

**DEVELOPMENT AND LOAN AGREEMENT
(El Dorado II)**

THIS DEVELOPMENT AND LOAN AGREEMENT ("Agreement") is dated as of the 9th day of December, 2014, by and between the City of San Marcos ("City") and El Dorado II, LP, a California limited partnership ("Developer").

RECITALS

A. The Developer and the Redevelopment Agency of the City of San Marcos entered into 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; (vi) that certain Sixth Amendment to Owner Participation Agreement, dated November 14, 2014; and (vii) that certain Seventh Amendment to Owner Participation Agreement, dated December 9, 2014, the "OPA").

B. The City of San Marcos in its capacity as the successor housing agency to the former Redevelopment Agency of the City of San Marcos ("SHA"), by City of San Marcos 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 SHA assumed the rights and obligations of the Redevelopment Agency of the City of San Marcos with respect to the OPA. As part of the redevelopment agency dissolution process, the SHA submitted the Housing Asset List to the State Department of Finance ("DOF"). The Housing Asset List included the loans made by the former Redevelopment Agency of the City of San Marcos to the Developer for acquisition of real property as set forth in the OPA. The DOF approved the El Dorado II properties and loans as housing assets of the SHA.

C. The primary purpose of the OPA is the construction of a mixed-use (commercial and residential) development on the Site. In the event of any conflict between any term or condition of the OPA and any term or condition of this Agreement, the term of this Agreement shall control. The Site is comprised of real property which is currently owned by the Developer ("Developer Property"), Orange Housing Development Corporation, a California nonprofit public benefit corporation and an affiliate of the Developer ("OHDC Property") and real property which is currently owned by the City ("City Property").

D. The City desires to assist the Developer and the SHA with development of the Site. In furtherance of that objective, the City and Developer desire by this Agreement: (i) for the City to agree to sell the City Property to the Developer; (ii) notwithstanding anything to the contrary set forth in the OPA, for the Developer to agree to construct a 2-phase, mixed use (commercial and residential) development on the Site that shall include, the "Affordable Units," the "Commercial Component" (as such terms are defined below) and certain on and off-site improvements; and (iii) for the Developer to grant options to the City to acquire the Affordable Units (but not the Commercial Component). All development of the Site shall be subject to the review and approval of the City. This Agreement does not amend the OPA.

E. Developer's construction of the Improvements on the Site pursuant to the terms of this Agreement, is in the vital and best interest of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements under which the Project has been undertaken. The Property, including without limitation the Affordable Units and the managers' units, shall be smoke-free.

F. The qualifications and identity of Developer, and its principals, are of particular concern to the community and City. Developer further recognizes that it is because of such qualifications and identity that City is entering into the Agreement with Developer. No voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the City and Developer hereby agree as follows:

100. Definitions.

"Affordable Units" shall mean the aggregate of one hundred eighteen (118) smoke-free rental dwelling units to be constructed on the Site by Developer, whose rent and occupancy are restricted to Low Income Households pursuant to the Declarations. In addition, there will be one (1) manager's unit constructed in each of Phase 1 and Phase 2. Seventy-five (75) Affordable Units (plus one manager's unit) shall be constructed on Phase 1 and forty-three (43) Affordable Units (plus one manager's unit) shall be constructed on Phase 2, with any changes in such bedroom counts being subject to the approval of the City Manager.

"Agreement" means this Development and Loan Agreement between City and Developer.

"Area Median Income" shall mean the area median income defined by the Department of Housing and Urban Development (HUD), as adjusted in order to comply with the California Community Redevelopment Law (Health & Safety Code Section 33000, et seq.) and published by the California Tax Credit Allocation Committee (TCAC), as the then current area median income for the San Diego-Carlsbad-San Marcos Metropolitan Statistical Area, established periodically by HUD and published in the Federal Register, as adjusted for family size. In the event HUD and/or TCAC ceases to publish an established area median income as aforesaid, City

may, in its sole discretion, use any other reasonably comparable method of computing area median income.

“City” means the City of San Marcos, a California municipal corporation.

“City Loan” means collectively, the City Loan for Phase 1 and the City Loan for Phase 2.

“City Loan for Phase 1” and “City Loan for Phase 2” mean, as applicable the loans evidenced by the Developer Note for Phase 1 and the Developer Note for Phase 2. At the Closing for Phase 1, the Developer and/or the Phase 1 Limited Partnership shall acquire all of the City Property from the City. Thereafter, but not later than the Closing for Phase 2, the Phase 2 Limited Partnership shall acquire from the Developer or the Phase 1 Limited Partnership, as applicable, the portion of the Site upon which Phase 2 will be constructed. The amount of the City Loan for Phase 1 shall be \$160,000.00 and the City Loan for Phase 2 shall be \$1,810,000.00, such that the aggregate original principal balances of the City Loan for Phase 1, plus the City Loan for Phase 2, shall equal the total Purchase Price for the City Property.

“City Property” means the real property described on Exhibit A-3.

“City Title Policy” means each of the two (2) American Land Title Association lender’s policies (one for Phase 1 and another for Phase 2) issued to the City, with endorsements satisfactory to City, both to be issued at the Closing for Phase 1: (i) one in the amount of the City Loan for Phase 1, insuring that title to Phase 1 is vested in Developer (or the Phase 1 Limited Partnership) and that the Developer Deed of Trust for Phase 1 is an encumbrance against the Site that is subject and subordinate only to exceptions to coverage that are acceptable to the City; and (ii) another in the amount of the City Loan for Phase 2, insuring that title to Phase 2 is vested in Developer (or the Phase 2 Limited Partnership) and that the Developer Deed of Trust for Phase 2 is an encumbrance against the Site that is subject and subordinate only to exceptions to coverage that are acceptable to the City.

“CFD’s” means any and all community facility district fees applicable to the Site, including without limitation, CFD 98-01 Police only, CFD 98-02 Lighting, Landscaping, Traffic, CFD 2001-01 Fire/Paramedic and CFD 2011-01 Congestion Management. The Developer shall pay any and all applicable CFD’s. Furthermore, the Site shall be subject to the annexation to the City’s Community Facility Districts which shall include the formation a Special Improvement Area (“SIA”) within Community Facilities District No. 98-02 (Lighting, Landscaping, Open Space and Preserve Maintenance) (“New CFD”). The Developer shall pay any special assessment of the City’s CFD’s including assessments within the New CFD and the SIA created by the development or as modified by this Agreement. The New CFD shall include an annexation fee of \$3,000.00. The New CFD and SIA shall not exceed \$409.39 per unit per year with an annual increase not to exceed the percentage in the increase in the Consumer Price Index for All Urban Consumers (CPI-U), San Diego, using the calendar year in which the first New CFD payment is paid as the CPI-U base year; the foregoing limitations on the amount and amount of increases shall apply only to the New CFD and SIA and shall not apply to any other CFD’s.

“Closing” means with respect to each of Phase 1 and Phase 2, the close of Escrow for the financing for construction of the Improvements for Phase 1 or Phase 2, as applicable. It is the intent of the Developer and City, that the Developer will assign its rights in this Agreement to two (2) limited partnerships, one which will develop Phase 1 and another which will develop Phase 2, as set forth in Section 603.2(b), below. At the Closing for Phase 1, the Phase 1 Limited Partnership shall acquire all of the Developer Property from the Developer, the OHDC Property from OHDC, and all of the City Property from the City. Thereafter, but not later than the Closing for Phase 2, the Phase 2 Limited Partnership shall acquire from the Phase 1 Limited Partnership the portion of the Site upon which Phase 2 will be constructed.

“Closing Deadline for Phase 1” means at a date mutually agreed to by the City and the Developer, but no later than July 1, 2018, subject to an automatic extension to the date 180 days after the next 9% low income housing tax credit round award date for each tax credit application that the City requests the Developer delay submitting, with the extension date to be confirmed in writing by the Developer to the City, and also subject to other extensions in writing signed by the City Manager and the Developer.

“Closing Deadline for Phase 2” means at a date mutually agreed to by the City and the Developer, but no later than July 1, 2020, subject to an automatic extension to the date 180 days after the next 9% low income housing tax credit round award date for each tax credit application that the City requests the Developer delay submitting, with the extension date to be confirmed in writing by the Developer to the City, and also subject to other extensions in writing signed by the City Manager and the Developer.

“Commercial Component” means the retail component of the Site totaling approximately 7000 square feet, to be designed by Developer and constructed on the Site, as part of the Improvements, pursuant to Section 301.2 hereof. All of the Commercial Component shall be constructed on Phase 2.

“Concept Drawings” means the plans and drawings to be submitted and approved by City, as set forth in Section 302.1 hereof.

“Construction Deed of Trust” means the deed of trust recorded against Phase 1 or Phase 2, as applicable, for purposes of obtaining construction financing for the Improvements with respect to Phase 1 or Phase 2, as applicable.

“Construction Drawings” means the plans and drawings to be submitted and approved by City, as set forth in Section 302.3 hereof.

“Construction Lender” means the beneficiary under a Construction Deed of Trust.

“Declaration” means each of the two (2) declarations of covenants, conditions and restrictions (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and City, to be executed by Developer (or the limited partnership which will develop the applicable

phase) in favor of the City and recorded against Phase 1 or Phase 2, as applicable, at the Closings for each of Phase 1 and Phase 2, senior to all monetary encumbrances and liens on the Site, except to the extent subordination is requested by a Construction Lender or Permanent Lender for either Phase 1 or Phase 2, as applicable. Each Declaration shall require Developer to pay the quality assurance fees and annual monitoring fees imposed by the City. Each Declaration shall provide that: (a) households which are displaced from their primary residence as a result of an action of the City or the SHA; (b) honorably discharged veterans of the U.S. armed forces, especially combat disabled veterans; (c) households with at least one member who resides within the City, as that person's primary place of residence; and (d) households with at least one member who works or has been hired to work within the City, as that person's principal place of full-time employment or is expected to work within the City as a result of a bona fide offer of employment within the City, shall be given priority when potential tenants are selected for the Affordable Units, to the maximum extent allowed by law. In addition, at the Closing for Phase 1, the SHA and Developer shall release as to the Phase 1 property: (1) that certain Declaration of Covenants, Conditions and Restrictions (Tenant Restrictions) made by OHDC in favor of the former Redevelopment Agency of the City of San Marcos, recorded in the Office of the Recorder of the County of San Diego on December 17, 1996, as Document 1996-0630114; and (2) that certain Agreement Affecting Real Property recorded in the Office of the Recorder of the County of San Diego on April 9, 2009, as Document 2009-0181877, as amended by: (i) that certain Amendment to Agreement Affecting Real Property, dated July 29, 2009; (ii) that certain Second Amendment to Agreement Affecting Real Property, dated October 27, 2009; (iii) that certain Third Amendment to Agreement Affecting Real Property, dated October 1, 2010; (iv) that certain Fourth Amendment to Agreement Affecting Real Property, dated March 15, 2012; (v) that certain Fifth Amendment to Agreement Affecting Real Property, dated April 2, 2012; and (vi) that certain Sixth Amendment to Agreement Affecting Real Property, dated January 28, 2013 (collectively, the "Original Declarations"). At the Closing for Phase 2, the SHA and Developer shall cancel and terminate the Original Declarations. At the Closings for Phase 1 and Phase 2, the Developer (or the limited partnership which will develop the applicable phase) shall execute declarations of covenants, conditions and restrictions (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and SHA, in favor of the SHA and recorded against Phase 1 or Phase 2, as applicable.

"Default" means the failure of a party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and opportunity to cure, as set forth in Section 501 hereof.

"Developer" means El Dorado II, LP, a California limited partnership, Phase 1 Limited Partnership or the Phase 2 Limited Partnership, as applicable. Where the term Developer is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided.

"Developer Deed of Trust" means each of the two (2) deeds of trust (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and City, which shall secure the Developer Notes for Phase 1 and Phase 2, to be executed by Developer (or the limited partnership which will develop the applicable phase) and recorded as an encumbrance against

Phase 1 or Phase 2, as applicable, at the Closing for Phase 1. Provided all conditions of this Agreement are satisfied by the Closing Deadline for Phase 1 or the Closing Deadline for Phase 2, as applicable, each Developer Deed of Trust may be subordinated to the Construction Deed of Trust and Permanent Deed of Trust. Any such subordination shall be in a form acceptable to the City in its reasonable discretion. In addition, at the Closing for Phase 1, the SHA and Developer shall fully reconvey: (1) that certain deed of trust made by OHDC in favor of the former San Marcos Redevelopment Agency, recorded in the Office of the Recorder of the County of San Diego on December 17, 1996, as Document 1996-0630115; (2) that certain deed of trust made by OHDC in favor of the former Redevelopment Agency of the City of San Marcos, recorded in the Office of the Recorder of the County of San Diego on December 17, 1996, as Document 1996-0630116; and (3) that certain Deed of Trust (El Dorado II), dated April 8, 2009, and recorded in the Office of the Recorder of the County of San Diego on April 9, 2009, as Document 2009-0181879, as amended by: (i) that certain Amendment to Deed of Trust, dated July 29, 2009; (ii) that certain Second Amendment to Deed of Trust, dated October 27, 2009; (iii) that certain Third Amendment to Deed of Trust, dated October 1, 2010; (iv) that certain Fourth Amendment to Deed of Trust, dated March 15, 2012; (v) that certain Fifth Amendment to, and Partial Reconveyance of, Deed of Trust, dated April 2, 2012; (vi) that certain Sixth Amendment to Deed of Trust, dated January 28, 2013; and (vii) that certain Seventh Amendment to Deed of Trust, dated December 9, 2014. At the Closing for Phase 1, the Developer (or the limited partnership which will develop the applicable phase) shall execute deeds of trust (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and SHA, in favor of the SHA and recorded against the Phase 1 property or Phase 2 property, as applicable.

“Developer Note” means each of the two (2) promissory notes (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and City, to be executed by Developer (or the limited partnership which will develop the applicable phase) at the Closing for Phase 1. The Developer Note for Phase 1 shall have as original principal amount equal to the amount of the City Loan for Phase 1 and the Developer Note for Phase 2 shall have as original principal amount equal to the amount of the City Loan for Phase 2. In addition, at the Closing for Phase 1, the SHA and Developer shall cancel and terminate: (1) that certain Agency First Note Secured by Deed of Trust made by OHDC in favor of the former Redevelopment Agency of the City of San Marcos, dated December 16, 1996, in the original principal amount of \$160,000.00; (2) that certain Agency Second Note Secured by Deed of Trust made by OHDC in favor of the former Redevelopment Agency of the City of San Marcos, dated December 16, 1996, in the original principal amount of \$592,881.00; and (3) that certain Promissory Note (El Dorado II) dated April 8, 2009, as amended by: (i) that certain Amendment to Promissory Note, dated July 29, 2009, (ii) that certain Second Amendment to Promissory Note, dated October 27, 2009; (iii) that certain Third Amendment to Promissory Note, dated October 1, 2010; (iv) that certain Fourth Amendment to Promissory Note, dated March 15, 2012; and (v) that certain Fifth Amendment to Promissory Note, dated December 9, 2014, in the principal amount of \$10,424,018.00, originally executed by Developer in favor of the Redevelopment Agency of the City of San Marcos, but assumed by the SHA by operation of law as set forth in Recital B, above. At the Closing for Phase 1, the Developer (or the limited partnership which will develop the applicable phase) shall execute promissory notes (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and SHA, in favor of the SHA.

“Developer Property” means the real property described on Exhibit A-1.

“Developer Title Policy” means an American Land Title Association owner’s policy issued to the Developer, with endorsements satisfactory to Developer in the amount of the Purchase Price, insuring that title to the City Property is vested in Developer subject only to exceptions to coverage that are acceptable to the Developer.

“Eligible Tenants” shall mean those persons defined as “Eligible Tenants” in the Declaration.

“Environmental Indemnity” means each of the two (2) unsecured environmental indemnity agreements (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and City, to be executed by Developer (or the limited partnership which will develop the applicable phase) and City at the Closing for Phase 1. In addition, at the Closing for Phase 1, the SHA and Developer shall cancel and terminate: (1) that certain unsecured environmental indemnity agreement by and between the OHDC and the former Redevelopment Agency of the City of San Marcos, dated as of December 16, 1996; and (2) that certain Unsecured Environmental Indemnity Agreement dated April 8, 2009, as amended by (i) that certain Amendment to Unsecured Environmental Indemnity Agreement, dated July 29, 2009; (ii) that certain Second Amendment to Unsecured Environmental Indemnity Agreement, dated October 27, 2009; (iii) that certain Third Amendment to Unsecured Environmental Indemnity Agreement, dated October 1, 2010; (iv) Fourth Amendment to Unsecured Environmental Indemnity Agreement, dated March 15, 2012; and (v) Fifth Amendment to Unsecured Environmental Indemnity Agreement, dated December 9, 2014. At the Closing for Phase 1, the Developer (or the limited partnership which will develop the applicable phase) and SHA shall execute unsecured environmental indemnity agreements (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and SHA.

“Environmental Laws” means any federal, state or local law, statute, ordinance or regulation pertaining to environmental regulation, contamination or cleanup of any Hazardous Materials, including, without limitation, (i) the California Hazardous Waste Control Act (California Health and Safety Code §25100 *et seq.*), (ii) the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code §25300 *et seq.*), (iii) the Hazardous Materials Release Response Plans and Inventory (California Health and Safety Code §25500 *et seq.*), (iv) Underground Storage of Hazardous Substances (California Health and Safety Code, §25280 *et seq.*), (v) Article 9 or Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (vi) the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code, §25249 *et seq.*), (vii) the Porter-Cologne Water Quality Control Act (California Water Code, §13000 *et seq.*), (viii) the Federal Water Pollution Control Act (33 U.S.C. §1271 *et seq.*), (ix) the Resource Conservation and Recovery Act (42 U.S.C. §6901 *et seq.*), (x) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 *et seq.*), (xi) the Safe Drinking Water Act (14 U.S.C. §300f *et seq.*), (xii) the Hazardous Materials Transportation Act (49 U.S.C. §5101 *et seq.*), (xiii) the Toxic Substances Control Act (15 U.S.C. §2601 *et seq.*), (xiv) the Federal Insecticide, Fungicide and Rodenticide

Act (7 U.S.C. §136, *et seq.*), (xv) the Clean Air Act, 42 U.S.C. (§7401 *et seq.*) or (xvi) any state or federal lien or “superlien” law, any environmental cleanup statute or regulation, or any permit, approval, authorization, license, variance or permission required by any governmental authority having jurisdiction.

“Escrow” is defined in Section 202 hereof.

“Escrow Agent” means the escrow company agreed to by the Developer and City.

“Escrow Instructions” shall mean each of the two (2) escrow instructions (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and City, to be executed by Developer (or the limited partnership which will develop the applicable phase) and City at the Closing for each of Phase 1, as set forth in Section 202 hereof.

“Governmental Requirements” means all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the City, or any other political subdivision in which the Site is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over City, Developer or the Site.

“Grant Deed” means a duly executed and acknowledged grant deed, in a form mutually acceptable to the City and Developer in each of their reasonable discretions, conveying fee simple title to the City Property from the City to the Developer.

