thereof be collected at law or in equity or through any bankruptcy (including, without limitation, any action for relief from the automatic stay or any other bankruptcy proceeding) receivership, probate or other court proceedings or by any judicial or non-judicial foreclosure proceeding, or if this Note is placed in the hands of attorneys for collection after default, the Borrower and all endorsers, guarantors and sureties of this Note jointly and severally agree to pay, in addition to the principal and interest due and payable hereon, reasonable attorneys' fees and collection costs and expenses. Should any action be brought to construe, clarify, or obtain a declaration as to the terms of this Note or the parties' obligations under it, the prevailing party in such action shall recover its reasonable attorneys' fees.

8. **WAIVER OF PRESENTMENT.** Borrower, and any and all endorsers, guarantors and sureties of this Note, and all other persons liable or to become liable on this Note, jointly and severally waive presentment for payment, demand, notice of demand and of dishonor and nonpayment of this Note, notice of intention to accelerate the maturity of this Note, protest and notice of protest, diligence in collecting, and the bringing of suit against any other party, and agree to all renewals, extensions, modifications, partial payments, releases or substitutions of security, in whole or in part, with or without notice, before or after maturity. The pleading of any statute of limitations as a defense to any demand against the makers, endorsers, guarantors and sureties is expressly waived by each and all such parties to the extent permitted by law.

9. **LOSS OF NOTE.** Upon notice from any holder to Borrower of the loss, theft, destruction or mutilation of this Note and, upon receipt of indemnity reasonably satisfactory to Borrower from any holder of this note (except that if Lender is the holder

of this Note, an indemnification from Lender shall be sufficient) or, in the case of mutilation hereof, upon surrender of the mutilated Note, Borrower will make and deliver a new note of like tenor in lieu of this Note.

10. **SUCCESSORS AND ASSIGNS.** This Note shall be binding upon and shall inure to the benefit of Borrower and Lender, and their successors and assigns.

11. **SEVERABLE PROVISIONS.** Every provision of this Note is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason whatsoever, such illegality, invalidity or enforceability shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

12. **NOTICES.** Notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Note shall be in writing and shall be given by personal delivery, mail or telegram or facsimile and addressed, if to Lender, 214 S. "C" Street, Oxnard, California 93030, or if to Borrower, at 435 S. "D" Street, Oxnard, CA, 93030. Notice by personal delivery shall be deemed effective upon the delivery of such notice to the party for whom it is intended at the recipient's address. Notice by mail shall be deemed effective two (2) business days after depositing such notice, certified or registered mail, postage prepaid, properly stamped and sealed, with the United States Postal Service, properly addressed regardless of whether or when the notice is actually received by the addressee. Notice by telegram shall be deemed effective upon the transmission of the telegram, telegraph charges prepaid, to the party for whom it is intended at the recipient's address. Notice by facsimile shall be effective upon transmission. Notice by overnight guaranteed delivery service shall be deemed effective one (1) business day after depositing such notice with said service, charges prepaid and properly addressed. Either party may give notice of any change of address in accordance with the notice procedures described above.

13. **DEFAULT.** Any failure to perform any obligation of Borrower under this Note, the Deed of Trust, the Loan Agreement, or the Regulatory Agreement shall be considered a default hereunder.

14. **JOINT AND SEVERAL.** The obligations of Borrower in this Note shall be joint and several obligations of Borrower and of each Borrower, if more than one, and of each of Borrower's heirs, devisees, legatees, administrators, executors, personal representatives, successors and assigns.

15. **GENDER.** In this Note, whenever the context so requires, the masculine gender includes feminine and/or neuter, and the singular number includes the plural.

16. **TIME OF ESSENCE.** Time is of the essence in this Note and the performance of each of the covenants and agreements contained herein.

17. **GOVERNING LAW.** This Note shall be construed and enforced in accordance with the laws of the State of California.

18. **AUTHORITY.** The person executing this Note represents and warrants that such person has the authority to execute this Note and bind borrower to its provisions.

19. **CAPTIONS AND REFERENCES.** The captions of the Paragraphs of this Note are for the purposes of convenience only and are not intended to be part of this Note and shall not be deemed to modify, explain, enlarge or restrict any of the provisions hereof. All "Paragraph" references are to the paragraphs of this Note, unless otherwise indicated.

20. **SECURITY.** This Note is secured by a deed of trust executed concurrently herewith, encumbering the property described therein.

