

**SEVENTH AMENDMENT TO OWNER PARTICIPATION AGREEMENT
(Increased Agency Loan Amount)**

SEVENTH AMENDMENT TO OWNER PARTICIPATION AGREEMENT (“Seventh OPA Amendment”) dated as of the 9th day of December, 2014, by El Dorado II, LP, a California limited partnership (“Developer”) and the City of San Marcos acting solely in its capacity as the designated successor housing agency to the former Redevelopment Agency of the City of San Marcos (“City”).

RECITALS

A. Developer and the Redevelopment Agency of the City of San Marcos (“Former RDA”) are parties to that certain Owner Participation Agreement (El Dorado II) dated April 8, 2009 (as amended by (i) that certain Agreement Regarding Acquisition of Additional Property and Amendment to Owner Participation Agreement, dated July 29, 2009; (ii) that certain Agreement Regarding Acquisition of Additional Property and Second Amendment to Owner Participation Agreement, dated October 27, 2009; (iii) that certain Agreement Regarding Acquisition of Additional Property and Third Amendment to Owner Participation Agreement, dated October 1, 2010; (iv) that certain Agreement Regarding Acquisition of Additional Property and Fourth Amendment to Owner Participation Agreement, dated March 8, 2011; (v) that certain Agreement Regarding Acquisition of Additional Property and Fifth Amendment to Owner Participation Agreement, dated March 15, 2012; and (vi) that certain Sixth Amendment to Owner Participation Agreement, dated November 14, 2014, the “OPA”).

B. Orange Housing Development Corporation, a California nonprofit public benefit corporation (“Orange”) will convey the El Dorado Property to the Developer for the development of some of the Improvements. Orange and the Former RDA previously entered into an Acquisition, Rehabilitation, and Permanent Financing Loan Agreement, dated as of December 16, 1996, regarding the El Dorado Property (“OHDC Loan Agreement”). In connection therewith:

- Orange executed that certain First Note Secured by Deed of Trust in favor of the Former RDA, dated as of December 16, 1996, in the original principal amount of One Hundred Sixty Thousand Dollars (\$160,000.00) (“First OHDC Note”);
- Orange executed a Deed of Trust securing the First OHDC Note, dated as of December 16, 1996, which was recorded on the El Dorado Property on December 17, 1996 as Recording Number 1996-0630115 (“First OHDC Deed of Trust”), as modified;
- Orange executed that certain Second Note Secured by Deed of Trust in favor of the Former RDA, dated as of December 16, 1996, in the original principal amount of Five Hundred Ninety Two Thousand One Hundred Forty-Eight Dollars (\$592,148.00) (“Second OHDC Note”);
- Orange executed a Deed of Trust securing the Second OHDC Note, dated as of December 16, 1996, which was recorded on the El Dorado Property on December 17,

1996 as Recording Number 1996-0630116 (“Second OHDC Deed of Trust”), as modified;

- Orange executed an Unsecured Environmental Indemnity Agreement in favor of the Former RDA, dated as of December 16, 1996 (“OHDC Indemnity Agreement”);
- Orange and the Former RDA executed a Security Agreement, dated as of December 16, 1996 (“OHDC Security Agreement”);
- Orange and the Former RDA executed an Option for Purchase of Real Property, dated as of December 16, 1996 (“OHDC Option”);
- Orange executed a Memorandum of Option Agreement in favor of the Former RDA, which was recorded on the El Dorado Property on December 17, 1996 as Recording Number 1996-0630117 (“OHDC Memo of Option”); and
- Orange and the Former RDA executed a Declaration of Covenants, Conditions and Restrictions (Tenant Restrictions), dated as of December 16, 1996, which was recorded on the El Dorado Property on December 17, 1996 as Recording Number 1996-0630114 (“OHDC Declaration”).

The OHDC Loan Agreement, the First OHDC Note, the First OHDC Deed of Trust, the Second OHDC Note, the Second OHDC Deed of Trust, the OHDC Indemnity Agreement, the OHDC Security Agreement, the OHDC Option, the OHDC Memo of Option and the OHDC Declaration shall be referred to as the “OHDC Loan Documents”.