“Gross Income” shall mean the gross income of the Developer from all components of Phase 1 or Phase 2, as applicable, any other income to Developer derived from the ownership, operation and management of Phase 1 or Phase 2, as applicable, releases of funds from any operating reserve, and the proceeds of any sale, financing or refinancing of all or any portion of Phase 1 or Phase 2, as applicable, or the sale, transfer or conveyance of Developer, including without limitation, the sale, transfer or conveyance of any interest in Developer (provided that an equity investment from investor approved by the City pursuant to agreement shall not be Gross Income). Provided however that Gross Income shall not include (i) insurance proceeds or condemnation proceeds; (ii) security deposits or other tenant deposits; or (iii) interest earned on project reserves. Interest earned (if any) on project reserves shall accrue to the applicable project reserve account and shall only be used for the purpose for which the reserve was established.

“Hazardous Materials” means:

(a) Those substances included within the definitions of “hazardous substance,” “hazardous waste,” “hazardous material,” “toxic substance,” “solid waste,” “pollutant” or “contaminant” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 *et seq.*); the Resource Conservation and Recovery Act (42 U.S.C. §6901 *et seq.*); the Clean Water Act (33 U.S.C. §2601 *et seq.*); the Toxic Substances Control Act (15 U.S.C. §9601 *et seq.*); the Hazardous Materials Transportation Act (49 U.S.C. §1801 *et seq.*); or under any other Environmental Laws;

(b) Those substances included within the definitions of “Extremely Hazardous Waste,” “Hazardous Waste,” or “Restricted Hazardous Waste,” under §§25115, 25117 or 25122.7 of the California Health and Safety Code, or is listed or identified pursuant to §§25140 or 44321 of the California Health and Safety Code;

(c) Those substances included within the definitions of “Hazardous Material”, “Hazardous Substance”, “Hazardous Waste”, “Toxic Air Contaminant”, or “Medical Waste” under §§25281, 25316, 25501, 25501.1, 25023.2 or 39655 of the California Health and Safety Code;

(d) Those substances included within the definitions of “Oil” or a “Hazardous Substance” listed or identified pursuant to §311 of the Federal Water Pollution Control Act, 33 U.S.C. §1321, as well as any other hydrocarbonic substance or by-product;

(e) Those substances included within the definitions of “Hazardous Waste,” “Extremely Hazardous Waste,” or an “Acutely Hazardous Waste” pursuant to Chapter 11 of Title 22 of the California Code of Regulations;

(f) Those substances listed by the State of California as a chemical known by the State to cause cancer or reproductive toxicity pursuant to §25249.9(a) of the California Health and Safety Code;

(g) Those substances or defined as a “Hazardous Waste,” Extremely Hazardous Waste,” or an “Acutely Hazardous Waste” pursuant to Chapter 11 of Title 22 of the California Code of Regulations;

(h) Any material which due to its characteristics or interaction with one or more other substances, chemical compounds, or mixtures, damages or threatens to damage, health, safety, or the environment, or is required by any law or public agency to be remediated, including remediation which such law or public agency requires in order for the Site to be put to any lawful purpose;

(i) Any material whose presence would require remediation pursuant to the guidelines set forth in the State of California Leaking Underground Fuel Tank Field Manual, whether or not the presence of such material resulted from a leaking underground fuel tank;

(j) Pesticides regulated under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §136 *et seq.*;

(k) Asbestos, PCBs, and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.*;

(l) Any radioactive material including, without limitation, any “source material,” “special nuclear material,” “by-product material,” “low-level wastes,” “high-level radioactive waste,” “spent nuclear fuel” or “transuranic waste,” and any other radioactive

materials or radioactive wastes, however produced, regulated under the Atomic Energy Act, 42 U.S.C. §§2011 *et seq.*, the Nuclear Waste Policy Act, 42 U.S.C. §§10101 *et seq.*, or pursuant to the California Radiation Control Law, California Health and Safety Code §§25800 *et seq.*;

(m) Any material regulated under the Occupational Safety and Health Act, 29 U.S.C. §§651 *et seq.*, or the California Occupational Safety and Health Act, California Labor Code §§6300 *et seq.*;

(n) Any material regulated under the Clean Air Act, 42 U.S.C. §§7401 *et seq.* or pursuant to Division 26 of the California Health and Safety Code;

(o) Those substances listed in the United States Department of Transportation Table (49 CFR Part 172.101), or by the Environmental Protection Agency, or any successor agency, as hazardous substances (40 CFR Part 302);

(p) Other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state or local laws or regulations; and

(q) Any material, waste or substance that is:

- (i) a petroleum or refined petroleum product;
- (ii) asbestos;
- (iii) polychlorinated biphenyl;
- (iv) designated as a hazardous substance pursuant to 33 U.S.C. §1321 or listed pursuant to 33 U.S.C. §1317;
- (v) a flammable explosive; or
- (vi) a radioactive material.

Notwithstanding the foregoing, “Hazardous Materials” shall not include such products in quantities as are customarily used in the construction, maintenance, rehabilitation or management of residential or commercial developments or associated buildings and grounds, or typically used in residential or commercial activities in a manner typical of other comparable developments, or substances commonly ingested by a significant population living within the Project, including without limitation alcohol, aspirin, tobacco and saccharine.

“Improvements” means the new improvements to be constructed by Developer upon Phase 1 or Phase 2, as applicable, which shall include the smoke-free Affordable Units, Commercial Component and certain on and off-site improvements. Developer shall obtain all approvals and permits required for completion of the Improvements, all subject to the review and approval of the City in its sole discretion.

“Low Income Household” means persons and families whose income does not exceed sixty percent (60%) of the then current Area Median Income.

“Memorandum of Option” means each of the two (2) memoranda of option (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and City, to be executed by Developer (or the limited partnership which will develop the applicable phase) and the City and recorded as an encumbrance against Phase 1 or Phase 2, as applicable, at the Closing for Phase 1. In addition, at the Closing for Phase 1, the SHA and Developer shall cancel and terminate (1) that certain Memorandum of Option Agreement Purchase executed by OHDC, dated December 16, 1996 and recorded in the Office of the Recorder of the County of San Diego on December 17, 1996, as Document 1996-0630117; and (2) that certain Memorandum of Option Agreement and First Right of Refusal to Purchase Real Property Agreement recorded in the Office of the Recorder of the County of San Diego on April 9, 2009, as Document 2009-0181878, as amended by: (i) that certain Amendment to Memorandum of Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated July 29, 2009; (ii) that certain Second Amendment to Memorandum of Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated October 27, 2009; (iii) that certain Third Amendment to Memorandum of Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated October 1, 2010; (iv) that certain Fourth Amendment to Memorandum of Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated March 15, 2012; (v) that certain Fifth Amendment to Memorandum of Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated April 2, 2012; and (vi) that certain Sixth Amendment to Memorandum of Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated January 28, 2013. At the Closing for Phase 1, the Developer (or the limited partnership which will develop the applicable phase) and SHA shall execute memoranda of option (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and SHA.

“Notice” shall mean a notice in the form prescribed by Section 601 hereof.

“OHDC” means Orange Housing Development Corporation, a California nonprofit public benefit corporation, an affiliate of the Developer.

“OHDC Property” means the real property described on Exhibit A-2.

“OPA” is defined in Recital A.

“Operating Expenses” shall mean actual, reasonable and customary costs, fees and expenses directly attributable to the operation, maintenance, taxes and management of all residential components of Phase 1 or Phase 2, as applicable, to the extent reasonably approved by the City in Developer’s annual operating budget, expressly including, but not limited to, the following: CFD’s, required debt service payments on any loan permitted to be secured by Phase 1 or Phase 2, as applicable, that is senior to the Developer Deed of Trust; property and other taxes and assessments imposed on the Improvements; premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, trash collection, gas, and electricity; maintenance and repair, including but not limited to pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial supplies; any annual license or certificate of occupancy fees

required for operation of the Improvements; general administrative expenses including but not limited to advertising and marketing, security services and systems, professional fees for legal, audit, accounting and tax returns; property management fees and reimbursements including on-site manager expenses, not to exceed fees and reimbursements which are standard in the industry, provided the same are paid pursuant to a management contract approved by the City; repayments of operating deficit loans made by any of the Developer's limited or general partners to the Developer, credit adjusters as required under the applicable limited partnership agreement of the Developer for the applicable Phase, cash deposited into reserves for capital replacements of the Improvements in an amount not to exceed the higher of the amounts required by the beneficiary of the Permanent Deed of Trust and the equity investor; cash deposited into an operating reserve in an amount not to exceed the higher of the amounts required by the beneficiary of the Permanent Deed of Trust and the equity investor; payments on any deferred developer fee, which deferred developer fee shall be subject to the reasonable approval of the City; asset management or partnership management fee and similar fees which fees shall be subject to the reasonable approval of the City.

"Option Agreement" means each of the two (2) option agreements and first rights of refusal to purchase real property agreements (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and City, to be executed by Developer (or the limited partnership which will develop the applicable phase) and City at the Closing for Phase 1. In addition, at the Closing for Phase 1, the SHA and Developer shall cancel and terminate (1) that certain Option for Purchase of Real Property executed by OHDC and the former Redevelopment Agency of the City of San Marcos in December 1996; and (2) that certain Option Agreement and First Right of Refusal to Purchase Real Property Agreement dated April 8, 2009, as amended by: (i) that certain Amendment to Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated July 29, 2009; (ii) that certain Second Amendment to Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated October 27, 2009; (iii) that certain Third Amendment to Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated October 1, 2010; and (iv) that certain Fourth Amendment to Option Agreement and First Right of Refusal to Purchase Real Property Agreement, dated March 15, 2012. At the Closing for Phase 1, the Developer (or the limited partnership which will develop the applicable phase) and SHA shall execute option agreements and first rights of refusal to purchase real property agreements (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and SHA.

"Permanent Deed of Trust" means a deed of trust recorded against Phase 1 or Phase 2, as applicable for purposes of permanently financing for the Phase 1 or Phase 2 Improvements.

"Phase 1" means the first phase of the 2-phase, mixed use (commercial and residential) development which will be developed and constructed on a portion of the Site, which portion shall be subject to the agreement of the Developer and the City Manager.

“Phase 1 Limited Partnership” means the limited partnership which will develop Phase 1.

“Phase 2” means the second phase of the 2-phase, mixed use (commercial and residential) development which will be developed and constructed on a portion of the Site, which portion shall be subject to the agreement of the Developer and the City Manager.

“Phase 2 Limited Partnership” means the limited partnership which will develop Phase 2.

“Project Proforma” means for Phase 1, the proforma attached hereto as Exhibit C and for Phase 2, a proforma agreed upon by the Developer and the City. Developer represents and warrants to City that as of the date of this Agreement, the amounts shown on the Project Proforma are reasonably accurate and will be the amounts for which Developer is able to and shall design and construct the Improvements in a workmanlike and defect-free manner in accordance with the Scope of Development, if constructed in the near future.

“Purchase Price” means the price to be paid by Developer to the City in consideration for the conveyance of fee title to the City Property (including the alleyway) from the City to Developer, which is \$1,970,000.00. The Purchase Price shall be the original principal amounts of the Developer Note for Phase 1 and the Developer Note for Phase 2, as set forth in more detail in the definitions of City Loan for Phase 1 and City Loan for Phase 2.

“Residual Receipts” shall mean Gross Income for Phase 1 or Phase 2, as applicable, less Operating Expenses for Phase 1 or Phase 2, as applicable, calculated on a calendar year basis, as provided in more detail in the Developer Note for Phase 1 and the Developer Note for Phase 2. All calculations of Residual Receipts shall be subject to verification and approval by the City.

“Schedule of Performance” means a schedule of performance attached hereto as Exhibit B. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between Developer and the City Manager, and the City Manager is authorized to make such revisions as he or she deems reasonably necessary.

“Scope of Development” means the scope of development for Phase 1 or Phase 2, as applicable, approved by the City in its sole discretion pursuant to Section 301.2 which shall include, without limitation, a description of the scope, amount and quality of Improvements for Phase 1 or Phase 2, as applicable, to be constructed by Developer pursuant to the terms and conditions of this Agreement and Developer’s agreement to design and construct the Improvements to meet, and Developer’s agreement to operate the Site (after completion of the Improvements) in a manner that meets the Leadership in Energy and Environmental Design Silver Level standard of the U.S. Green Building Council.

“Security Agreement” means each of the two (2) security agreements (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and City, to be executed by Developer (or the limited partnership which will develop the applicable phase) and City at the Closing for Phase 1. In addition, at the Closing for Phase 1, the SHA and Developer shall cancel and terminate: (1) that certain security agreement by and between the OHDC and the former

Redevelopment Agency of the City of San Marcos, dated as of December 16, 1996; and (2) that certain Security Agreement dated April 8, 2009, as amended by: (i) that certain Amendment to Security Agreement, dated July 29, 2009; (ii) that certain Second Amendment to Security Agreement, dated October 27, 2009; (iii) that certain Third Amendment to Security Agreement, dated October 1, 2010; (iv) that certain Fourth Amendment to Security Agreement, dated March 15, 2012; and (v) that certain Fifth Amendment to Security Agreement, dated December 9, 2014. At the Closing for Phase 1, the Developer (or the limited partnership which will develop the applicable phase) and SHA shall execute security agreements (one for Phase 1 and another for Phase 2), in forms agreed to by the Developer and SHA.

“SHA” means the City of San Marcos in its capacity as the successor housing agency to the former Redevelopment Agency of the City of San Marcos, and any assignee of or successor to its rights, powers and responsibilities.

“Site” means collectively, the Developer Property, OHDC Property and the City Property.

“Title Company” means the title insurance company agreed to by the Developer and City.

200. Acquisition of the City Property by Developer.

201. Closings and Purchase Price. Subject to all of the terms and conditions of this Agreement, the City shall sell the City Property to Developer, and Developer shall purchase the City Property from the City for an amount equal to the Purchase Price (i.e., \$1,970,000.00) at the Closing for Phase 1. The Purchase Price shall not be paid in cash by the Developer to the City at the Closing for Phase 1, but shall be paid via the Developer Notes. The original principal amount of the City Loan shall be equal to the Purchase Price (i.e., \$1,970,000.00) and shall be allocated between Phase 1 and Phase 2 as set forth in the definitions of “City Loan for Phase 1” and “City Loan for Phase 2” set forth above.

202. Escrow. Prior to the Closing Deadline for Phase 1, Developer and the City shall open an escrow (“Escrow”) with Escrow Agent to facilitate the Closing for Phase 1, conveyance of the City Property and recordation of the Declarations and Deeds of Trust. The parties will execute the Escrow Instructions prior to the Closing for Phase 1, which shall provide for the order of recordation, distribution of original documents and other provisions customarily contained in escrow instructions. Developer shall pay all fees, charges, and costs which arise from Escrow, including without limitation the premiums for the Developer Title Policy, the City Title Policy for Phase 1 and the City Title Policy for Phase 2, as well as all documentary transfer taxes, if any, due with respect to Developer’s acquisition of the City Property and the OHDC Property. Concurrently with or before the Closing for Phase 1, the Developer shall cause the Site to be mapped in a manner that establishes Phase 1, Phase 2 and the Commercial Component as separate legal parcels, provided, however, that in the event mapping the Site prior to the Closing for Phase 1 in a manner that establishes Phase 1, Phase 2 and the Commercial Component as separate legal parcels is not reasonably feasible, the City agrees to cooperate with the Developer as reasonably necessary to find solutions to any issues that result from the inability to map the Site prior to the Closing for Phase 1 in a manner that establishes Phase 1, Phase 2 and the

Commercial Component as separate legal parcels. The City agrees to reasonably cooperate in such mapping efforts solely in its capacity as the current owner of some of the property to be mapped, provided, however, the execution of this Agreement does not commit the City's planning, engineering or public works departments to take any actions, nor does it constitute the granting of or a commitment to grant any map approvals or any other discretionary land use permits, entitlements or approvals.

203. Conditions to Closing.

203.1 Closing Conditions in Favor of the City. Prior to the Closing Deadline for Phase 1 or the Closing Deadline for Phase 2, as applicable, the Developer shall satisfy each and all of the conditions set forth in this Section 203.1, unless the City waived any such conditions on or before the Closing Deadline for Phase 1 or the Closing Deadline for Phase 2, as applicable. Any such waiver shall be effective only if the same is (i) expressly waived in writing signed by the City or by email from the City, and (ii) delivered or emailed to the Developer and Escrow Agent. In the event that one or more of the conditions set forth in this Section 203.1, are not satisfied with respect to Phase 1 on or before the Closing Deadline for Phase 1, then the same shall be a default by the Developer under this Agreement and the OPA and the Developer shall immediately convey and deliver to the City: (a) all of the Developer Property; and (b) all work product, plans specifications, contracts, reports, studies and surveys ("Work Product"). Conveyance of the Developer Property and Work Product to the City will be deemed full satisfaction of all obligations of the Developer hereunder, including without limitation, full repayment of the Developer Note, and Developer shall have no remaining obligations under this Agreement, the Developer Note, the Declaration, the Developer Deed of Trust, the Option Agreement, the Memorandum of Option, the Security Agreement and the Environmental Indemnity. In the event the Closing for Phase 1 has occurred, and then one or more of the conditions set forth in this Section 203.1, are not satisfied by the Developer with respect to Phase 2 on or before the Closing Deadline for Phase 2, then the same shall be a default by the Developer under this Agreement and the Developer Note for Phase 2 and the OPA and the Developer shall immediately convey and deliver to the City: (1) all of the Developer Property; and (2) the Work Product. Conveyance of the Developer Property and Work Product to the City will be deemed full satisfaction of all obligations of the Developer hereunder, including without limitation, full repayment of the Developer Note, and Developer shall have no remaining obligations under this Agreement, the Developer Note, the Declaration, the Developer Deed of Trust, the Option Agreement, the Memorandum of Option, the Security Agreement and the Environmental Indemnity. The Developer acknowledges that events outside of the control of the SHA and the City could prevent the SHA and the City from Closing. Therefore, notwithstanding anything to the contrary contained herein, if prior to the Closing for Phase 1, the State of California, County of San Diego, or the Oversight Board to the SHA determines that as a result of AB1x 26, AB 1484 or any further legislation governing the elimination and wind up of California redevelopment agencies and their assets, this Agreement or the OPA is not valid, that the SHA could not legally fund the SHA Loan for Phase 1 and/or the SHA Loan for Phase 2 (as such terms are defined in the OPA) using monies from the SHA's Low and Moderate Income Housing Asset Fund, or that the SHA Loan for Phase 1 and/or the SHA Loan for Phase 2 cannot be made for any other reason, then the Developer shall immediately convey and deliver all Work

Product to the City and this Agreement shall be rescinded and the SHA, City and Developer shall have no further obligations hereunder, save for the Developer's obligation to convey and deliver all Work Product to the City. In the event the Closing for Phase 1 has occurred, and if prior to the Closing for Phase 2, the State of California, County of San Diego, or the Oversight Board to the SHA determines that as a result of AB1x 26, AB 1484 or any further legislation governing the elimination and wind up of California redevelopment agencies and their assets, this Agreement or the OPA is not valid, that the SHA could not legally fund the SHA Loan for Phase 2 using monies from the SHA's Low and Moderate Income Housing Asset Fund, or that the SHA Loan for Phase 2 cannot be made for any other reason, then the Developer shall immediately convey and deliver all Work Product to the City and this Agreement shall be rescinded with respect to Phase 2, only, and the SHA, City and Developer shall have no further obligations hereunder, save for the Developer's obligation to convey and deliver all Work Product to the City. The SHA is an intended third-party beneficiary of this Section 203.1.