DISCLOSURES. BORROWER HEREBY ACKNOWLEDGES THAT INTEREST IN THIS NOTE MAY AT TIMES TO BE CALCULATED BY HOLDER ON THE BASIS OF A THREE HUNDRED SIXTY (360) DAY YEAR AND IS FULLY AWARE THAT SUCH CALCULATIONS MAY RESULT IN AN ACCRUAL AND/OR PAYMENT OF INTEREST IN AMOUNTS GREATER THAN CORRESPONDING INTEREST CALCULATIONS BASED ON A THREE HUNDRED SIXTY-FIVE (365) DAY YEAR.

CITY OF OXNARD HOUSING AUTHORITY

By: _____
Its:

EXHIBIT "D"

INS Q

INSURANCE REQUIREMENTS FOR SUBDIVISION AGREEMENTS

1. Developer shall obtain and maintain during the performance of any activities under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the development of the subdivision by developer, its agents, representatives, or employees.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business Automobile Liability Insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than \$1,000,000 per claimant.

2. Developer shall, prior to approval of the Subdivision Agreement, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-Q. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be forwarded to the Risk Manager, addressed as follows:

City of Oxnard
Risk Manager
Reference No. _____
300 West Third Street, Suite 302
Oxnard, California 93030

3. Developer agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Developer agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of developer; products and completed operations of developer; premises owned, occupied or used by developer; or automobiles owned, leased, hired or borrowed by developer. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-Q or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance coverages (**this must be endorsed**). Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the developer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-Q.doc

ATTACHMENT #1
EXHIBIT D
PAGE 32 OF 35

ACCORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE
COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input checked="" type="checkbox"/> OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG. \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER
City of Oxnard
Attn: Risk Manager
Reference No. _____
300 W. Third Street, Suite 302
Oxnard CA 93030

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE

ATTACHMENT 41
EXHIBIT D
PAGE 33 OF 35

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____

PRODUCER

Telephone: _____

POLICY INFORMATION:
Insurance Company: _____
Policy No.: _____
Policy Period: (from) _____ (to) _____
LOSS ADJUSTMENT EXPENSE Included in Limits
 In Addition to Limits

NAMED INSURED

CITY AGREEMENTS/PERMITS _____

Deductible Self-Insured Retention (check which) of \$ _____
with an Aggregate of \$ _____ applies to _____
coverage. Per Occurrence Per Claim (which)

TYPE OF INSURANCE

GENERAL LIABILITY
 COMMERCIAL GENERAL LIABILITY Claims Made
 COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
 OWNERS & CONTRACTORS PROTECTIVE Occurrence

OTHER PROVISIONS

COVERAGES

LIABILITY LIMITS IN THOUSANDS \$
EACH OCCURRENCE _____ AGGREGATE _____

GENERAL
 PRODUCTS/COMPLETED OPERATIONS
 PERSONAL & ADVERTISING INJURY
 FIRE DAMAGE

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
Telephone: () _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG 0001; or
 - b. If excess, affords coverage which is at least as broad as the primary insurance form CG 0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Risk Manager
Reference No. _____
300 W. Third Street, Suite 302
Oxnard, CA 93030

AUTHORIZED REPRESENTATIVE
 Broker/Agent Underwriter _____
I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.
Signature _____
(original signature required)
Telephone: () _____ Date Signed _____

ATTACHMENT #1
EXHIBIT D
PAGE 34 OF 35

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
-----------------	-----------------------

PRODUCER

Telephone: _____

POLICY INFORMATION:
Insurance Company: _____
Policy No.: _____
Policy Period: (from) _____ (to) _____
LOSS ADJUSTMENT EXPENSE Included in Limits
 In Addition to Limits

NAMED INSURED

CITY AGREEMENTS/PERMITS

Deductible Self-Insured Retention (check which) of \$ _____
with an Aggregate of \$ _____ applies to _____
coverage. Per Occurrence Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here in which case only the following specific agreements and permits with the City are covered:

TYPE OF INSURANCE
 COMMERCIAL AUTO POLICY
 BUSINESS AUTO POLICY
 OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

\$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
Telephone: (____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

- 1. INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- 2. CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- 3. SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- 4. CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- 5. PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- 6. SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
 - b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Risk Manager
Reference No. _____
300 W. Third Street, Suite 302
Oxnard, CA 93030

AUTHORIZED REPRESENTATIVE
 Broker/Agent Underwriter _____
I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.
Signature _____ (original signature required)
Telephone: (____) _____ Date Signed _____