C. The City and the Developer intend to roll over the amounts owed under the OHDC Loan Documents to the Developer when the Developer acquires the El Dorado Property.

D. The City, by Resolution No. 2012-7607, elected to retain the housing assets of and functions previously performed by the Redevelopment Agency of the City of San Marcos pursuant to California Health and Safety Code Section 34176, and thereby, by operation of law, the City assumed the rights and obligations of the Redevelopment Agency of the City of San Marcos with respect to the OPA and the OHDC Loan Documents.

E. The Developer has requested, and the City has agreed to provide, additional financial assistance for the Improvements in the amount of Eight Hundred Thousand and No/100 Dollars (\$800,000.00).

F. Developer and City desire by this Seventh OPA Amendment to: (i) increase the amount of the “City Loan”, as that term is defined in the OPA, by Eight Hundred Thousand and No/100 Dollars (\$800,000.00) (“Additional Loan Amount”); and (ii) as otherwise set forth in this Seventh OPA Amendment.

G. All terms not defined in this Seventh OPA Amendment shall have the meanings ascribed to them in the OPA.

NOW, THEREFORE, in furtherance of the recitals stated above and the mutual covenants set forth below, Developer and the City hereby amend the OPA, and agree, promise and declare as follows:

1. Termination of OHDC Loan Documents. The City acknowledges that the First OHDC Note has been paid in full prior to the date of this Seventh OPA Amendment and hereby terminates and cancels the First OHDC Note. In exchange for the Developer's agreement to extend the existing affordability restrictions on the El Dorado Property and specifically conditioned upon the issuance to the City of an ALTA lender's policy of title insurance (or an endorsement to the City's existing policy of title insurance) as described in Section 2(d) of this Seventh OPA Amendment, at the closing when Orange conveys the El Dorado Property to the Developer, or its successor, the City and Orange will take all necessary actions to cancel and terminate all of the OHDC Loan Documents then in effect, including reconveyances for the two deeds of trust and entering into releases of any other recorded OHDC Loan Documents, in the form mutually acceptable to Orange and the City. At the closing when Orange conveys the El Dorado Property to the Developer, or its successor, the principal balance of the Second OHDC Note in the amount of Five Hundred Ninety Two Thousand One Hundred Forty-Eight and No/100 Dollars (\$592,148.00) will be added to the principal balance of the Agency Loan and the Developer Note, and shall earn interest from the date when Orange conveys the El Dorado Property to the Developer, or its successor, and thereafter at the rate of zero point twenty-five percent (0.25%) simple interest per annum. In addition, any accrued and unpaid simple interest under the Second OHDC Note shall be added to the interest owed under the Agency Loan and the Developer Note. The Developer and the City agree that such simple interest amount is equal to Two Hundred Eight Thousand Two Hundred Seventy-Five and No/100^{ths} Dollars (\$208,275.00) as of October 31, 2014. Any accrued and unpaid simple interest under the Second OHDC Note that is rolled over to the Agency Loan and the Developer Note is simple interest and shall not accrue interest under the Agency Loan or the Developer Note.

2. Definition of Agency Loan as of Date of this Seventh OPA Amendment.

(a) Restatement of Definition of Agency Loan as of Date of this Seventh OPA Amendment. The term "Agency Loan" as set forth in Section 100 of the OPA is hereby amended and restated in its entirety to provide as follows:

"Agency Loan" means collectively: (i) the Predevelopment Loan in the original principal amount of One Hundred Seventy Two Thousand Three Hundred Sixty-One and No/100 Dollars (\$172,361.00); (ii) an acquisition loan from the Agency's Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the California Health and Safety Code to Developer in the total amount of Nine Million Three Hundred Sixty-Four Thousand Two Hundred Thirty-Eight and No/100 Dollars (\$9,364,238.00), as more particularly described herein; (iii) accrued interest on the Predevelopment Loan and the acquisition loan in the amount of Eighty-Seven Thousand Four Hundred Nineteen and No/100 Dollars (\$87,419.00); and (iv) the Additional Loan Amount (\$800,000.00). Therefore the total principal amount of the Agency Loan shall be Ten Million Four Hundred Twenty-Four Thousand Eighteen and No/100 Dollars (\$10,424,018.00).