(a) TCAC Award. Developer shall have obtained an allocation or reservation of 9% low income housing tax credits from the California Tax Credit Allocation Committee for Phase 1 or Phase 2, as applicable, it being the agreement of Developer and the City that Developer shall submit up to four (4) consecutive applications with the California Tax Credit Allocation Committee for 9% low income housing tax credits for each of Phase 1 and Phase 2. Notwithstanding the foregoing: (i) the parties recognize the City may require the Developer to delay submitting an application due to other competing projects, in such event the foregoing requirement that the Developer submit consecutive applications with the California Tax Credit Allocation Committee shall not apply with respect to such application round only, and the Developer shall have an additional opportunity to make an application to the California Tax Credit Allocation Committee for 9% low income housing tax credits each time the City requires the Developer to delay submitting an application due to other competing projects; and (ii) the parties agree that the Developer shall have the right to delay submitting an application in the event that there is at least one (1) other competing project in the City of San Marcos which is applying to the California Tax Credit Allocation Committee for 9% low income housing tax credits in that round, in such event the foregoing requirement that the Developer submit consecutive applications with the California Tax Credit Allocation Committee shall not apply with respect to such application round only, and the Developer shall have an additional opportunity to make an application to the California Tax Credit Allocation Committee for 9% low income housing tax credits each time there is at least one (1) other competing project in the City of San Marcos. In addition, the Developer shall have the right to submit an application with the California Debt Limit Allocation Committee for tax exempt bonds and the accompanying 4% low income housing tax credits as an alternative financing strategy if deemed reasonably feasible by the Developer and the City Manager. In connection with any allocation or reservation of 9% low income housing tax credits or of tax-exempt bonds and 4% low income housing tax credits for Phase 1 or Phase 2, as applicable, it is a requirement for application for such allocation or reservation that the California Tax Credit Allocation Committee or the California Debt Limit Allocation Committee, as applicable, shall have received such evidence of a final and conclusive determination or communication that such

determination is not necessary from the California Department of Finance under the program regulations of the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee, as applicable. The City agrees to cooperate in timely applying for and pursuing such approvals or determinations, in a commercial reasonable manner, or such other similar determinations as may be required under any changes to the existing program rules and regulations.

(b) Construction Contract. The construction contract for the grading and construction of the Improvements for Phase 1 or Phase 2, as applicable, acceptable to the City, shall have been executed by the Developer and the general contractor who has been selected to do the work.

(c) Entitlements. Developer shall have secured any and all land use and other entitlements, permits and approvals which may be required for the Improvements for Phase 1 or Phase 2, as applicable, from the City or any other governmental agency affected by such construction or work and Developer shall have paid any and all applicable fees (including, without limitation, communities facility district fees and public facilities fees imposed by the City or any other governmental agency having jurisdiction with respect to the same), or shall pay such fees concurrently with Closing for Phase 1 or Phase 2, as applicable. The City shall not be responsible in any way for, the processing of Developer's building permits or other permit applications with the City. The execution of this Agreement does not constitute the granting of or a commitment to obtain any required land use permits, entitlements or approvals.

(d) Title Policies. Title Company is prepared and irrevocably obligated to issue the City Title Policy for Phase 1 or Phase 2, as applicable.

(e) DOF Approval. All approvals, if any, required to be obtained from the California Department of Finance in order for the SHA to make the SHA Loan for Phase 1 or the SHA Loan for Phase 2, as applicable, have been obtained.

(f) No Default. Developer is not in default in any of its obligations under the terms of this Agreement and all representations and warranties of the City contained herein shall be true and correct in all material respects.

(g) Insurance. Developer shall have provided proof of insurance as required by Section 307 hereof.

(h) Attorneys' Fees. The Developer has paid prior to or will pay concurrently with the Closing for Phase 1 or the Closing for Phase 2, as applicable, all attorneys' fees incurred by the City with respect to the same.

203.2 Closing Conditions for the Benefit of the Developer. The Developer's obligation to Close on Phase 1 and acquire the City Property is conditioned upon satisfaction (or waiver) of each and all of the conditions set forth in this Section 203.2 on or before the Closing Deadline for Phase 1. Any such waiver shall be effective only if the same is (i) expressly waived in writing signed by the Developer or by email from the Developer, and (ii) delivered or emailed to the City and Escrow Agent. In the event that one or more of the conditions set forth in this Section 203.2 are not satisfied or expressly waived on or before the Closing Deadline for Phase 1, the Developer (provided the Developer is not in default hereunder) shall deliver written notice to the City identifying the failed condition, the City shall cure the same within twenty (20) business days.

(a) No Default. The City is not in default in any of its obligations under the terms of this Agreement and all representations and warranties of the City contained herein shall be true and correct in all material respects.

(b) Grant Deed. The City has deposited the duly executed and acknowledged Grant Deed into Escrow.

(c) Additional Documents. The deposit by the City into Escrow of all other documents and instruments reasonably required by Escrow.

(d) FIRPTA. The deposit by the City into Escrow of the City's affidavit that the City is not a foreign person and is a "United States Person" as such term is defined in Section 7761(a)(30) of the Internal Revenue Code of 1986, in the form prescribed by federal regulations.

(e) FTB Form 590. With respect to Phase 1 only, the deposit by the City into Escrow of a duly executed FTB Form 590 or other evidence that withholding of any portions of the Purchase Price is not required by the Revenue and Taxation Code of California.

(f) Title Policy. The Title Company shall have unconditionally committed to issue the Developer Title Policy in the amount of the Purchase Price with respect to the City Property, subject only to the Exceptions approved or deemed approved by Developer pursuant to Section 207.1, below.

204. City Loan.

204.1 Promissory Note.

(a) At the Closing for Phase 1, the Developer shall execute, acknowledge and deliver the Developer Note for Phase 1 the Developer Note for Phase 2. The City Loan for Phase 1 and the City Loan for Phase 2 and the corresponding Developer Notes shall be nonrecourse to the Developer (or the limited partnership which will develop the applicable phase) from acquisition to construction commencement and recourse to the Developer

(or the limited partnership which will develop the applicable phase) with respect to each phase until the timely completion of construction of the Improvements for the applicable phase and issuance of a certificate of occupancy for all units at such phase. Upon completion of such construction and issuance of the certificate of occupancy in connection therewith, the City Loan for Phase 1 or the City Loan for Phase 2, as applicable, shall become a nonrecourse obligation of Developer, except that Developer (or the limited partnership which will develop the applicable phase) shall indemnify, defend, protect and hold City harmless from and against any and all loss, damage, liability, action, cause of action, cost or expense (including, without limitation, reasonable attorneys' fees and expenses) incurred by City as a result of any (i) fraud or material misrepresentation under or in connection with the City Loan for Phase 1 or the City Loan for Phase 2, as applicable, or any document executed by Developer with respect to the same; (ii) intentional bad faith waste of the Phase 1 or Phase 2 real property; (iii) losses resulting from Maker's failure to maintain insurance as required by any document executed by Developer with respect to the City Loan for Phase 1 or the City Loan for Phase 2, as applicable; and (iv) misapplication of any rents, security deposits, insurance proceeds, condemnation awards or any other proceeds derived from the collateral security in a manner prohibited by any document executed by Developer with respect to the City Loan for Phase 1 or the City Loan for Phase 2, as applicable.

(b) The Developer Note for Phase 1 and Developer Note for Phase 2, shall each bear simple interest at one-quarter percent (0.25%) per annum. Interest shall begin to accrue on the Developer Note for Phase 1 and Developer Note for Phase 2 on the date of the Closing for Phase 1 (i.e., the date the City Property is conveyed to the Developer. However, in the event of a Default with respect to Phase 1 or Phase 2, the Developer Note for such phase shall bear interest at the rate of ten percent (10%) per annum from the date of the default and all of the principal and accrued interest on the Developer Note for such phase shall be immediately due and payable by Developer to the City. Beginning on the May 1, immediately following the calendar year in which the Affordable Units for Phase 1 or Phase 2, as applicable, are completed (as evidenced by a certificate of occupancy for such phase), and annually on May 1 of each year thereafter during the term of the Developer Note, Developer shall deliver financial statements to the City. Beginning on the May 1, immediately following the calendar year in which the Affordable Units for Phase 1 are completed (as evidenced by a certificate of occupancy for Phase 1), and annually on May 1 of each year thereafter during the terms of each of the Developer Note for Phase 1, Developer shall pay to the City and SHA fifty percent (50%) of the Residual Receipts for Phase 1 (which fifty percent (50%) of the Residual Receipts for Phase 1 shall be shared between the City and SHA in proportion to the original principal balances of each of their loans to Phase 1). Beginning on the May 1, immediately following the calendar year in which the Affordable Units for Phase 2 are completed (as evidenced by a certificate of occupancy for Phase 2), and annually on May 1 of each year thereafter during the terms of each of the Developer Note for Phase 2, Developer shall pay to the City and SHA fifty percent (50%) of the Residual Receipts for Phase 2 (which fifty percent (50%) of the Residual Receipts for Phase 2 shall be shared between the City and SHA in proportion to the original principal balances of each of their loans to Phase 2). The principal and interest of either Developer Note may be prepaid in whole or in part at any time and from time to time, without notice or penalty. Any prepayment shall be allocated first to unpaid interest and then to principal.

(c) The parties acknowledge that the Developer Note for Phase 1, Developer Note for Phase 2, Developer Deed of Trust for Phase 1 and Developer Deed of Trust for Phase 2 do not constitute purchase money mortgages for purposes of Code of Civil Procedure Section 580b.

(d) Should Developer agree to or actually sell, convey, transfer, further encumber or dispose of the Phase 1 or Phase 2 real property or any interests therein, except for any Permitted Transfer as defined in Section 603.2, without first obtaining the written consent of the holder of the applicable Developer Note (i.e., the City), then all obligations secured by the such Developer Note may be declared due and payable at the option of the holder of the applicable Developer Note. The consent to one transaction of this type will not constitute a waiver of the right to require consent to future or successive transactions. The resident tenant restrictions referenced in this Agreement and the Declarations for each of Phase 1 and Phase 2 shall remain in place whether or not City approves or disapproves a successor-in-interest, commencing on completion of construction of the Improvements for Phase 1 or the Improvements for Phase 2, as applicable, and continuing for a term of fifty-five (55) years thereafter.

204.2 Deeds of Trust. At the Closing for Phase 1, the Developer shall execute, acknowledge and deliver the Developer Deed of Trust for Phase 1 and the Developer Deed of Trust for Phase 2. At the Closing for Phase 1, the Developer shall cause the Developer Deed of Trust for Phase 1 to be recorded against Phase 1 and the Developer shall cause the Developer Deed of Trust for Phase 2 to be recorded against Phase 2. A copy of this Agreement shall not be attached to and recorded as part of either Developer Deed of Trust but any breach of or misrepresentation under this Agreement shall, upon the expiration of any applicable cure period(s), constitute an event of default under the applicable Developer Deed of Trust.

204.3 Subsequent Financing. No further secured loan, deed of trust, or encumbrance (except for any deeds of trust, declarations and security instruments required by the SHA with respect to the OPA, the Construction Deed of Trust and Permanent Deed of Trust for the applicable phase) shall be placed by Developer upon any portion of the Site or Improvements, whether by refinancing or otherwise, without first obtaining the express written consent of City, and except for any Permitted Transfer as defined in Section 603.2, below. Further, during any City approved refinancing or subsequent encumbrance, the City shall be provided American Land Title Association ("ALTA") title insurance or endorsements acceptable to the City, at the cost and expense of Developer. Said written consent shall be at the City's sole discretion, failure to obtain such consent shall be a default hereunder. Except for refinancing allowed by this Section 204.3, if Developer refinances the Site, the City and the SHA together shall receive one hundred percent (50%) of the of the net amount of the refinancing, unless otherwise agreed by the City in its sole discretion, provided that the City shall not be entitled to receive any amounts in excess of the amount owed under the Developer Note.

205. Default. After the Closings for each of Phase 1 and Phase 2 and notwithstanding anything contained herein to the contrary, in the event of any material default, beyond any applicable cure period, in the performance of any of the terms, covenants and conditions contained in: (i) this Agreement (subject to a 30 days cure period after receipt by the defaulting party of a notice of default by the non-defaulting party); (ii) any document or instrument executed by the Developer in conjunction with this Agreement or the City Loan for Phase 1 or the City Loan for Phase 2, as applicable; (iii) any senior or junior note secured by an encumbrance on the Phase 1 property or Phase 2 property, as applicable, or any portions of such properties, including without limitation, the Construction Deed of Trust, the OPA and any notes, deeds of trust, declarations and security instruments required by the SHA with respect to the OPA; (iv) any note or deed of trust given in conjunction herewith; (v) in the event of the filing of a bankruptcy proceeding by Developer; or (vi) in the event of the filing of a bankruptcy against Developer which is not dismissed within one hundred eighty (180) days of filing, then (a) all sums owing by Developer to the City with respect to such phase shall at the option of the City immediately become due and payable; (b) the City shall have no obligation to disburse any further funds to Developer or any other person with respect to such phase: and (c) the City shall be released from any and all obligations to Developer under the terms of this Agreement with respect to such phase. These remedies shall be in addition to any and all other rights and remedies available to the City, either at law or in equity. Further, default interest shall accrue on the principal balance of the Developer Note for such phase from the date of the default at the rate of ten percent (10%) simple interest per annum or the maximum rate then allowed by law, whichever is less.

206. Representations and Warranties.

206.1 City Representations and Warranties. The City represents and warrants to Developer that the City has full right, power and lawful authority to grant, sell and convey the City Property as provided herein and the execution, performance and delivery of this Agreement by the City has been fully authorized by all requisite actions on the part of the City.

206.2 Developer's Representations and Warranties. Developer represents and warrants to the City as follows:

(a) Authority. Developer is a California limited partnership. The persons executing this Agreement, and all other documents executed by Developer in conjunction herewith, on behalf of Developer have all necessary authority to do so and this Agreement is a binding obligation of Developer. Execution of this Agreement shall not result with the passage of time or the giving of notice or both in breach of or in acceleration of performance under any contract or document to which Developer may be a party. Copies of a certificate of good standing, issued by the California Secretary of State shall be delivered to the City prior to the Closing. These copies will be true, complete and fully-executed copies of the originals, issued within thirty (30) days of the date of the Closing. Developer has the full right, power and lawful authority to purchase and accept the conveyance of the City Property and to undertake all obligations as provided herein and the execution, performance and delivery of this Agreement by Developer has been fully authorized by resolution of and all requisite actions on the part of Developer.

(b) No Conflict. Developer's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Developer is a party or by which it is bound.

(c) No Bankruptcy. Developer is not the subject of a bankruptcy proceeding.

(d) Acknowledgement of Agreement. The principal and interest due and payable under the City Loan for Phase 1 and the City Loan for Phase 2 are subject to the terms and conditions of this Agreement, the Developer Notes for Phase 1 and Phase 2, and any other security documents or instruments provided for herein.

(e) Rent and Occupancy Restrictions. Developer shall at all times after the Closing during the 55-year term comply with the requirements of the Declaration.

207. Title Matters; Hazardous Materials.

207.1 Title Exceptions. Prior to the Closing for Phase 1, Developer shall obtain from Title Company a preliminary title report or reports (collectively, the "Title Report") with respect to the title to the City Property, together with legible copies of the documents underlying the exceptions ("Exceptions") set forth in the Title Report. The Developer shall have the right to reasonably approve or disapprove the Exceptions; provided, however, that the Developer hereby approves the following Exceptions: (i) the Redevelopment Plan for the San Marcos Redevelopment Project (ii) the lien of any non-delinquent property taxes and assessments (the lien of any delinquent property taxes and assessments shall not be acceptable Exceptions, it being agreed that the City shall pay or cause to be paid any delinquent property taxes and assessments prior to Closing, regardless of whether or not Developer objections to such Exceptions); and (iii) standard pre-printed exceptions. The Developer shall have thirty (30) days from the date this Agreement is executed by the City to give written Notice to the City and the Title Company of the Developer's disapproval of any of such Exceptions set forth in the Title Report, within its reasonable discretion. Developer's failure to provide Notice of its disapproval of any Exception to the Title Report within such time limit shall be deemed approval of such Exceptions and a waiver of Developer's right to object to such Exceptions. If the Developer delivers written notice to the City of its disapproval of any Exceptions in the Title Report, the City shall have the right, but not the obligation, to elect to remove any disapproved Exceptions within thirty (30) days after receiving written notice of the Developer's disapproval or to deliver notice to the Developer providing assurances satisfactory to the Developer within said time period that such Exception(s) will be removed on or before the Closing for Phase 1. If the City cannot or does not elect to remove any of the disapproved Exceptions within that period, City shall provide written notice of such fact to Developer, then the Developer and City shall meet and confer and resolve the matter. Developer's failure to give timely written notice shall be deemed a waiver of Developer's right to object to such Exceptions. Fee simple title to the City Property shall be conveyed by the City to the Developer subject only to the Exceptions to title approved or deemed approved by the Developer as provided herein. Prior to the Closing for Phase 1, the Developer shall have the right to approve or disapprove any further Exceptions reported by the Title

Company after the Developer has approved the condition of title for the City Property (which are not created by the Developer).

207.2 Environmental Condition. Except as set forth herein, the City Property shall be conveyed to the Developer in an “as is” physical and environmental condition, with no warranty, express or implied, by the City as to the condition of any existing improvements, the soil, its geology, the presence of known or unknown faults or Hazardous Materials or toxic substances, and it shall be the sole responsibility of the Developer at its expense to investigate and determine the physical and environmental conditions. The Developer shall have the right to engage its own environmental consultant (the “Environmental Consultant”) and other consultants to make such investigations of the City Property as the Developer deems necessary, including any soils, geotechnical and other testing of the City Property, and the City shall promptly be provided a copy of all reports and test results provided to the Developer by the Environmental Consultant (collectively, the “Environmental Report”). The Developer shall reasonably approve or disapprove of the physical and environmental condition of the City Property no later than forty-five (45) days from the date from the date this Agreement is executed by the City, provided that the Developer shall have the right to approve or disapprove any further environmental conditions that first occur after such deadline for Developer’s approval of the City Property (which are not created by the Developer). The Developer’s failure to deliver written notice of its disapproval within such time limit shall be deemed approval of the physical and environmental condition of the City Property and a waiver of Developer’s right to object to the physical and environmental condition of the City Property. If the Developer approves or is deemed to approve the physical and environmental condition of the City Property, then, as between the Developer and City, it shall be the sole responsibility and obligation of the Developer to take such action as may be necessary to place the physical and environmental conditions of the City Property in a condition entirely suitable for the purposes set forth in this Agreement.

207.3 Hazardous Materials. Developer shall take all necessary precautions to prevent the release in, on or under the Site of any Hazardous Materials. Such precautions shall include compliance with all Environmental Laws and Governmental Requirements with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with commercially reasonable standards as respects the disclosure, storage, use, removal and disposal of Hazardous Materials.

208. Required Disclosures. Developer shall notify the City, and provide to the City a copy or copies, of all environmental permits, disclosures, applications, entitlements or inquiries relating to the Site, including notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any Governmental Requirement relating to Hazardous Materials and underground tanks. Developer shall report to the City, as soon as possible after each incident, any unusual or potentially important incidents with respect to the environmental condition of the Site. In the event of a release of any Hazardous Materials into the environment from, under or relating to the Site, Developer shall, as soon as possible after the release, furnish to the City a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request, the Developer

shall furnish to City a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Site including, but not limited to, all permit applications, permits and reports including, without limitation, those reports and other matters which may be characterized as confidential.

209. Developer Indemnity. Developer shall indemnify, defend and hold the City harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorneys' fees), resulting from, arising out of, or based upon any of the following: (i) the presence, release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Site, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials on, under, in or about, to or from, the Site. This indemnity shall include, without limitation, any damage, liability, fine, penalty, parallel indemnity after closing cost or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, contamination, leak, spill, release or other adverse effect on the environment. This indemnity does not include any condition arising solely as a result of the negligence or willful misconduct of the City or its employees, agents, representatives, successors or assigns; provided, however that nothing in this Section 209 shall release the Developer from liability for any losses, liabilities, damages, injuries, costs, expenses, or claims proximately caused by the Developer. It is the intent of the Developer and City that the Developer will assign its rights in this Agreement to two (2) limited partnerships, one which will develop Phase 1 and another which will develop Phase 2, as set forth in Section 603.2(b), below. This Section 209 shall apply with respect to each of those two (2) limited partnerships only with respect to the phase that such limited partnership is developing, i.e., the limited partnership that develops Phase 1 shall not have any indemnification obligations with respect to Phase 2 and the limited partnership that develops Phase 2 shall not have any indemnification obligations with respect to Phase 1.

210. City Options to Acquire the Site. At the Closing for Phase 1, the Developer and City shall execute two (2) Option Agreements, one for Phase 1 and another for Phase 2, granting the City the option and first right of refusal to acquire the Affordable Units with respect to each of Phase 1 and Phase 2, in forms and on terms and conditions to be agreed upon by the City and Developer. At the Closing for Phase 1, the Developer and City shall cause separate Memoranda of Option to be recorded against each of Phase 1 and Phase 2.

300. Development of the Site.

301. Site Plan and Scope of Development. The proposed project is fully-entitled. The Site Plan and Scope of Development, as set forth herein shall mean such documents as approved by the City Council on May 27, 2014.

302. City Review and Approval. City shall have the right to review and approve or disapprove in its reasonable discretion any material revisions to the Site Plan and Scope of Development.

302.1 Revisions. If Developer desires to propose any material revisions to the City-approved Site Plan, Scope of Development or Project Proforma for either phase after approval, it shall submit such proposed changes to City, and shall also proceed in accordance with any and all State and local laws and regulations regarding such revisions, within the time frame set forth in the Schedule of Performance for such phase. The City Manager is authorized to approve changes to the City-approved Site Plan, Scope of Development and Project Proforma. Provided, however, the City shall have no obligation to approve any change from the basic use of the Site for anything other than a mixed-use, family, affordable housing project.

302.2 Defects in Plans. City shall not be responsible or liable in any way, either to Developer or to any third parties, for any defects in any Site Plan, Scope of Development or Project Proforma, or for any structural or other defects in any work done according to any approved Site Plan, Scope of Development or Project Proforma. Developer shall hold harmless and indemnify the City and its officers, employees, agents and representatives from and against any and all claims, demands and suits for damages to property or injuries to persons arising out of or in any way relating to the Site, including without limitation any defects in any Site Plan, Scope of Development or Project Proforma, violation of any laws, and for defects in any work done according to the approved Site Plan, Scope of Development or Project Proforma or for defects in work performed by Developer or any contractor or subcontractor of Developer. It is the intent of the Developer and City, that the Developer will assign its rights in this Agreement to two (2) limited partnerships, one which will develop Phase 1 and another which will develop Phase 2, as set forth in Section 603.2(b), below. This Section 303.2 shall apply with respect to each of those two (2) limited partnerships only with respect to the phase that such limited partnership is developing, i.e., the limited partnership that develops Phase 1 shall not have any indemnification obligations with respect to Phase 2 and the limited partnership that develops Phase 2 shall not have any indemnification obligations with respect to Phase 1.

303. Land Use Approvals. Before commencement of construction of the Improvements or other works of improvement upon Phase 1 or Phase 2, Developer shall, at Developer's sole expense, secure or cause to be secured any and all land use and other entitlements, permits and approvals which may be required for the Improvements on such phase by the City or any other governmental agency affected by such construction or work. The execution of this Agreement does not constitute the granting of or a commitment to obtain any other required land use permits, entitlements or approvals.

304. Deadline for Completion of Improvements. All of the Improvements for Phase 1 and all of the Improvements for Phase 2 shall be completed in accordance with the Schedule of Performance for such phase. Failure to complete all of the Improvements in a phase in accordance with the Schedule of Performance for such phase, shall, inter alia, be a default under

the Developer Note for such phase entitling the City to exercise all of its rights and remedies, including without limitation foreclosure of the applicable Developer Deed of Trust.

305. Cost of Construction. All costs whatsoever shall be borne by Developer, including without limitation the cost of planning, designing, developing and constructing of all of the Improvements, as well as site preparation and grading.

306. Insurance Requirements. Developer shall take out and maintain during the term of the each Declaration, and shall cause its contractor and subcontractors for each phase to take out and maintain until the issuance of the Release of Construction Covenants pursuant to Section 311 of this Agreement, a comprehensive general liability policy in the amount of not less than \$2,000,000 combined single limit policy for the contractor and not less than \$1,000,000 combined single limit policy for subcontractors, and a comprehensive automobile liability policy in the amount of \$2,000,000 combined single limit for the contractor and not less than \$1,000,000 combined single limit policy for subcontractors, or such other policy limits as City may approve at its discretion, including contractual liability, as shall protect Developer and City from claims for such damages. Such policy or policies shall be written on an occurrence form. Developer shall also furnish or cause to be furnished to City evidence satisfactory to City that Developer, and any contractor with whom it has contracted for the performance of work on the Site or otherwise pursuant to this Agreement, carries workers' compensation insurance as required by law. Developer shall furnish a certificate of insurance countersigned by an authorized agent of the insurance carrier on a form approved by City setting forth the general provisions of the insurance coverage. This countersigned certificate shall name the City and its officers, agents, and employees as additionally insured parties under the policy, and the certificate shall be accompanied by a duly executed endorsement evidencing such additional insured status. The certificate and endorsement by the insurance carrier shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination. Coverage provided hereunder by Developer shall be primary insurance and not be contributing with any insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of the City. The required certificate shall be furnished by Developer at the time set forth therefor in the Schedule of Performance and the limited partnership that develops Phase 2 shall not have any indemnification obligations with respect to Phase 1.

307. Developer's Indemnity. Developer shall be responsible for all injuries to persons and/or all damages to real or personal property of the City, or others, caused by or resulting from the sale, rental, ownership or operation of the Site, and the negligence and/or material breach of this Agreement, of itself, its employees, subcontractors and/or its agents during the construction of or arising out of the construction of the Improvements. Developer shall defend, hold harmless and indemnify the City and all of its officers and employees from and against all claims, liens, claims of lien, losses, damages, judgments, costs, and expenses, whether direct or indirect, arising in any way from (i) the sale, rental, ownership or operation of the Site, including without limitation the Improvements; (ii) Developer's negligence; (iii) material breach of this Agreement,

by Developer, its employees, subcontractors and/or its agents; and/or (iv) arising out of the construction of the Improvements, except those arising from the sole negligence or willful misconduct of the City or any of its officers, employees or agents. It is the intent of the Developer and City, that the Developer will assign its rights in this Agreement to two (2) limited partnerships, one which will develop Phase 1 and another which will develop Phase 2, as set forth in Section 603.2(b), below. This Section 308 shall apply with respect to each of those two (2) limited partnerships only with respect to the phase that such limited partnership is developing, i.e., the limited partnership that develops Phase 1 shall not have any indemnification obligations with respect to Phase 2.

308. Rights of Access. The City and its representatives shall have the right of reasonable access to the Site, without charges or fees, for the purposes of inspection of the work being performed in constructing the Improvements and monitoring compliance with this Agreement.

309. Compliance With Laws. Developer shall carry out the design and construction of the Improvements in conformity with all applicable laws, including all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Title 24 of the California Code of Regulations, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.* Developer hereby agrees to carry out development, construction (as defined by applicable law) and operation of the Improvements on the Site, including, without limitation, any and all public works (as defined by applicable law), in conformity with all applicable local, state and federal laws, including, without limitation, all applicable federal and state labor laws (including, without limitation, any requirement to pay state prevailing wages). Developer hereby expressly acknowledges and agrees that the City has not ever previously affirmatively represented to the Developer or its contractor(s) for the Improvements in writing or otherwise, in a call for bids or otherwise, that the work to be covered by the bid or contract is or is not a "public work," as defined in Section 1720 of the Labor Code. Developer hereby agrees that Developer shall have the obligation to provide any and all disclosures, representations, statements, rebidding, and/or identifications which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Developer hereby agrees that Developer shall have the obligation to provide and maintain any and all bonds to secure the payment of contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code, Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. The Developer hereby agrees that the Developer shall have the obligation, at the Developer's sole cost, risk and expense, to obligate any party as may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Developer shall indemnify, protect, defend and hold harmless the City and its officers, employees, contractors and agents, with counsel reasonably acceptable to the City, from and against any and all loss, liability, damage, claim, cost, expense, and/or "increased costs" (including labor costs, penalties, reasonable

attorneys' fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction (as defined by applicable law) and/or operation of the Improvements, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (i) the noncompliance by Developer of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages); (ii) the implementation of Sections 1726 and 1781 of the Labor Code, as the same may be enacted, adopted or amended from time to time, or any other similar law; (iii) failure by Developer to provide any required disclosure, representation, statement, rebidding and/or identification which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law; (iv) failure by Developer to provide and maintain any and all bonds to secure the payment of contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code, Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law; and/or (v) failure by the Developer to obligate any party as may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. It is agreed by the parties that, in connection with the development, construction (as defined by applicable law) and operation of the Improvements, including, without limitation, any public work (as defined by applicable law), Developer shall bear all risks of payment or non-payment of state prevailing wages and/or the implementation of Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, and/or any other provision of law. "Increased costs" as used in this Section shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time. The foregoing indemnity shall survive termination of this Agreement and shall continue after recordation of the Release of Construction Covenants. It is the intent of the Developer and City, that the Developer will assign its rights in this Agreement to two (2) limited partnerships, one which will develop Phase 1 and another which will develop Phase 2, as set forth in Section 603.2(b), below. This Section 309 shall apply with respect to each of those two (2) limited partnerships only with respect to the phase that such limited partnership is developing, i.e., the limited partnership that develops Phase 1 shall not have any indemnification obligations with respect to Phase 2 and the limited partnership that develops Phase 2 shall not have any indemnification obligations with respect to Phase 1.

309.1 Nondiscrimination in Employment. Developer certifies and agrees that all persons employed or applying for employment by it, its affiliates, subsidiaries, or holding companies, and all subcontractors, bidders and vendors, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000, *et seq.*, the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621, *et seq.*, the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b, *et seq.*, 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, Cal. Government Code Section 12900, *et seq.*, the California Equal Pay Law, Cal. Labor Code Section 1197.5, Cal. Government Code Section

11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, and all other anti-discrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended. Developer shall allow representatives of City access to its employment records related to this Agreement during regular business hours to verify compliance with these provisions when so requested by City.

309.2 Taxes and Assessments. Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site. Developer shall remove or have removed any levy or attachment on any of the Site or any part thereof, or assure the satisfaction thereof within a reasonable time. If the terms and conditions of this Agreement are deemed to create a possessory interest in Developer such as to subject Developer to a Possessory Interest Tax pursuant to Revenue and Tax Code Section 107.6, then Developer shall be solely responsible for satisfying that obligation, and Developer shall not look to the City for reimbursement or set off.

309.3 Liens and Stop Notices. Developer shall not allow to be placed on the Site or any part thereof any lien or stop notice. If a claim of a lien or stop notice is given or recorded affecting the Improvements, Developer shall, within thirty (30) days of such recording or service or within ten (10) days of City's demand, whichever last occurs:

- (a) pay and discharge the same;
- (b) effect the release thereof by recording and delivering to City a surety bond in sufficient form and amount as approved by City in its sole discretion; or
- (c) provide City with other assurance which City deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of City from the effect of such lien or bonded stop notice.

310. Release of Construction Covenants. Promptly after completion of the Improvements for each of Phase 1 and Phase 2 in conformity with this Agreement, the City shall furnish Developer with the Release of Construction Covenants for such phase upon written request therefor by the Developer. The City shall not unreasonably withhold, delay or condition any such Release of Construction Covenants. The Release of Construction Covenants shall be a conclusive determination of satisfactory completion of the Improvements for the applicable phase and the Release of Construction Covenants shall so state. Any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement except for those continuing covenants as set forth in Sections 401 through 406 of this Agreement. If the City refuses or fails to furnish the Release of Construction Covenants for either phase, after written request from Developer, the City shall, within thirty (30) days of written request therefor, provide Developer with a written statement of the reasons City refused or failed to furnish such Release of Construction Covenants. The statement shall also delineate the actions Developer must take to obtain the Release of Construction Covenants. The Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of any mortgage, or any insurer of a mortgage securing

money loaned to finance the Improvements for a phase, or any part thereof. The Release of Construction Covenants is not a notice of completion as referred to in Section 3093 of the California Civil Code.

311. Financing of the Improvements.

311.1 No Encumbrances Except Mortgages or Deeds of Trust. Except as otherwise provided herein and until the Release of Construction Covenants is recorded for the applicable phase, mortgages and deeds of trust may be permitted only with the City's prior written approval, and only for the purpose of securing loans of funds to be used for financing construction of the Improvements (including architecture, engineering, legal, and related direct costs as well as indirect costs) on or in connection with such phase, and any other purposes necessary and appropriate in connection with development under this Agreement. Developer shall notify the City in advance of executing any mortgage or deed of trust. Except as otherwise provided herein, Developer shall not enter into any such mortgage or deed of trust for financing without the prior written approval of the City, which approval the City agrees to give if any such mortgage or deed of trust for financing is being given to a responsible financing lending institution or person or entity, as determined by the City in its reasonable discretion. The City agrees that the Developer Deed of Trust for each of Phase 1 and Phase 2 shall be subordinated to the Construction Deed of Trust and Permanent Deed of Trust for such phase; such subordination shall be in a form acceptable to the City in its reasonable discretion. Furthermore, the City shall subordinate the Declaration, Notice of Affordability Restrictions and Memorandum of Option, to the Construction Deed of Trust and Permanent Deed of Trust for each phase, to the extent necessary to obtain construction and permanent financing for the Improvements for such phase. Any such subordination shall be in a form acceptable to the City in its reasonable discretion.

311.2 Right of City to Cure Mortgage or Deed of Trust Default. In the event of a mortgage or deed of trust default or breach by Developer prior to the issuance of a Release of Construction Covenants pursuant to Section 310 of this Agreement, Developer shall immediately deliver to City a copy of any mortgage holder's notice of default. City shall have the right but not the obligation to cure the default. In such event, City shall be entitled to reimbursement from Developer of all costs and expenses incurred by City in curing such default, including without limitation attorneys' fees.

312. Annual Occupancy Monitoring Fee. Each year during the term of the Declaration, the Developer shall pay to the City a reasonable affordable housing occupancy monitoring fee as determined by the City in schedules printed by the City from time to time. Currently that fee is \$60 per unit per year. Notwithstanding anything set forth in the OPA to the contrary, the affordable housing occupancy monitoring fee described in this Section shall be payable to the City in lieu of any similar fee payable to the SHA set forth in the OPA or any document executed in conjunction therewith.

400. Covenants and Restrictions.

401. Use. Developer covenants and agrees for itself, its successors, assigns, and every successor in interest to the Site or any part thereof, that Developer shall devote the Site to the uses specified in the Declarations and this Agreement for the periods of time specified herein. All uses conducted on the Site, including, without limitation, all activities undertaken by Developer pursuant to this Agreement, shall conform to all applicable provisions of the San Marcos Municipal Code. The foregoing covenants shall run with the land.

402. Affordable Units.

402.1 Developer Covenants Concerning Affordable Units. The number of Affordable Units, the bedroom composition and affordability levels for each phase shall be generally as set forth in the table below. At the Closings for each phase, the Developer shall execute the Declaration for such phase and cause it to be recorded against Phase 1 or Phase 2, as applicable. Each Declaration will prohibit smoking at the applicable phase and will set forth the rent and occupancy restriction in more detail. Developer further covenants and agrees that the Affordable Units will be rented only to Low Income Households, at rents affordable to the same. One (1) three-bedroom unit in Phase 1 and one (1) two-bedroom unit in Phase 2 will be used as a manager's unit and is not shown in the tables below.

TABLE 1: RENT AND INCOME RESTRICTION CRITERIA FOR PHASE 1

1	2	3	4	5
NUMBER OF AFFORDABLE UNITS	UNIT SIZE	MAXIMUM %AGE OF AREA MEDIAN INCOME OF ELIGIBLE TENANTS	MAXIMUM MONTHLY RENTS AS PERCENTAGE OF AREA MEDIAN INCOME ADJUSTED FOR FAMILY SIZE APPROPRIATE FOR THE UNIT AND UTILITY ALLOWANCE APPROPRIATE FOR THE UNIT	YEARS OF RENT RESTRICTION
2	One Bedroom	30%	1/12 th of 30% of 30% of AMI	55
4	One Bedroom	40%	1/12 th of 30% of 40% of AMI	55
8	One Bedroom	50%	1/12 th of 30% of 50% of AMI	55
6	One Bedroom	60%	1/12 th of 30% of 60% of AMI	55
3	Two Bedroom	30%	1/12 th of 30% of 30% of AMI	55
6	Two Bedroom	40%	1/12 th of 30% of 40% of AMI	55
11	Two Bedroom	50%	1/12 th of 30% of 50% of AMI	55
8	Two Bedroom	60%	1/12 th of 30% of 60% of AMI	55
3	Three Bedroom	30%	1/12 th of 30% of 30% of AMI	55
5	Three Bedroom	40%	1/12 th of 30% of 40% of AMI	55
11	Three Bedroom	50%	1/12 th of 30% of 50% of AMI	55
8	Three Bedroom	60%	1/12 th of 30% of 60% of AMI	55
Total 75				

TABLE 2: RENT AND INCOME RESTRICTION CRITERIA FOR PHASE 2

1	2	3	4	5
NUMBER OF AFFORDABLE UNITS	UNIT SIZE	MAXIMUM %AGE OF AREA MEDIAN INCOME OF ELIGIBLE TENANTS	MAXIMUM MONTHLY RENTS AS PERCENTAGE OF AREA MEDIAN INCOME ADJUSTED FOR FAMILY SIZE APPROPRIATE FOR THE UNIT AND UTILITY ALLOWANCE APPROPRIATE FOR THE UNIT	YEARS OF RENT RESTRICTION
1	One Bedroom	30%	1/12 th of 30% of 30% of AMI	55
2	One Bedroom	40%	1/12 th of 30% of 40% of AMI	55
4	One Bedroom	50%	1/12 th of 30% of 50% of AMI	55
3	One Bedroom	60%	1/12 th of 30% of 60% of AMI	55
2	Two Bedroom	30%	1/12 th of 30% of 30% of AMI	55
4	Two Bedroom	40%	1/12 th of 30% of 40% of AMI	55
8	Two Bedroom	50%	1/12 th of 30% of 50% of AMI	55
5	Two Bedroom	60%	1/12 th of 30% of 60% of AMI	55
2	Three Bedroom	30%	1/12 th of 30% of 30% of AMI	55
3	Three Bedroom	40%	1/12 th of 30% of 40% of AMI	55
6	Three Bedroom	50%	1/12 th of 30% of 50% of AMI	55
3	Three Bedroom	60%	1/12 th of 30% of 60% of AMI	55
Total 43				

402.2 Timing. Completion of construction of all of the Improvements for each of Phase 1 and Phase 2, including all of the Affordable Units in such phase, shall occur on or before the deadline set forth in the Schedule of Performance for such phase.