(b) Omnibus Amendment. All references to the principal amount of the “Agency Loan” or the amount of the “Developer Note,” wherever set forth in the OPA or any documents executed in conjunction therewith, are hereby amended to be Ten Million Four Hundred Twenty-Four Thousand Eighteen and No/100 Dollars (\$10,424,018.00).

(c) Disbursement of Additional Loan Amount. The City’s obligation to fund the Additional Loan Amount shall be and is specifically conditioned upon the Developer’s timely satisfaction of all of the Construction Closing Minimum Requirements, as set forth in Section 206 of the OPA. Upon timely satisfaction of all of the Construction Closing Minimum Requirements, as set forth in Section 206 of the OPA, the Additional Loan Amount shall be disbursed into an escrow account acceptable to the City in its reasonable discretion, and such amount shall be disbursed from such escrow account as needed to fund construction of the Improvements. Review and/or approval of any construction of any work by the City or its consultants, disbursement of any portion of the Additional Loan Amount from the escrow, shall be general review and approval only, and shall not relieve the Developer of the responsibility to design, engineer and construct the Improvements in accordance with all applicable laws, codes, regulations and good design, construction and engineering practices. Any deficiencies or defects in the Improvements shall be corrected at the Developer’s sole cost and expense and without any cost to the City. Disbursements of any portion of the Additional Loan Amount from the escrow shall be conditioned upon the receipt of lien releases from the general contractor and any applicable subcontractors for the work performed.

(d) Title Policy. The City’s obligation to fund the Additional Loan Amount shall be and is specifically conditioned upon the issuance to the City of an ALTA lender’s policy of title insurance (or an endorsement to the City’s existing policy of title insurance) in the amount of Ten Million Four Hundred Twenty-Four Thousand Eighteen and No/100 Dollars (\$10,424,018.00), insuring that the Developer Deed of Trust is a valid encumbrance against the Site, senior to all other monetary encumbrances and liens on the Site, except for the lien of real property, taxes and assessments, paid current. Developer shall pay for the ALTA lender’s policy or endorsement referenced in this Section 2(d).

3. Restatement of Definition of Agency Loan as of Date of Closing on the El Dorado Property.

(a) Restatement of Definition of Agency Loan as of Date of as of Date of Closing on the El Dorado Property. The term “Agency Loan” as set forth in Section 100 of the OPA will be amended and restated in its entirety, effective as of the date of closing of the Developer’s acquisition of the EL Dorado Property, as follows:

“Agency Loan” means collectively: (i) the Predevelopment Loan in the original principal amount of One Hundred Seventy Two Thousand Three Hundred Sixty-One and No/100 Dollars (\$172,361.00); (ii) an acquisition loan from the Agency’s Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the California Health and Safety Code to Developer in the total amount of Nine Million Three Hundred Sixty-Four Thousand Two Hundred Thirty-Eight and No/100 Dollars (\$9,364,238.00), as more particularly described herein; (iii) accrued interest on the Predevelopment Loan and the acquisition loan; (iv) the Additional Loan Amount

(\$800,000.00); and (v) the rollover of all amounts owing under the OHDC Loan Documents. As of the date of this Seventh Amendment, the existing principal and interest owed to the City under the OHDC Loan Documents is \$800,423.00, of which \$592,148.00 is principal and \$208,275.00 is interest.

(b) Omnibus Amendment. All references to the principal amount of the “Agency Loan” or the amount of the “Developer Note,” wherever set forth in the OPA or any documents executed in conjunction therewith, shall be amended, effective as of the date of closing of the Developer’s acquisition of the EL Dorado Property, to be the amount determined at such time.