403. Maintenance Covenants. Developer shall maintain the Site and all Improvements, in compliance with all applicable provisions of the San Marcos Municipal Code and all housing quality standards contained within 24 CFR §92.251 (regardless of whether such section would apply to the Site without the foregoing provision). Developer hereby consents to periodic inspection by City's designated inspectors and/or designees during regular business hours, including the Code Enforcement Agents of the City, to assure compliance with said zoning, building codes, regulations, and housing quality standards.

404. Obligation to Refrain from Discrimination.

404.1 State and Federal Requirements. Developer shall, at all times during the term of this Agreement, comply with all of the affirmative marketing procedures adopted by the City. Developer shall maintain records to verify compliance with the applicable affirmative marketing procedures and compliance. Such records are subject to inspection by the City during regular business hours upon five (5) days written notice. Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation,

marital status, national origin, ancestry, familial status, source of income or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Developer or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site or the rental, lease, sale of the Site. The foregoing covenants shall run with the Site.

404.2 Additional Requirements. Developer hereby agrees to comply with the Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, and any other applicable Federal and State laws and regulations.

404.3 Fair Housing Laws. All activities carried out by Developer and/or agents of Developer shall be in accordance with the requirements of the Federal Fair Housing Act. The Fair Housing Amendments Act of 1988 became effective on March 12, 1989. The Fair Housing Amendments Act of 1988 and Title VIII of the Civil Rights Act of 1968, taken together, constitute the Fair Housing Act. The Fair Housing Act provides protection against the following discriminatory housing practices if they are based on race, sex, religion, color, handicap, familial status, or national origin: denying or refusing to rent housing, denying or refusing to sell housing, treating differently applicants for housing, treating residents differently in connection with terms and conditions, advertising a discriminatory housing preference or limitation, providing false information about the availability of housing, harassing, coercing or intimidating people from enjoying or exercising their rights under the Fair Housing Act, blockbusting for profit, persuading owner to sell or rent housing by telling them that people of a particular race, religion, etc., are moving into the neighborhood, imposing different terms for loans for purchasing, constructing, improving, repairing, or maintaining a home, or loans secured by housing; denying use or participation in real estate services, e.g., brokers' organizations, multiple listing services, etc., The Fair Housing Act gives HUD the authority to hold administrative hearings unless one of the parties elects to have the case heard in U.S. District Court and to issue subpoenas. Both civil and criminal penalties are provided. The Fair Housing Act also provides protection for people with disabilities and proscribes those conditions under which senior citizen housing is exempt from the prohibitions based on familial status. The following State of California Laws also govern housing discrimination and shall be complied with by Developer: Fair Employment and Housing Act, Unruh Civil Rights Act of 1959, Ralph Civil Rights Act of 1976, and Civil Code Section 54.1.

405. Nondiscrimination Covenants. Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of, any person or group of persons on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income or disability of any person in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Developer or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation of any person or group of persons on account of any

basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site. The foregoing covenants shall run with the land.

406. Effect of Violation of the Declarations. The City is deemed the beneficiary of the terms and provisions of this Agreement and the Declarations, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the Declarations have been provided, without regard to whether the City has been, remains or is an owner of any land or interest therein in the Site. The City shall have the right, if this Agreement or the Declarations are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and the Declarations may be entitled.

500. Defaults and Remedies. It is the intent of the Developer and City, that the Developer will assign its rights in this Agreement to two (2) limited partnerships, one which will develop Phase 1 and another which will develop Phase 2, as set forth in Section 603.2(b), below. This Section 500, including without limitation the subsections set forth below, shall apply with respect to each of those two (2) limited partnerships only with respect to the phase that such limited partnership is developing, i.e., the limited partnership that develops Phase 1 shall not have any obligations or liability with respect to Phase 2 and the limited partnership that develops Phase 2 shall not have any obligations or liability with respect to Phase 1.

501. Default Generally. Subject to the extensions of time set forth in Section 602 of this Agreement, failure by either party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and failure to cure as described hereafter, constitutes a "Default" under this Agreement. A party claiming a Default shall give written notice of Default to the other party specifying the Default complained of. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against any other party, and the other party shall not be in Default if such party within thirty (30) days from receipt of such notice immediately, with due diligence, commences to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with diligence.

502. Institution of Legal Actions. In addition to any other rights or remedies and subject to the restrictions otherwise set forth in this Agreement, either party may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any Default, to recover damages for any Default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the County of San Diego, State of California, in an appropriate court in that county, or in the District of the United States District Court in which such county is located.

503. City Rights. In the event that City is not in Default under this Agreement with respect to Phase 1 or Phase 2 and Developer is in Default of this Agreement with respect to such phase and Developer fails to cure such Default within the time set forth in Section 501 hereof, including without limitation if Developer assigns or attempts to assign this Agreement or any rights therein or in the applicable phase in violation of this Agreement, one or more of the closing conditions set forth in Section 203 for the applicable phase is not fulfilled by the Developer or waived by the City on or before the Closing Deadline for Phase 1 or the Closing Deadline for Phase 2, as applicable, or Developer fails to complete any items set forth in the Schedule of Performance for such phase prior to the time set forth therein (as such times may be extended with City approval); then, without limiting any other rights or remedies of the City, the City shall have the right, at its election, to enter and take possession of the applicable phase, with all improvements thereon, and vest title to such phase in the City by foreclosing on the Developer Deed of Trust for such phase.

504. Entry and Vesting of Title in City Prior to Completion of Construction.

504.1 Right of Entry. In addition to all other rights and remedies the City may have at law or in equity, the City has the right, at its election, to enter and take possession of Phase 1 or Phase 2, including all improvements thereon, and vest title to such phase in the City by foreclosing on the Developer Deed of Trust for such phase, if after the applicable Closing, Developer:

(a) fails to start the construction of the Improvements for such phase as required by this Agreement for a period of thirty (30) days after written notice thereof from the City (unless otherwise extended with City approval); or

(b) abandons or substantially suspends construction of the Improvements for such phase required by this Agreement for a period of thirty (30) days after written notice thereof from City (unless otherwise extended with City approval); or

(c) transfers or suffers any involuntary transfer of such phase or any part thereof in violation of contrary to the provisions of Section 603 or any other section of this Agreement.

504.2 Limitations on Right of Entry. Such right to enter and vest shall be subject to and be limited by and shall not defeat, render invalid or limit any mortgage or deed of trust permitted by this Agreement that is senior to the Developer Deed of Trust for such phase.

505. Acceptance of Service of Process. In the event that any legal action is commenced by Developer against the City, service of process on the City shall be made by personal service upon the City Manager or in such other manner as may be provided by law. In the event that any legal action is commenced by the City against Developer, service of process on Developer shall be made by personal service upon Developer or in such other manner as may be provided by law.

506. Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

507. Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies shall govern the interpretation and enforcement of this Agreement.

600. General Provisions.

601. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice ("Notice") which either party may desire to give to the other party under this Agreement must be in writing and may be given by any commercially acceptable means to the party to whom the Notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by Notice.

To City: City of San Marcos
Attn. City Manager
1 Civic Center Drive
San Marcos, CA 92069

To Developer: El Dorado II, LP
c/o OHDC El Dorado, LLC
Attn. Eunice Bobert
414 E. Chapman Avenue
Orange, CA 92866

Copy to: C&C El Dorado, LLC
Attn. Todd Cottle
14211 Yorba St., Ste. 200
Tustin, CA 92780

Any written notice, demand or communication shall be deemed received immediately if delivered by hand and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail.

602. Enforced Delay; Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party 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; epidemics; quarantine

restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; acts or omissions of the other party; or any other causes beyond the control and 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 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 five (5) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the mutual agreement of the City Manager and Developer.

603. Transfers of Interest in Site or Agreement.

603.1 Prohibition. The qualifications and identity of Developer are of particular concern to the City. It is because of those qualifications and identity that the City has entered into this Agreement with Developer. For the period commencing upon the date of this Agreement and during the fifty five (55) year terms of the Declarations, no voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement, nor shall Developer make any total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the whole or any part of the Site or the Improvements thereon without prior written approval of the City, except as expressly set forth herein. Any proposed total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the whole or any part of the Site or the Improvements, other than those permitted in Section 603.2, will entitle the City to its right of reentry and revesting as set forth in Section 504 hereof. For the reasons cited above, Developer represents and agrees for itself, each partner and any successor in interest of itself that prior to issuance by the City of the Release of Construction Covenants for each phase and without the prior written approval of the City, there shall be no significant change in the ownership of Developer or in the relative proportions thereof, or with respect to the identity of the parties in control of Developer or the degree thereof, by any method or means; provided, however, that a change in one or more constituent partners of Developer is permitted so long as Developer remains controlled as to day to day matters by one of the general partners of Developer as of the date of this Agreement. Developer shall promptly notify the City of any and all changes whatsoever in the identity of the parties in control of Developer or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information. Any significant change (voluntary or involuntary) in membership, management or control, of Developer or its associates (other than such changes occasioned by the death or incapacity of any individual) shall be a Default.

603.2 Permitted Transfers. Notwithstanding any other provision of this Agreement to the contrary, City approval of an assignment of this Agreement or conveyance of the Site or Improvements, or any part thereof, will be granted in connection with any of the following, subject to City and Developer executing appropriate documents of transfer which contain any exceptions or reservation of rights permitted under this Agreement:

- (a) the leasing of one or more Affordable Units to an occupant in compliance with the Declaration;

(b) transfer of this Agreement and each of Phase 1 and Phase 2 to a limited partnership in which Developer or its affiliate is a general partner, and the transferee entity executes an agreement reasonably acceptable to the City assuming all of the Developer's obligations under this Agreement with respect to Phase 1 or Phase 2, as applicable.

(c) transfer of up to a Ninety-Nine and Ninety Nine Hundredths Percent (99.99%) limited interest in limited partnership referenced in (b) above to a tax credit investor partner in connection with the tax credit syndication;

(d) transfer by the tax credit investor partner of its interest in limited partnership referenced in (b) above to an entity in which the tax credit investor partner or its affiliate manages and controls, directly or indirectly, the management decisions of such entity in connection with the tax credit syndication;

(e) Developer granting an option to purchase Phase 1 or Phase 2, as applicable, after the expiration of the 15-year tax credit compliance period to an entity in which Developer or its affiliate manages and controls, directly or indirectly, the management decisions of such entity, provided that any such option shall be subject and subordinate to the City's Options;

(f) the conveyance or dedication of any portion of the Site to the City or other appropriate governmental agency, or the granting of easements or permits to facilitate construction of the Improvements (as defined herein);

(g) any requested assignment for financing purposes (subject to such financing being reasonably approved by City), including the grant of a deed of trust to secure the funds necessary for construction of the Improvements for the applicable phase;

(h) any deed of trust or related document recorded against the Site in connection with financing approved by the City pursuant to Section 312 or otherwise reasonably approved by the Successor Agency, including any refinancing of previously approved financings;

(i) any transfer directly resulting from the foreclosure of a deed of trust permitted under subsection (h); or

(j) in the event all of general partners of the Developer are removed by the investor limited partner of the Developer for cause following default under the Developer's partnership agreement, the Successor Agency hereby approves the transfer of the general partners' interests to a 501(c)(3) tax exempt nonprofit corporation and/or an affiliate of the investor limited partner of the Developer selected by the investor limited partner of the Developer and approved by the Successor Agency, which approval shall not be unreasonably withheld, conditioned or delayed.

603.3 Successors and Assigns. All of the terms, covenants and conditions of this Agreement shall be binding upon Developer and its permitted successors and assigns. Whenever the term "Developer" is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

603.4 Assignment by City. The City may assign or transfer this Agreement in its entirety, or any of its rights or obligations hereunder.

604. Non-Liability of Officials and Employees of City. No member, official or employee of the City shall be personally liable to Developer, or any successor in interest, in the event of any Default or breach of this Agreement or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Agreement.

605. Relationship Between City and Developer. It is hereby acknowledged that the relationship between the City and Developer is that of independent contractors and not that of a partnership or joint venture and that the City and Developer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein, the City shall have no rights, powers, duties or obligations with respect to the operation, maintenance or management of the Improvements. Developer agrees to indemnify, hold harmless and defend the City from any claim made against the City arising from a claimed relationship of partnership or joint venture between the City and Developer. It is the intent of the Developer and City that the Developer will assign its rights in this Agreement to two (2) limited partnerships, one which will develop Phase 1 and another which will develop Phase 2, as set forth in Section 603.2(b), below. This Section 605 shall apply with respect to each of those two (2) limited partnerships only with respect to the phase that such limited partnership is developing, i.e., the limited partnership that develops Phase 1 shall not have any indemnification obligations with respect to Phase 2 and the limited partnership that develops Phase 2 shall not have any indemnification obligations with respect to Phase 1.

606. City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by the City, the City Manager or his or her designee is authorized to act on behalf of the City, unless specifically provided otherwise.

607. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

608. Integration. This Agreement contains the entire understanding between the parties relating to the subject matter of this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral and written, are merged in this Agreement and shall be of no further force or effect. Each party is entering this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

609. No Real Estate Brokerage Commissions. The City and Developer each represent and warrant to the other that no broker or finder is entitled to any commission or finder's fee in connection with Developer's acquisition of the City Property from the City. The City and Developer each agrees to defend and hold harmless the other from any claim by any broker, agent or finder with respect to Site.

610. Attorneys' Fees. The parties agree that the prevailing party in litigation for the breach and/or interpretation and/or enforcement of the terms of this Agreement shall be entitled to their expert witness fees, if any, as part of their costs of suit, and reasonable attorneys' fees as may be awarded by the court, pursuant to California Code of Civil Procedure ("CCP") Section 1033.5 and any other applicable provisions of California law, including, without limitation, the provisions of CCP Section 998. In addition, in the event Developer requests any future amendments to this Agreement or any further agreements, documents or instruments are to be executed by the City, the Developer shall pay any and all attorneys' fees incurred by the City with respect to the same.

611. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. References to section numbers are to sections in this Agreement, unless expressly stated otherwise.

612. Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both parties.

613. No Waiver. A waiver by either party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

614. Modifications. Any amendment, alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed by the Developer and the City (any amendment, alteration, change or modification of this Agreement on behalf of the City, including without limitation changes to the economic terms of this Agreement and its exhibits, shall be made by the City Manager in the City Manager's sole discretion).

615. Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

616. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time.

617. Legal Advice. Each party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

618. Time of Essence. Time is expressly made of the essence with respect to the performance by the City and Developer of each and every obligation and condition of this Agreement.

619. Cooperation. Each party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement including, but not limited to, releases or additional agreements.

620. Conflicts of Interest. No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

621. Exhibits and Recitals Incorporated. All exhibits referred to in this Agreement are hereby incorporated in this Agreement by this reference, regardless of whether or not the exhibits are actually attached to this Agreement. The recitals to this Agreement are hereby incorporated in this Agreement by this reference.

622. Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.


623. Authority to Sign. All individuals signing this Agreement for a party which is a corporation, limited liability company, partnership 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 City 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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

City:
City of San Marcos

By: _____
Jack Griffin, City Manager

APPROVED AS TO FORM:
Christensen & Spath LLP

By:  _____
Walter F. Spath III
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

Exhibit A-1
Developer Property Legal Description

All that certain real property located in the City of San Marcos, County of San Diego, State of California, more particularly described as follows:

PARCEL B:

THAT PORTION OF LOT 2, IN BLOCK 50 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1985, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID LOT, 150 FEET; THENCE WESTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT, A DISTANCE OF 120 FEET TO A POINT; THENCE SOUTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT; A DISTANCE OF 140 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID LOT; THENCE EASTERLY ALONG SAID SOUTHERLY LINE, A DISTANCE OF 120 FEET TO THE POINT OF BEGINNING.

APN: 220-100-08

PARCEL C:

THAT PORTION OF THE EASTERLY HALF OF LOT 2 IN BLOCK 50 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 2; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 2, A DISTANCE OF 120.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING WESTERLY ALONG SAID SOUTHERLY LINE TO A POINT DISTANT THEREON 150.00 FEET EASTERLY FROM THE SOUTHWESTERLY CORNER OF THE EASTERLY HALF OF SAID LOT; THENCE NORTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT, A DISTANCE OF 140.00 FEET; THENCE EASTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL WITH AND DISTANT 120.00 FEET WESTERLY, MEASURED ALONG THE SOUTHERLY LINE OF SAID LOT FROM THE EASTERLY LINE OF SAID LOT; THENCE SOUTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT 2 A DISTANCE OF 140.00 FEET TO THE TRUE POINT OF BEGINNING.

APN: 220-100-09

PARCEL D:

PARCEL D-1:

THAT PORTION OF THE EASTERLY HALF OF LOT 2 IN BLOCK 50 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON DECEMBER 21, 1895, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE EASTERLY HALF OF LOT 2; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT, A DISTANCE OF 60.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING EASTERLY ALONG SAID SOUTHERLY LINE A DISTANCE OF 90.00 FEET;

THENCE NORTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT A DISTANCE OF 140.00 FEET;

THENCE WESTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT, A DISTANCE OF 90.00 FEET;

THENCE SOUTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT, A DISTANCE OF 140.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL D-2:

THE SOUTHERLY 140 FEET OF THE WESTERLY 30 FEET OF THE EASTERLY ONE-HALF OF LOT 2 IN BLOCK 50 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895.

PARCEL D-3:

THAT PORTION OF THE EASTERLY HALF OF LOT 2 IN BLOCK 50 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 31, 1895, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID EASTERLY HALF OF LOT 2; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT, A DISTANCE OF 60.00 FEET TO THE SOUTHWESTERLY CORNER OF LAND DESCRIBED IN DEED TO RALPH W. MEYER, ET UX, RECORDED NOVEMBER 16, 1964 AS INSTRUMENT NO. 207879; THENCE NORTHERLY ALONG THE WESTERLY BOUNDARY OF SAID LAND, BEING PARALLEL WITH THE EASTERLY LINE OF SAID LOT 2, A DISTANCE OF 140.00 FEET TO THE NORTHWESTERLY CORNER OF SAID MEYER'S LAND; THENCE WESTERLY ALONG THE WESTERLY PROLONGATION OF THE NORTHERLY LINE OF SAID MEYER'S LAND, BEING PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 2, A DISTANCE OF 60.00 FEET TO THE WESTERLY LINE OF SAID EASTERLY HALF OF LOT 2; THENCE SOUTHERLY ALONG SAID WESTERLY LINE, 140.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE WESTERLY 30.00 FEET.

APN: 220-100-10; 220-100-12; 220-100-56

PARCEL E:

THE SOUTHERLY 140 FEET OF THE EASTERLY 120 FEET OF THE WESTERLY HALF OF LOT 2 IN BLOCK 50 OF THE RANCHO LOS VALLECITOS DE MARCOS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, DECEMBER 21, 1895, SAID DISTANCES BEING MEASURED PARALLEL TO THE SOUTHERLY AND WESTERLY LINES OF SAID LOT.

APN: 220-100-14

PARCEL F:

THE WESTERLY 35 FEET OF THE EASTERLY 155 FEET OF THE SOUTHERLY 140 FEET, ALL DIMENSIONS BEING MEASURED AT RIGHT ANGLES, OF THE WESTERLY ONE-HALF OF LOT 2 IN BLOCK 50 OF THE RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON DECEMBER 21, 1895.

APN: 220-100-29

PARCEL G:

THAT PORTION OF THE WESTERLY HALF OF LOT 2, BLOCK 50, RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DE 21, 1895, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID LOT 2; THENCE NORTHERLY ALONG THE WESTERLY LINE THEREOF TO THE NORTHERLY LINE OF THE SOUTHERLY 140.00 FEET MEASURED AT RIGHT ANGLES FROM THE SOUTHERLY LINE OF SAID LOT 2, BEING ALSO THE TRUE POINT OF BEGINNING; THENCE EASTERLY ALONG SAID NORTHERLY LINE BEING PARALLEL WITH SAID SOUTHERLY LINE OF SAID LOT 2, A DISTANCE OF 167.50 FEET; THENCE NORTHERLY ALONG A LINE WHICH IS PARALLEL WITH THE WESTERLY LINE OF SAID LOT 2 TO THE SOUTHERLY LINE OF RICHMAR AVENUE, ALSO KNOWN AS RICHLAND AVENUE, AS DESCRIBED IN THE DEED TO SAID CITY, RECORDED JULY 2, 1964 AS INSTRUMENT NO. 119388 OF OFFICIAL RECORDS; THENCE WESTERLY ALONG SAID SOUTHERLY LINE OF SAID AVENUE TO THE EASTERLY LINE OF THE WESTERLY 160.00 FEET OF SAID LOT 2; THENCE NORTHERLY ALONG THE NORTHERLY PROLONGATION OF SAID EASTERLY LINE TO THE SOUTHERLY LINE OF THE NORTHERLY 961.00 FEET OF SAID LOT 2; THENCE WESTERLY ALONG SAID SOUTHERLY LINE TO THE WESTERLY LINE OF SAID LOT 2; THENCE SOUTHERLY ALONG SAID WESTERLY LINE TO THE TRUE POINT OF BEGINNING.

APN: 220-100-64; 220-100-63

PARCEL H:

THAT PORTION OF LOT 2 IN BLOCK 50 OF THE RANCHOS LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON DECEMBER 21, 1895.

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 2; THENCE SOUTH 72° 55' EAST, 167.50 FEET; THENCE NORTH 6° 41' EAST, 162.67 FEET TO POINT "A"; THENCE NORTH 9° 55' EAST TO THE SOUTHERLY LINE OF NORTHERLY, 890 FEET OF SAID LOT 2 AND THE TRUE POINT OF BEGINNING; THENCE NORTH 9° 55' EAST TO A POINT WHICH BEARS NORTH 9° 55' EAST, 275.32 FEET TO POINT "A"; THENCE SOUTH 74° 24' 20" EAST, 181.33 FEET TO THE EASTERLY LINE OF THE WESTERLY 30 FEET OF THE EASTERLY HALF OF LOT 2; THENCE SOUTHERLY ALONG SAID LINE TO SOUTHERLY LINE OF THE NORTHERLY 1012 FEET OF SAID EASTERLY HALF OF LOT 2; THENCE WESTERLY ALONG SAID LINE TO THE EASTERLY LINE OF THE WESTERLY HALF OF SAID LOT; THENCE SOUTHERLY ALONG SAID LINE TO THE NORTHERLY LINE OF THE SOUTHERLY 140 FEET OF SAID LOT; THENCE NORTHWESTERLY ALONG SAID LINE TO THE WESTERLY LINE OF THE EASTERLY 155 FEET OF THE WESTERLY HALF OF SAID LOT; THENCE SOUTHERLY ALONG SAID LINE TO THE SOUTHERLY LINE OF LOT 2; THENCE NORTHWESTERLY ALONG SAID LINE TO THE WESTERLY LINE OF THE EASTERLY 165 FEET OF SAID WESTERLY HALF; THENCE NORTHERLY ALONG SAID LINE TO SOUTHERLY LINE OF THE NORTHERLY 890 FEET OF SAID LOT; THENCE EASTERLY ALONG SAID LINE TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF LYING NORTHERLY OF THE CENTER LINE OF RICHMAR AVENUE (FORMERLY RICHLAND ROAD), AS DESCRIBED IN DEED TO THE CITY OF SAN MARCOS, RECORDED AUGUST 31, 1964 AS INSTRUMENT NO. 158742, SERIES 5, BOOK 1964 OF OFFICIAL RECORDS.

APN: 220-100-66; 220-100-67 (PORTION)

PARCEL I:

ALL THAT PORTION OF THE WEST 30.00 FEET OF THE EAST HALF OF LOT 2 IN BLOCK 50 OF THE RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON DECEMBER 21, 1895, LYING SOUTHERLY OF THE CENTER LINE OF RICHMAR AVENUE (FORMERLY RICHLAND ROAD), AS DESCRIBED IN DEED TO THE CITY OF SAN MARCOS, RECORDED AUGUST 31, 1964 AS INSTRUMENT NO. 158742, SERIES 5, BOOK 1964 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM THE SOUTH 140.00 FEET THEREOF.

APN: 220-100-67

Exhibit A-2
OHDC Property Legal Description

All that certain real property located in the City of San Marcos, County of San Diego, State of California, more particularly described as follows:

PARCEL J:

THAT PORTION OF THE EASTERLY HALF OF LOT 2 IN BLOCK 50 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE EASTERLY HALF OF LOT 2; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT, A DISTANCE OF 150.00 FEET; THENCE NORTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT, A DISTANCE OF 160.00 FEET TO THE TRUE POINT OF BEGINNING; THEN CONTINUING NORTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT, A DISTANCE OF 149.00 FEET TO THE SOUTHEAST CORNER OF LAND CONVEYED TO CARL F. MOUNTS AND JANE H. MOUNTS, BY DEED RECORDED NOVEMBER 8, 1950 IN BOOK 3853, PAGE 26 OF OFFICIAL RECORDS; THENCE WESTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT, A DISTANCE OF 150.00 FEET TO A POINT IN THE WESTERLY LINE OF THE EASTERLY HALF OF LOT 2; THENCE SOUTHERLY ALONG SAID WESTERLY LINE OF SAID EASTERLY HALF OF LOT 2, A DISTANCE OF 149.00 FEET; THENCE EASTERLY IN A STRAIGHT LINE OF 150.00 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THE WEST 30.00 FEET.

APN: 220-100-62

Exhibit A-3
City Property Legal Description

All that certain real property located in the City of San Marcos, County of San Diego, State of California, more particularly described as follows:

PARCEL A:

THAT PORTION OF THE EASTERLY HALF OF LOT 2 IN BLOCK 50 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY LINE OF SAID LOT 2, DISTANT THEREON 200.00 FEET SOUTHERLY FROM THE NORTHEAST CORNER OF SAID LOT; THENCE SOUTHERLY ALONG THE EASTERLY LINE MENTIONED TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT TO A POINT DISTANT THEREON 150.00 FEET EASTERLY FROM THE SOUTHWEST CORNER OF THE EASTERLY HALF OF SAID LOT; THENCE NORTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL WITH AND DISTANT 200.00 FEET SOUTHERLY FROM THE NORTHERLY LINE OF SAID LOT, SAID 200.00 FEET BEING MEASURED ALONG THE EASTERLY LINE OF SAID LOT; THENCE EASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION LYING NORTHERLY OF THE FOLLOWING DESCRIBED BOUNDARY LINES:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID LOT 2, DISTANT THEREON NORTH 05° 34' 30" EAST, 279.99 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 2; THENCE AT RIGHT ANGLES NORTH 84° 25' 30" WEST, 15.00 FEET; THENCE PARALLEL WITH SAID WESTERLY LINE OF EAST SAN MARCOS NORTH 05° 34' 30" EAST, 10.00 FEET TO THE BEGINNING OF A 25.00 FOOT RADIUS TANGENT CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 79° 44' 45", A DISTANCE OF 34.80 FEET; THENCE TANGENT TO SAID CURVE NORTH 74° 10' 15" WEST TO THE WESTERLY LINE OF THE FIRST HEREINABOVE DESCRIBED LAND.

ALSO EXCEPTING THEREFROM THAT PORTION LYING SOUTHERLY OF A LINE DRAWN PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT FROM A POINT IN THE EASTERLY LINE OF SAID LOT, DISTANT THEREON 140.00 FEET NORTHERLY FROM THE SOUTHEAST CORNER OF SAID LOT.

APN: 220-100-59-00

PARCEL K:

THAT PORTION OF THE EASTERLY HALF OF LOT 2 IN BLOCK 50 OF RANCHO LOS VALLECITOS DE SAN MARCOS, ACCORDING TO THE MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN DIEGO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID EASTERLY HALF OF LOT 2; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 2, A DISTANCE OF 60 FEET TO THE SOUTHWESTERLY CORNER OF LAND DESCRIBED IN DEED TO CLIFFORD J. KLEVEN AND WIFE, RECORDED SEPTEMBER 8, 1958 IN BOOK 4977 PAGE 403 OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER; THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID KLEVEN'S LAND, A DISTANCE OF 140 FEET TO THE NORTHWEST CORNER THEREOF, SAID

POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID KLEVEN'S LAND, A DISTANCE OF 90 FEET TO THE NORTHEAST CORNER THEREOF; THENCE NORTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT 2, A DISTANCE OF 20 FEET TO THE SOUTHEASTERLY CORNER OF LAND DESCRIBED IN DEED TO RICHARD F. HANLEY AND WIFE, RECORDED AUGUST 18, 1953 IN BOOK 4956 PAGE 373 OF SAID OFFICIAL RECORDS; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID HANLEY'S LAND 150 FEET TO A POINT IN THE WESTERLY LINE OF SAID EASTERLY HALF OF SAID LOT 2 DISTANT THEREON 149 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF LAND DESCRIBED IN DEED TO CARL F. MOUNTS AND JANE H. MOUNTS, RECORDED NOVEMBER 8, 1950 IN BOOK 3853 PAGE 26 OF SAID OFFICIAL RECORDS; THENCE SOUTHERLY ALONG SAID WESTERLY LINE OF SAID EASTERLY HALF, A DISTANCE OF 20 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE WESTERLY PROLONGATION OF SAID NORTHERLY LINE OF KLEVEN'S LAND; THENCE EASTERLY ALONG SAID WESTERLY PROLONGATION 60 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THE WEST 30 FEET THEREOF.

Exhibit B

Schedule of Performance

Schedule is based on notional March and July CTCAC 9% LIHTC award

Notional March Application (2015 is used for illustrative purposes only)

Mar 2015	Application at TCAC for 9% LIHTC
June 2015	9% LIHTC award
Dec 2015	Commence construction
Mar 2017	Substantial completion
Spring 2017	Residential lease-up

Notional July Application (2015 is used for illustrative purposes only)

July 2015	Application at TCAC for 9% LIHTC
Sept 2015	9% LIHTC award
Apr 2016	Commence construction
Sept 2017	Substantial completion
Fall 2017	Residential lease-up

Exhibit C
Project Proforma

El Dorado Apartments - Phase I

OHDC/C&C Development

Version: Preliminary Analysis - 76 units

Page 1 of 9

Revised: 9/19/2014

SOURCES OF FUNDS

PERMANENT SOURCES

	Amount	Total Interest	Term (Yrs)	Comments
Conventional Perm Loan	\$1,751,630	6.50%	20	
City of San Marcos (New Loans)	\$6,005,772	0.25%	55	
City of San Marcos (El Dorado Principal)	\$592,148	0.25%	55	
City of San Marcos (Alley)	\$160,000	0.25%	55	
City of San Marcos (Sewer Upgrade)	\$800,000	0.25%	55	
Deferred Developer Fee	\$400,000			
General Partner Equity	\$100			
Limited Partner Equity	\$19,301,804			
TOTAL	\$29,011,454			
vs. TDC	\$29,011,454			
Financing Surplus/(Gap)	\$0			

Tax Credit Pricing: \$1.0200

CONSTRUCTION SOURCES

	Amount	Total Interest	Term (Mnts)	Comments
Conventional Construction Loan	\$16,240,877	2.81%	24	
City of San Marcos (New Loans)	\$6,005,772	0.25%	24	
City of San Marcos (El Dorado Principal)	\$592,148	0.25%	24	
City of San Marcos (Alley)	\$160,000	0.25%	24	
City of San Marcos (Sewer Upgrade)	\$800,000	0.25%	24	
Deferred Developer Fee	\$400,000			
General Partner Equity	\$100			
Limited Partner Equity	\$3,281,307			
Dev. Fee Deferred Until Completion	\$1,050,000			
Other Costs Deferred Until Completion	\$481,250			
TOTAL	\$29,011,454			
vs. TDC	\$29,011,454			
Financing Surplus/(Gap)	\$0			

17% of Total Equity.

Refer to Development Budget for Details.

El Dorado Apartments - Phase I

OHDC/CAC Development

Version: Preliminary Analysis - 76 units

Page 2 of 9

Revised: 9/19/2014

DEVELOPMENT BUDGET

						Tax Credit Eligible	
Item	Total Project Costs	Depreciable Residential	Non - Depreciable	Amortize	Expense	Acquisition Basis	Construction /Rehab Basis
ACQUISITION							
Land (Existing El Dorado Bldg)	\$761,030	\$0	\$761,030			\$0	
Land (Exc. Existing El Dorado Bldg)	\$4,981,458	\$0	\$4,981,458			\$0	
Clt. Owned Alley	\$160,000	\$0	\$160,000			\$0	
Demolition	\$319,677	\$0	\$319,677			\$0	
Legal: Acquisition	\$60,000	\$0	\$60,000			\$0	
Abatement	\$61,660	\$0	\$61,660			\$0	
Acquisition Closing Costs	\$30,833	\$0	\$30,833			\$0	
Subtotal Acquisition	\$6,374,958	\$0	\$6,374,958	\$0	\$0	\$0	\$0
CONSTRUCTION							
Residential Structures	\$7,581,000	\$7,581,000					\$7,581,000
Offsite Improvements	\$30,833	\$30,833					\$30,833
Abatement, Site Work	\$2,206,253	\$2,073,670	\$132,583				\$2,073,670
PV/Solar	\$174,800						\$174,800
VWD Sewer Upgrade	\$800,000	\$800,000					\$800,000
Furnishings Excluded From Contract	\$31,667	\$31,667					\$31,667
GC Gen. Requirements	\$164,991	\$164,991					\$164,991
GC Overhead	\$494,974	\$494,974					\$494,974
Contractor Profit	\$279,954	\$279,954					\$279,954
Construction Bonds Premium (Cash Bond)	\$465,500	\$465,500					\$465,500
Builder's Risk & Liability Insurance	\$175,000	\$175,000					\$175,000
Dry Utilities (SDG&E)	\$77,495	\$77,495					\$77,495
Security During Predevelopment/Construction	\$69,071	\$69,071					\$69,071
Temporary Services Paid by Owner	\$42,117	\$42,117					\$42,117
Construction Contingency (7.12%)	\$831,451	\$831,451					\$831,451
Subtotal Construction	\$14,028,106	\$13,892,823	\$132,583	\$0	\$0	\$0	\$13,892,823
SOFT COSTS							
Development Impact Fees	\$2,132,209	\$2,132,209					\$2,132,209
Gov't Fees, Clt: Permit & Plan Check Fees	\$205,042	\$205,042					\$205,042
Environmental Surveys	\$92,477	\$92,477					\$92,477
Appraisal & Market Study	\$31,667	\$31,667					\$31,667
Architectural Design & Supervision	\$544,667	\$544,667					\$544,667
Architect Reimbursable Expenses	\$27,233	\$27,233					\$27,233
Soils Engineer	\$72,833	\$72,833					\$72,833
Relocation	\$846,667	\$0	\$846,667			\$0	\$0
Clt Engineering/Survey/Mapping	\$275,500	\$275,500					\$275,500
Civil Engineering Reimbursable Expenses	\$15,438	\$15,438					\$15,438
Dry Utility Consultant	\$20,267	\$20,267					\$20,267
Specialty Inspection	\$25,000	\$25,000					\$25,000
Syndication Consultant	\$60,000	\$0	\$60,000			\$0	\$0
Legal: Borrower's	\$147,500	\$147,500					\$147,500
Legal: Permanent	\$20,000	\$0		\$20,000			\$0
Legal: Organization of Partnership	\$2,500	\$0		\$2,500			\$0
Legal: Syndication	\$30,000	\$0	\$30,000				\$0
City Fees	\$58,773	\$58,773					\$58,773
Title/Recording, Escrow - Acquisition	\$77,102	\$0	\$77,102				\$0
Title/Recording, Escrow - Construction	\$30,000	\$30,000					\$30,000
Construction Loan Interest	\$547,643	\$410,732			\$136,911		\$410,732
Marketing (lease-up, Advertisement, Setup)	\$50,000	\$0			\$50,000		\$0
Construction Lender Inspection	\$20,000	\$20,000					\$20,000
Insurance During Construction/Operations	\$52,417	\$39,313			\$13,104		\$39,313
Real Estate Taxes	\$370,000	\$277,500			\$92,500		\$277,500
TCAC App/Allocation - (Mont. Fee Below)	\$78,701	\$0		\$78,701			\$0
Soft Cost Contingency	\$214,997	\$214,997					\$214,997
Investor Due Diligence	\$54,000	\$0	\$54,000				\$0
Audit/Cost Certification	\$45,000	\$45,000					\$45,000
Occupancy Monitoring Fee	\$1,000	\$0			\$1,000		\$0
Developer Fee	\$1,800,000	\$1,400,000	\$400,000			\$0	\$1,400,000
Subtotal Soft Costs	\$7,948,628	\$6,086,148	\$1,467,768	\$101,201	\$293,515	\$0	\$6,086,148
COSTS DEFERRED UNTIL CONVERSION							
Title/Recording, Escrow - Permanent	\$20,000	\$0		\$20,000			\$0
Operating Reserve	\$229,500	\$0	\$229,500				\$0
TCAC Monitoring Fee	\$30,750	\$0		\$30,750			\$0
Capitalized CFD Reserve	\$200,000	\$0	\$200,000				\$0
Occupancy Monitoring Fee (Set up)	\$1,000	\$0		\$1,000			\$0
Subtotal Deferred Costs	\$481,250	\$0	\$429,500	\$51,750	\$0	\$0	\$0
FINANCING COSTS							
Constr. Lender Orig. Fees	\$121,807	\$121,807					\$121,807
Constr. Lender Expense	\$60,000	\$60,000					\$60,000
Subtotal Financing Costs	\$181,807	\$181,807	\$0	\$0	\$0	\$0	\$181,807
TOTAL DEVELOPMENT COST	\$29,011,454	\$20,160,478	\$8,404,810	\$152,951	\$293,515	\$0	\$20,160,478

El Dorado Apartments - Phase I

OHDC/C&C Development
Version: Preliminary Analysis - 76 units

Page 3 of 9
Revised: 5/18/2014

UNIT MIX & RENTAL INCOME (2014 Rents)

AVG. AFFORDABILITY (Restricted Unit 49%)