(c) Title Policy. On the date of closing of the Developer’s acquisition of the EL Dorado Property and as a condition to the OHDC Loan Documents cancellation and termination as set forth in Section 2 of this Seventh OPA Amendment, the Developer shall arrange the issuance to the City of an ALTA lender’s policy of title insurance (or an endorsement to the City’s existing policy of title insurance) in the then amount of the Agency Loan, insuring that the Developer Deed of Trust is a valid encumbrance against the Site, including without limitation the El Dorado Property, senior to all other monetary encumbrances and liens on the Site, except for the lien of real property, taxes and assessments, paid current. Developer shall pay for the ALTA lender’s policy or endorsement referenced in this Section 3(c).

4. Interest Rate. In exchange for the Developer’s agreement to extend the existing affordability restrictions on the El Dorado Property and to construct additional improvements, the interest rate on the Agency Loan and Developer Note as set forth in Section 202.1(b) of the OPA and in Section 1 of the Developer Note shall be zero point twenty-five percent (0.25%) simple interest per annum effective as of December 9, 2014.

5. Amendment to Loan Documents. Concurrently with the execution and delivery of this Seventh OPA Amendment, Developer and the City shall amend the Developer Note, Developer Deed of Trust, Environmental Indemnity and Security Agreement to conform to the provisions, other than Sections 2 and 4, of this Seventh OPA Amendment. Concurrently with the closing of the Developer’s acquisition of the EL Dorado Property, Developer and the City shall amend the Developer Note, Developer Deed of Trust, Environmental Indemnity and Security Agreement to conform to the provisions of Sections 2 and 4 of this Seventh OPA Amendment. Developer shall execute and deliver to the City all such amendments, in forms acceptable to the City. Any references in the OPA (or any documents executed in conjunction therewith) to the foregoing documents shall mean such documents as amended.

6. Section 314 of OPA. Section 314 of the OPA is deleted in its entirety.

7. General Provisions.

(a) Counterparts. This Seventh OPA Amendment may be executed in any number of counterparts and, as so executed, the counterparts shall constitute one and the same agreement. The parties agree that each such counterpart is an original and shall be binding upon all the parties, even though all of the parties are not signatories to the same counterpart.

(b) Conflicts. In the event of any conflict between the OPA or any document executed in conjunction therewith and this Seventh OPA Amendment, this Seventh OPA Amendment shall control.

(c) Exhibits and Recitals Incorporated. All exhibits referred to in this Seventh OPA Amendment are hereby incorporated in this Seventh OPA Amendment by this reference, regardless of whether or not the exhibits are actually attached to this Seventh OPA Amendment. The Recitals to this Seventh OPA Amendment are hereby incorporated in this Seventh OPA Amendment by this reference.

(d) Severability. If any provision of this Seventh OPA Amendment is deemed to be invalid or unenforceable by a court of competent jurisdiction, that provision shall be severed from the rest of this Seventh OPA Amendment and the remaining provisions shall continue in full force and effect.

(e) Signature Authority. All individuals signing this Seventh OPA Amendment for a party which is a corporation, partnership, limited liability company or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to the other parties hereto that they have the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf they are signing.

CITY:

City of San Marcos acting solely in its capacity as the designated successor housing agency to the former Redevelopment Agency of the City of San Marcos

By: _____
Jack Griffin, Executive Director

Approved as to form:
Christensen & Spath LLP

By:  _____
Walter F. Spath III, Esq., Special Counsel to the City

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

DEVELOPER:

El Dorado II, LP, a California limited partnership

By: OHDC El Dorado, LLC, a California limited liability company

Its: Managing General Partner

By: Orange Housing Development Corporation,
a California nonprofit public benefit corporation

By: _____
Eunice Bobert, CEO

By: C&C El Dorado, LLC, a California limited liability company

Its: Developer General Partner

By: _____
Todd R. Cottle, Member

By: The Cottle Family Trust Dated 3/8/87

Its: Member

By: _____
Barry A. Cottle, Trustee