UNIT MIX SUMMARY	
1 Bdrm	20
2 Bdrm	8
3 Bdrm	28
Total	76

TOTAL TCAC AFFORDABILITY POINTS: 52

Restriction		30% AMI		10.67% Restricted		TCAC PTS: 17.00			
Unit Type	Program No. Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LIHTC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly Rents	TOTAL NET MON. RENTS	TOTAL ANN. NET RENTS
1 Bedroom	TCAC 2	500	1,000	30%	\$444	(\$31)	\$413	\$826	\$9,912
2 Bedroom	TCAC 3	800	2,400	30%	\$933	(\$40)	\$893	\$1,479	\$17,748
3 Bedroom	TCAC 3	1,050	3,150	30%	\$615	(\$48)	\$566	\$1,698	\$20,376
Subtotal		8	6,550				\$1,472	\$4,003	\$48,036
		Vacancy		5.00%	Effective Gross 30% AMI			\$3,803	\$45,634
Note:									

Note:

Restriction		40% AMI		20.00% Restricted		TCAC PTS: 15.00				
Unit Type	Program	No. Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LIHTC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly Rents	TOTAL NET MON. RENTS	TOTAL ANN. NET RENTS
1 Bedroom	TCAC	4	500	2,000	40%	\$592	(\$31)	\$561	\$2,244	\$26,928
2 Bedroom	TCAC	6	800	4,800	40%	\$711	(\$40)	\$671	\$4,026	\$48,312
3 Bedroom	TCAC	5	1,050	5,250	40%	\$821	(\$48)	\$772	\$3,860	\$46,320
Subtotal		15	12,050					\$2,004	\$10,130	\$121,560
			Vacancy		5.00%	Effective Gross 40% AMI:			\$9,624	\$115,482
Note:										

Note:

Restriction		50% AMI		40.00% Restricted		TOTAL PTS: 20.00			
Unit Type	Program No. Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LIHTC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly RENTS	TOTAL NET MON. RENTS	TOTAL ANN. NET RENTS
1 Bedroom	TCAC 8	500	4,000	50%	\$740	(\$31)	\$709	\$5,672	\$68,064
2 Bedroom	TCAC 11	800	8,800	50%	\$888	(\$40)	\$848	\$9,328	\$111,936
3 Bedroom	TCAC 11	1,050	11,550	50%	\$1,026	(\$48)	\$977	\$10,747	\$128,964
Subtotal		30	24,350				\$2,534	\$25,747	\$308,964
		Vacancy		5.00%	Effective Gross 50% AMI:			\$24,460	\$293,516
Note:									

Note:

Restriction		60% AMI		20.33% Restricted						
Unit Type	Program	No. Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LIHTC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly Rents	TOTAL NET MON. RENTS	TOTAL ANN. NET RENTS
1 Bedroom	TCAC	6	500	3,000	60%	\$888	(\$31)	\$857	\$5,142	\$61,704
2 Bedroom	TCAC	8	800	6,400	60%	\$1,066	(\$40)	\$1,026	\$8,208	\$98,496
3 Bedroom	TCAC	2	1,050	6,400	60%	\$1,231	(\$48)	\$1,182	\$9,456	\$113,472
Subtotal		22	17,800					\$3,065	\$22,806	\$273,672
		Vacancy		5.00%	Effective Gross 60% AMI:				\$21,666	\$259,988
Notes:										

Note:

Manager's Unit											
Unit Type	No. Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LIHTC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly Rents	TOTAL NET MON. RENTS	ANN. NET RENTS	TOTAL	
3 Bdrms	1	1,050	1,050	0%	\$0	\$0	\$0	\$0	\$0	\$0	
Subtotal	1		1,050				\$0	\$0	\$0	\$0	
		Vacancy		0.00% Effective Gross		0% AMI:		\$0	\$0	\$0	
TOTAL		76	61,800	Avg. Vacancy	5.00%	Effective Gross Rents		\$52,686	\$752,232	\$714,620	

Note:

MISCELLANEOUS INCOME		P/U/Month		MONTHLY	ANNUAL
Laundry			\$6.00	\$456	\$5,472
Subtotal				\$456	\$5,472
Vacancy Factor		5.00%	Eff. Gross Misc. Inc.	\$433	\$5,198

Total Units		Total SF (Residential)	TOTAL EFF. GROSS INCOME	MONTHLY	ANNUAL
TOTAL	76	61,800	(GROSS INCOME	\$63,142	\$757,704
			EFF. GROSS INCOME	\$59,985	\$719,819

El Dorado Apartments - Phase I

OHDC/C&C Development

Version: Preliminary Analysis - 76 units

Page 4 of 9

Revised: 9/19/2014

OPERATING EXPENSES**Income Summary**

	Vac. Factor	Residential
Gross Income		\$752,232
Miscellaneous Income		\$5,472
Vacancy	5.00%	(\$37,612)
Misc. Income Reduction	5.00%	(\$274)
Total Income		\$719,819

ANNUAL OPERATING EXPENSES**General Administrative**

	Total	Per Unit
Advertising		
Legal		
Accounting/Audit		
Security		
Office, phone, misc.		
Telephone/Fax/Cell/Internet		
Misc.		
Total Gen. Administrative		

Management Fee**Utilities**

Gas		
Electricity		
Water & Sewer		
Total Utilities		

Payroll/Payroll Taxes

On-site Manager		
Maintenance Personnel		
Payroll Taxes, Benefits		
Other		
Total Payroll/Payroll Taxes		

Insurance**Maintenance**

Painting/Decorating		
Repairs		
Trash Removal		
Exterminating		
Landscaping		
Supplies		
Other		
Total Maintenance		

TOTAL OPERATING EXPENSES**\$380,000****\$5,000****Taxes, Reserves, Services, Other**

Annual Loan Monitoring	\$4,560	\$60
Special Assessments	\$13,000	\$171
Replacement Reserves	\$19,000	\$250
CFD (Part 1 - 2%)	\$23,850	\$314
CFD (Part 2 - CPI)	\$66,349	\$873
Program Services	\$25,000	\$329
Total Other Costs	\$151,759	\$1,997

TOTAL ANNUAL OPER. EXPENSES**\$531,759****\$6,997**

El Dorado Apartments - Phase I

OHDC/C&C Development

Version: Preliminary Analysis - 76 units

Page 5 of 9

Revised: 9/19/2014

MORTGAGE CALCULATION**NET AVAILABLE INCOME**

\$188,060

FINANCIAL EXPENSES

Debt Service Coverage (Conventional Financing)

1.20

Net Available for Conventional Debt Service

156,717

Net Cash Flow

\$31,343

LOAN CONSTANT/IMPUTED TOTAL INTEREST COST

INTEREST RATE STACK	CONSTRUCTION	PERMANENT
	Conventional Construction Loan	Conventional Perm Loan
30 Day LIBOR/C10-Yr Interest Rate Sw	0.160%	6.000%
Spread	2.150%	0.000%
Cushion	0.500%	0.500%
Base Rate	2.810%	6.500%
Term (Months)	24	240
DSC		1.20
Total All-In Underwriting Rate	2.810%	6.500%
Amort (P&I)		2.44687763%
Loan Constant		8.9468776%
Imputed Total Interest Cost (TIC)	2.810%	6.500%

PERMANENT MORTGAGE

Loan Based on Debt Service Coverage (1.2 DSC)

\$1,751,633

Maximum Loan

\$1,751,633

El Dorado Apartments - Phase I

OHDC/C&C Development

Version: Preliminary Analysis - 76 units

Page 6 of 9

Revised:

9/19/2014

THRESHOLD BASIS LIMIT (2014)

BASIS LIMITS CALCULATIONS				9%
County: San Diego				Total Unadjusted Threshold
	Unit Basis Lim	# of Units		
1	\$207,582	20		\$4,151,640
2	\$250,400	28		\$7,011,200
3	\$320,512	28		\$8,974,336
Total:		76		\$20,137,176

(G) Plus (+) local development impact fees required to be paid to local government entities
Certification from local entities assessing fees also required.

\$2,132,209

Total Threshold Limit:

\$22,269,385

El Dorado Apartments - Phase I

OHDC/C&C Development
Version: Preliminary Analysis - 76 units

Page 7 of 9
Revised: 9/19/2014

TAX CREDIT CALCULATION

	Construction/ Rehabilitation	Acquisition	Total
Threshold Basis Limit	\$22,269,385	\$0	\$22,269,385
Total Eligible Basis	\$20,160,478	\$0	\$20,160,478
Deducted From Eligible Basis			
- Eligible Basis Voluntarily Excluded	(\$929,476)	\$0	(\$929,476)
Total Basis Reduction	(\$929,476)	\$0	(\$929,476)
Total Requested Unadjusted Eligible Basis	\$19,231,002	\$0	\$19,231,002

High Cost Area	Yes	130%	100%
Total Adjusted Eligible Basis		\$25,000,303	\$0
Applicable Fraction		100%	100%
Qualified Basis		\$25,000,303	\$0
Credit Rate	August-14	7.57%	0.00%

Total Annual Federal Credits	\$1,892,523	\$0	\$1,892,523
Total Federal Credits Over 10 Years	\$18,925,230	\$0	\$18,925,230

CONSTRUCTION/REHABILITATION CREDITS

Building #	Bldg ID	Total # LIHTC Units	LIHTC Unit %	Total Sq. Ft	LIHTC Sq. Ft	LIHTC Sq. Ft %	Total Sq. Ft %	Requested Eligible Basis	QCT/ DDA	LIHTC Applicable %	QUALIFIED BASIS	Credit Rate	Annual Credits
75		75	100%	60,750	60,750	100%	100%	\$19,231,002	130%	100%	\$25,000,303	7.57%	\$1,892,523
75		75		60,750	60,750			\$19,231,002			\$25,000,303		\$1,892,523

El Dorado Apartments - Phase I

OHDC/CAC Development

Version: Preliminary Analysis - 76 units

PROJECT SCHEDULES

MONTHLY PLACED IN SERVICE FOR QUALIFIED BUILDINGS

Bldg ID	Total Bldg Units	Total	Monthly Placed in Service												Total Units Weighted PIS Average
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
Bldg A1	75	75	0%	0%	0%	0%	100%	0%	0%	0%	0%	0%	0%	0%	75 66.67%

MONTHLY LEASE UP SCHEDULE FOR QUALIFIED UNITS

Bldg ID	PIS Date	Total Annual Credits	# LIHTC Units	Square Footage	Qualified Occup. Year	Monthly Lease Up Schedule												Total Units Leased	Actual Credits Earned
						Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
Bldg A1	5/31/2017	\$1,892,523	523	75	2017	0%	0%	0%	0%	0%	32%	33%	35%	0%	0%	0%	0%	75	\$942,056
				60,750	2017	0%	0%	0%	0%	0%	32%	33%	34%	0%	0%	0%	0%	60,750	
				75		-	-	-	-	-	24	25	26	-	-	-	-	35	\$942,056
				60,750		-	-	-	-	-	19,650	20,150	20,950	-	-	-	-	60,750	

OPERATING SCHEDULE

YEAR	Operating Schedule												Total Units Weighted PIS Average
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
2017	0%	0%	0%	0%	0%	32%	33%	35%	0%	0%	0%	0%	49.78%

FINANCING SCHEDULE

Event	Dates	Notes
CTCAC Application	March 5, 2015	
CTCAC Reservation	June 11, 2015	
Construction Closing	December 1, 2015	
Construction Start	December 1, 2015	
Construction Completion/PIS	May 31, 2017	
Lease-up Start	June 1, 2017	
100% Qualified Occupancy	August 31, 2017	
Permanent Conversion	December 1, 2017	
173 days from CTCAC Reservation		
18.00 Months from Construction Closing		
3.00 Month Lease-up period		
3.00 Month stabilization period		
24-03 Months from Construction Closing		

El Dorado Apartments - Phase I

OHIO/CSC Development

Version: Preliminary Analysis - 76 Units

Page 9 of 9
Revised: 5/21/2014

15 YEAR CASH FLOW ANALYSIS

	49.78% 0.00%														
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
INCOME ASSUMPTIONS															
Rent from Restricted Units	\$274,444	\$271,038	\$270,314	\$270,072	\$269,830	\$269,588	\$269,346	\$269,104	\$268,862	\$268,620	\$268,378	\$268,136	\$267,894	\$267,652	\$267,410
GROSS POTENTIAL INCOME - HOUSING	\$374,444	\$371,038	\$370,314	\$370,072	\$369,830	\$369,588	\$369,346	\$369,104	\$368,862	\$368,620	\$368,378	\$368,136	\$367,894	\$367,652	\$367,410
OTHER INCOME															
Miscellaneous Income	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724
GROSS POTENTIAL INCOME - OTHER	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724	\$2,724
GROSS POTENTIAL INCOME - TOTAL	\$377,168	\$373,762	\$373,038	\$372,796	\$372,554	\$372,312	\$372,070	\$371,828	\$371,586	\$371,344	\$371,102	\$370,860	\$370,618	\$370,376	\$370,134
VACANCY ASSUMPTIONS															
Restricted Units	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722
Miscellaneous Income	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722
TOTAL VACANCY LOSSES	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444	\$37,444
EFFECTIVE GROSS INCOME	\$339,724	\$336,318	\$335,594	\$335,352	\$335,110	\$334,868	\$334,626	\$334,384	\$334,142	\$333,900	\$333,658	\$333,416	\$333,174	\$332,932	\$332,690
OPERATING EXPENSES															
Annual Loan Monitoring	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722
Special Assessments	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722
CPD (Part 1 - 20%)	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722
CPD (Part 2 - 20%)	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722
Program Services	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722
NET OPERATING INCOME	\$321,002	\$317,596	\$316,872	\$316,630	\$316,388	\$316,146	\$315,904	\$315,662	\$315,420	\$315,178	\$314,936	\$314,694	\$314,452	\$314,210	\$313,968
RESERVE DEPOSITS	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722
Replacement Reserve	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722	\$18,722
AVAILABLE FOR DEBT SERVICE	\$302,280	\$298,874	\$298,150	\$297,908	\$297,666	\$297,424	\$297,182	\$296,940	\$296,698	\$296,456	\$296,214	\$295,972	\$295,730	\$295,488	\$295,246
DEBT SERVICE															
Conventional Term Loan	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638	\$4,751,638
Principal	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL DEBT SERVICE	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
NET CASH FLOW	\$302,280	\$298,874	\$298,150	\$297,908	\$297,666	\$297,424	\$297,182	\$296,940	\$296,698	\$296,456	\$296,214	\$295,972	\$295,730	\$295,488	\$295,246
DEBT SERVICE COVERAGE RATIO															
Capitalized CPDs	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470
20% of amount payable	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470
NET CASH FLOW DISTRIBUTION	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470	\$13,470
LP Management Fee	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
General Partner Management Fee	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Deferred Developer Fee Paid	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415	\$80,415
50% Residential Receipts	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120
City of San Marcos	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120	\$4,120
GP Incentive Management Fee (50%)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
General Partner (0.01%)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Limited Partner (99.99%)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

El Dorado Apartments - Phase I

OHDC/C&C Development

Version: Preliminary Analysis - 76 units

Page A

Revised:

9/19/2014

MISCELLANEOUS CALCULATIONS

Potential Non-Deferred Developer Fee Payment Schedule

	Amount	%
Closing	\$350,000	25%
100% Complete	\$350,000	25%
Perm Conversion	\$420,000	30%
8609 & 1st Year Tax Filing	\$280,000	20%
	<u>\$1,400,000</u>	<u>100%</u>

TCAC'S 2014 TIEBREAKER CALCULATION

Advantage to Projects with the highest sum of the following two ratios:

1st Ratio (Committed Perm Public Funds to Total Residential Cost)

City of San Marcos (New Loans) (for Resid. Costs)	\$6,005,772
City of San Marcos (El Dorado Principal) (for Resid. Costs)	\$592,148
City of San Marcos (Alley) (for Resid. Costs)	\$160,000
City of San Marcos (Sewer Upgrade)	\$800,000

Total Committed Public Funds (for Residential Costs) \$7,557,920

Adjustment to Total Committed Public Funds \$7,557,920

Total Residential Cost (Inc. Land Value/Exc. Syndication)* \$28,864,954

1st Ratio 26.1837

2nd Ratio - One (1) minus Ratio of Requested Unadjusted Eligible Basis to Total Residential Dev. Cost./3

Requested Unadjusted Eligible Basis	\$19,231,002
Total Residential Cost (Inc. Land Value/Exc. Syndication)*	\$28,864,954
Ratio	0.6662

Second Ratio: (One (1) Minus ratio)/3 11.1253

Combined Ratios 37.309

*** Syndication/Other Costs Excluded from TDC**

Legal: Organization of Partnership	\$2,500
Legal: Syndication	\$30,000
Syndication Consultant	\$60,000
Investor Due Diligence	\$54,000
Total Syndication Costs	<u>\$146,500</u>

El Dorado Apartments - Phase II

OHDC/C&C Development

Version: Preliminary Analysis - 44 units

Page 1 of 8

Revised: 9/19/2014

SOURCES OF FUNDS

PERMANENT SOURCES

	Amount	Total Interest	Term (Yrs)	Comments
Conventional Perm Loan				
City of San Marcos (Agency Loan I)	\$714,660	6.50%	18	
City of San Marcos (City Property)	\$3,530,827	3.00%	55	
Deferred Developer Fee	\$1,810,000	0.25%	55	
General Partner Equity	\$100,000			
Limited Partner Equity	\$100			
TOTAL	\$11,996,009			
	\$18,151,596			
vs. TDC	\$19,173,162			
Financing Surplus/(Gap)	(\$1,021,566)			

Tax Credit Pricing: \$1.0200

CONSTRUCTION SOURCES

	Amount	Total Interest	Term (Mnts)	Comments
Conventional Construction Loan				
City of San Marcos (Agency Loan I)	\$10,555,404	3.10%	24	
City of San Marcos (City Property)	\$3,530,827	3.00%	24	
Deferred Developer Fee	\$1,810,000	0.25%	24	
General Partner Equity	\$100,000	0.00%		
Limited Partner Equity	\$100	0.00%		
Dev. Fee Deferred Until Completion	\$1,799,401	0.00%		
Other Costs Deferred Until Completion	\$1,050,000			
TOTAL	\$327,430			
	\$19,173,162			
vs. TDC	\$19,173,162			
Financing Surplus/(Gap)	\$0			

15% of Total Equity.

Refer to Development Budget for Details.

140919_El Dorado_ Feasibility (44 Units, Commercial)_Lwr Sub.

El Dorado Apartments - Phase II

OHDC/CAC Development
Version: Preliminary Analysis - 44 units

Page 2 of 8
Revised: 9/19/2014

DEVELOPMENT BUDGET

Item	Total Project Costs	Total Residential Costs (93.7%)	Total Commercial Costs (6.3%)	Depreciable Residential	Depreciable Commercial	Non-Depreciable	Amortize	Expenses	Tax Credit Eligible	
									Acquisition Basis	Construction/Rehab Basis
ACQUISITION										
Land (Inc. Existing El Dorado Bldg)	\$2,961,948	\$2,808,223	\$153,725	\$0	\$0	\$2,961,948			\$0	
Land (CR, Property)	\$1,810,000	\$1,716,061	\$93,939	\$0	\$0	\$1,810,000			\$0	
Demolition	\$198,774	\$198,774	\$0	\$0	\$0	\$198,774			\$0	
Legal: Acquisition	\$60,000	\$60,000	\$0	\$0	\$0	\$60,000			\$0	
Abatement	\$38,340	\$38,340	\$1,990	\$0	\$0	\$38,340			\$0	
Acquisition Closing Costs	\$18,333	\$18,333	\$0	\$0	\$0	\$18,333			\$0	
Subtotal Acquisition	\$5,087,395	\$4,837,741	\$248,654	\$0	\$0	\$5,087,395	\$0	\$0	\$0	\$0
CONSTRUCTION										
Residential Structures	\$4,689,000	\$4,689,000	\$0	\$4,689,000	\$0					\$4,689,000
Retail Construction Costs	\$300,000	\$0	\$300,000	\$0	\$300,000					\$0
Retail Tenant Improvement	\$286,000	\$0	\$286,000	\$0	\$286,000					\$0
Offsite Improvements	\$18,333	\$18,333	\$0	\$18,333	\$0					\$18,333
Abatement, Site Work	\$1,277,304	\$1,277,304	\$0	\$1,194,867	\$0	\$82,437				\$1,194,867
PV/Solar	\$101,200	\$101,200	\$0	\$101,200	\$0					\$101,200
Furnishings Excluded From Contract	\$18,333	\$18,333	\$0	\$18,333	\$0					\$18,333
GC Gen. Requirements	\$101,241	\$92,751	\$8,490	\$92,751	\$8,490					\$92,751
GC O'erhead	\$309,723	\$278,253	\$31,470	\$278,253	\$31,470					\$278,253
Contractor Profit	\$539,953	\$494,673	\$45,280	\$494,673	\$45,280					\$494,673
Construction Bonds Premium (Cash Bond)	\$170,653	\$163,683	\$7,000	\$163,683	\$7,000					\$163,683
Builder's Risk & Liability Insurance	\$125,000	\$125,000	\$0	\$125,000	\$0					\$125,000
Dry Utilities (SDG&E)	\$44,865	\$44,865	\$0	\$44,865	\$0					\$44,865
Security During Predevelopment/Construction	\$39,989	\$39,989	\$0	\$39,989	\$0					\$39,989
Temporary Services Paid by Owner	\$24,383	\$24,383	\$0	\$24,383	\$0					\$24,383
Construction Contingency (7.12%)	\$547,836	\$547,836	\$0	\$547,836	\$0					\$547,836
Subtotal Construction	\$8,867,843	\$7,918,803	\$949,040	\$7,833,186	\$65,854	\$82,437	\$0	\$0	\$0	\$7,933,186
SOFT COSTS										
Development Impact Fees	\$1,234,436	\$1,019,436	\$215,000	\$1,019,436	\$215,000					\$1,019,436
Gov't Fees, City Permit & Plan Check Fees	\$127,468	\$102,802	\$24,666	\$102,802	\$24,666					\$102,802
Environmental Surveys	\$57,533	\$57,533	\$0	\$57,533	\$0					\$57,533
Appraisal & Market Study	\$18,333	\$18,333	\$0	\$18,333	\$0					\$18,333
Architectural Design & Supervision	\$315,333	\$297,990	\$17,343	\$297,990	\$17,343					\$297,990
Architect Reimbursable Expenses	\$15,767	\$15,767	\$0	\$15,767	\$0					\$15,767
Soil Engineer	\$42,167	\$42,167	\$0	\$42,167	\$0					\$42,167
Relocation	\$253,333	\$239,400	\$13,933	\$239,400	\$13,933					\$239,400
Civil Engineering/Survey/Mapping	\$119,167	\$119,167	\$0	\$119,167	\$0			\$253,333	\$0	\$0
Civil Engineering Reimbursable Expenses	\$8,938	\$8,938	\$0	\$8,938	\$0					\$8,938
Dry Utility Consultant	\$11,733	\$11,733	\$0	\$11,733	\$0					\$11,733
Structural Imp., Acoustical Study, Traffic Consult	\$9,167	\$8,663	\$504	\$8,663	\$504					\$8,663
Syndication Consultant	\$22,000	\$22,000	\$0	\$22,000	\$0			\$22,000		\$0
Legal: Borrower's	\$147,387	\$139,387	\$8,000	\$139,387	\$8,000					\$139,387
Legal: Permanent	\$20,000	\$20,000	\$0	\$20,000	\$0					\$20,000
Legal: Organization of Partnership	\$2,500	\$2,500	\$0	\$2,500	\$0			\$20,000		\$0
Legal: Syndication	\$30,000	\$30,000	\$0	\$30,000	\$0			\$2,500		\$0
City Fees	\$34,027	\$31,339	\$2,688	\$31,339	\$2,688			\$30,000		\$0
Title/Recording/Esrow - Acquisition	\$47,898	\$47,898	\$0	\$47,898	\$0					\$0
Title/Recording/Esrow - Construction	\$30,000	\$30,000	\$0	\$30,000	\$0					\$30,000
Construction Loan Interest	\$392,662	\$392,662	\$0	\$392,662	\$0					\$392,662
Marketing (lease-up, Advertisement, Setup)	\$50,000	\$50,000	\$0	\$50,000	\$0			\$50,000		\$0
Construction Lender Inspection	\$20,000	\$20,000	\$0	\$20,000	\$0					\$20,000
Insurance During Construction/Operations	\$32,563	\$30,791	\$1,772	\$30,791	\$1,772			\$8,146		\$22,645
Real Estate Taxes	\$230,000	\$217,330	\$12,670	\$217,330	\$12,670			\$57,500		\$162,830
TCAC App/Allocation - (1 mont. Fee Below)	\$50,048	\$50,048	\$0	\$50,048	\$0					\$50,048
Soft Cost Contingency	\$128,745	\$128,745	\$0	\$128,745	\$0			\$50,048		\$0
Investor Due Diligence	\$54,000	\$54,000	\$0	\$54,000	\$0					\$54,000
Audit/Cost Certification	\$45,000	\$42,525	\$2,475	\$42,525	\$2,475					\$42,525
Occupancy Monitoring Fee	\$1,000	\$1,000	\$0	\$1,000	\$0					\$1,000
Developer Fee	\$1,500,000	\$1,500,000	\$0	\$1,500,000	\$0					\$1,500,000
Subtotal Soft Costs	\$5,851,328	\$4,752,174	\$1,099,154	\$4,752,174	\$277,081	\$507,231	\$72,548	\$214,812	\$0	\$3,979,967
COSTS DEFERRED UNTIL CONVERSION										
Title/Recording/Esrow - Permanent	\$20,000	\$20,000	\$0	\$20,000	\$0			\$20,000		\$0
Operating Reserves	\$188,800	\$188,800	\$0	\$188,800	\$0					\$188,800
TCAC Monitoring Fee	\$17,630	\$17,630	\$0	\$17,630	\$0			\$17,630		\$0
Capitalized CFD Reserves	\$100,000	\$100,000	\$0	\$100,000	\$0			\$100,000		\$0
Occupancy Monitoring Fee (Set up)	\$1,000	\$1,000	\$0	\$1,000	\$0					\$1,000
Subtotal Deferred Costs	\$327,430	\$327,430	\$0	\$327,430	\$0	\$288,800	\$38,630	\$0	\$0	\$0
FINANCING COSTS										
Const. Lender Orig. Fees	\$79,166	\$79,166	\$0	\$79,166	\$0					\$79,166
Const. Lender Expense	\$80,000	\$80,000	\$0	\$80,000	\$0					\$80,000
Subtotal Financing Costs	\$159,166	\$159,166	\$0	\$159,166	\$0	\$0	\$0	\$0	\$0	\$159,166
TOTAL DEVELOPMENT COST	\$19,173,183	\$17,972,114	\$1,200,211	\$17,972,009	\$929,321	\$3,985,843	\$111,178	\$214,812	\$0	\$11,952,000

El Dorado Apartments - Phase II

OHBC/C&C Development

Version: Preliminary Analysis - 44 units

Page 3 of 8

Revised: 9/19/2014

UNIT MIX & RENTAL INCOME

AVG. AFFORDABILITY (Restricted Unit) 48%

UNIT MIX SUMMARY	
1 Bdrm	10
2 Bdrm	20
3 Bdrm	14
Total	44

TOTAL TCAC AFFORDABILITY POINTS: 52

Restriction		30% AMI		11.61% Restricted		TCAC PTS: 17.00				
Unit Type	Program	No. Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LHMC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly Rents	TOTAL NET MON. RENTS	ANN. NET RENTS
1 Bedroom	TCAC	1	500	500	30%	\$444	(\$31)	\$413	\$413	\$4,956
2 Bedroom	TCAC	2	800	1,600	30%	\$533	(\$40)	\$493	\$986	\$11,832
3 Bedroom	TCAC	2	1,050	2,100	30%	\$615	(\$49)	\$566	\$1,132	\$13,584
Subtotal		5		4,200				\$1,472	\$2,531	\$30,372
				Vacancy	7.00% effective Gross 30% AMI				\$2,354	\$28,246
Note:										

Note:

Restriction		40% AMI		20.93% Restrictd				TCAC PTS: 18.00		
Unit Type	Program No.	Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LHMC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly Rents	TOTAL NET MON. RENTS	TOTAL ANN. NET RENTS
1 Bedroom	TCAC	2	500	1,000	40%	\$592	(\$31)	\$561	\$1,122	\$13,464
2 Bedroom	TCAC	4	800	3,200	40%	\$711	(\$40)	\$671	\$2,684	\$32,208
3 Bedroom	TCAC	3	1,050	3,150	40%	\$821	(\$49)	\$772	\$2,316	\$27,792
Subtotal		9		7,350				\$2,504	\$6,122	\$73,464
				Vacancy	7.00% Effective Gross 40% AMI				\$5,693	\$68,322

Notes:

Note:

Restriction		50% AMI		41.86% Restricted			TCAC PTS: 20.00			
Unit Type	Program	No. Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LHMC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly Rents	TOTAL NET MON. RENTS	TOTAL ANN. NET RENTS
1 Bedroom	TCAC	4	500	2,000	50%	\$740	(\$31)	\$709	\$2,836	\$34,032
2 Bedroom	TCAC	8	800	6,400	50%	\$888	(\$40)	\$848	\$6,784	\$81,408
3 Bedroom	TCAC	6	1,050	6,300	50%	\$1,026	(\$49)	\$977	\$5,862	\$70,344
Subtotal		18	14,700					\$2,534	\$15,482	\$185,784
Vacancy					7.00%	Effective Gross 50% AMI			\$14,798	\$172,779

Note:

Restriction		60% AMI		25.57% Restricted					
Unit Type	Program No. Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LHCC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly Rents	TOTAL NET MON. RENTS	TOTAL ANN. NET RENTS
1 Bedroom	TCAC 3	500	1,500	60%	\$888	(\$31)	\$857	\$2,571	\$30,852
2 Bedroom	TCAC 5	800	4,000	60%	\$1,065	(\$40)	\$1,025	\$5,130	\$61,560
3 Bedroom	TCAC 3	1,050	3,150	60%	\$1,231	(\$49)	\$1,182	\$3,546	\$42,552
Subtotal	11		8,650				\$3,085	\$11,247	\$134,964
		Vacancy		7.00% Effective Gross 60% AMI				\$10,460	\$125,517
Note:									

Note:

Manager's Unit									
Unit Type	No. Units	Unit Sq. Ft.	Total Sq. Ft.	AMI Based on LHMC	Gross Monthly Rents	Monthly Utility Allowance	Net Monthly Rents	TOTAL NET MON. RENTS	TOTAL ANN. NET RENTS
2 Bdrms	1	800	800	0%	\$0	\$0	\$0	\$0	\$0
Subtotal	1	800					\$0	\$0	\$0
Vacancy		0.00% Effective Gross		0% AMI				\$0	\$0

Note:

TOTAL	44	35,700	Avg. Vacancy	7.00%	Gross Rents	\$35,382	\$424,584
					Effective Gross Rents	\$32,905	\$394,863

MISCELLANEOUS INCOME

	P/U/Month	MONTHLY	ANNUAL
Laundry	\$5.00	\$254	\$3,168
Subtotal		\$254	\$3,168
Vacancy Factor	7.00% Eff. Gross Misc. Inc.	\$245	\$2,946

COMMERCIAL INCOME

	Sq. Feet	Rent/ Sq. Ft.	Monthly Rent	Annual Rent	Vacancy Factor	Vacancy Amount	Net Annual Rents
Commercial Space	7,000	-	\$0	\$0		\$0	\$0
Average Vacancy:			\$0	\$0			\$0
TOTAL	44	35,700	TOTAL EFF. GROSS INCOME	MONTHLY	ANNUAL		
			GROSS INCOME	\$35,382	\$424,584		
			EFF. GROSS INCOME	\$32,905	\$394,863		

El Dorado Apartments - Phase II

OHDC/C&C Development

Version: Preliminary Analysis - 44 units

Page 4 of 8

Revised: 9/19/2014

OPERATING EXPENSES**Income Summary**

Vac. Factor

Residential

Gross Income		\$424,584
Miscellaneous Income		\$3,168
Vacancy	7.00%	(\$29,721)
Misc. Income Reduction	7.00%	(\$222)
Total Income		\$397,809

ANNUAL OPERATING EXPENSES**General Administrative**

Total

Per Unit

Advertising
Legal
Accounting/Audit
Security
Office, phone, misc.
Telephone/Fax/Cell/Internet
Misc.
Total Gen. Administrative

Management Fee**Utilities**

Gas
Electricity
Water & Sewer
Total Utilities

Payroll/Payroll Taxes

On-site Manager
Maintenance Personnel
Payroll Taxes, Benefits
Other
Total Payroll/Payroll Taxes

Insurance**Maintenance**

Painting/Decorating
Repairs
Trash Removal
Exterminating
Landscaping
Supplies
Other
Total Maintenance

TOTAL OPERATING EXPENSES**\$220,000****\$5,000****Taxes, Reserves, Services, Other**

Annual Loan Monitoring	\$2,640	\$60
Special Assessments	\$6,800	\$155
Replacement Reserves	\$11,000	\$250
CFD (Part 1 - 2%)	\$14,762	\$336
CFD (Part 2 - CPI)	\$40,915	\$930
Program Services	\$14,000	\$318
Total Other Costs	\$90,117	\$2,048

TOTAL ANNUAL OPER. EXPENSES**\$310,117****\$7,048**

El Dorado Apartments - Phase II

OHDC/C&C Development

Version: Preliminary Analysis - 44 units

Page 5 of 8

Revised: 9/19/2014

MORTGAGE CALCULATION**NET AVAILABLE INCOME**

\$87,692

FINANCIAL EXPENSES

Debt Service Coverage (Conventional Financing)

1.30

Net Available for Conventional Debt Service

67,456

Net Cash Flow

\$20,237

LOAN CONSTANT/IMPUTED TOTAL INTEREST COST

INTEREST RATE STACK	CONSTRUCTION	PERMANENT
	Conventional Construction Loan	Conventional Perm Loan
30 Day LIBOR/C10-Yr Interest Rate Swap	0.200%	6.000%
Spread	2.150%	0.000%
Cushion	0.750%	0.500%
Base Rate	3.100%	6.500%
Term (Months)	24	216
DSC		1.30
Total All-In Underwriting Rate	3.100%	6.500%
Amort (P&I)		2.93873544%
Loan Constant		9.4387354%
Imputed Total Interest Cost (TIC)	3.100%	6.500%

PERMANENT MORTGAGE

Loan Based on Debt Service Coverage (1.3 DSC)

\$714,660

Maximum Loan

\$714,660

El Dorado Apartments - Phase II

OHDC/C&C Development

Version: Preliminary Analysis - 44 units

Page 6 of 8

Revised:

9/19/2014

THRESHOLD BASIS LIMIT

BASIS LIMITS CALCULATIONS				9%
County: San Diego				Total Unadjusted Threshold
	Unit Basis Lim	# of Units		
1	\$207,582	10		\$2,075,820
2	\$250,400	20		\$5,008,000
3	\$320,512	14		\$4,487,168
Total:		44		\$11,570,988

(G) Plus (+) local development impact fees required to be paid to local government entities
Certification from local entities assessing fees also required.

\$1,019,436

Total Threshold Limit:

\$12,590,424

High Cost Test

Total Eligible Basis	\$ 11,952,007
Percentage of Adjusted Threshold Basis Limit	94.929% (Not a High Cost Project)

El Dorado Apartments - Phase II

OHDC/C&C Development

Version: Preliminary Analysis - 44 units

Page 7 of 8
Revised: 9/19/2014

TAX CREDIT CALCULATION

	Construction/ Rehabilitation	Acquisition	Total
Threshold Basis Limit	\$12,580,424	\$0	\$12,580,424
Total Eligible Basis	\$11,952,009	\$0	\$11,952,009
Deducted From Eligible Basis			
Total Basis Reduction	\$0	\$0	\$0
Total Requested Unadjusted Eligible Basis	\$11,952,009	\$0	\$11,952,009

High Cost Area	Yes	130%	100%
Total Adjusted Eligible Basis		\$15,537,612	\$0
Applicable Fraction		100%	100%
Qualified Basis		\$15,537,612	\$0
Credit Rate	August-14	7.57%	0.00%

Total Annual Federal Credits	\$1,176,197	\$0	\$1,176,197
Total Federal Credits Over 10 Years	\$11,761,970	\$0	\$11,761,970

CONSTRUCTION/REHABILITATION CREDITS

Building #	Bldg ID	Total # Units	Total # Units	LIMTC Unit %	LIMTC Sq. Ft	Total Sq. Ft	LIMTC Sq. Ft %	LIMTC Total Sq. Ft %	Requested Eligible Basis	QCT/ DDA	LIMTC Applicable %	QUALIFIED % BASIS	Credit Rate	Annual Credits
43	43	43	43	100%	34,900	34,900	100%	100%	\$11,952,009	130%	100%	\$15,537,612	7.57%	\$1,176,197
43	43	43	43	100%	34,900	34,900	100%	100%	\$11,952,009	130%	100%	\$15,537,612	7.57%	\$1,176,197

El Dorado Apartments - Phase II

OHDC/JAC Development

Version: Preliminary Analysis - 44 units

Page 6 of 8
Revised: 9/15/2014

15 YEAR CASH FLOW ANALYSIS

		15 YEAR CASH FLOW ANALYSIS																
		100.00% 100.00%																
		Year 1 Year 2 Year 3 Year 4 Year 5 Year 6 Year 7 Year 8 Year 9 Year 10 Year 11 Year 12 Year 13 Year 14 Year 15																
		2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034																
% Residential Operational in Year 1		100.00%																
% Debt Service, Year 1 & Year 2		100.00%																
INCOME ASSUMPTIONS																		
Rents from Restricted Units		\$614,584	\$635,199	\$646,079	\$657,231	\$668,661	\$680,378	\$692,387	\$704,697	\$717,314	\$730,247	\$743,503	\$757,091	\$771,018	\$785,294	\$799,926	\$814,913	\$830,261
GROSS POTENTIAL INCOME - HOUSING		\$614,584	\$635,199	\$646,079	\$657,231	\$668,661	\$680,378	\$692,387	\$704,697	\$717,314	\$730,247	\$743,503	\$757,091	\$771,018	\$785,294	\$799,926	\$814,913	\$830,261
OTHER INCOME		\$3,152	\$3,247	\$3,328	\$3,412	\$3,497	\$3,584	\$3,674	\$3,766	\$3,860	\$3,956	\$4,055	\$4,157	\$4,261	\$4,367	\$4,476	\$4,587	\$4,699
GROSS POTENTIAL INCOME - OTHER		\$3,152	\$3,247	\$3,328	\$3,412	\$3,497	\$3,584	\$3,674	\$3,766	\$3,860	\$3,956	\$4,055	\$4,157	\$4,261	\$4,367	\$4,476	\$4,587	\$4,699
GROSS POTENTIAL INCOME - TOTAL		\$617,736	\$638,446	\$649,407	\$660,643	\$672,158	\$683,962	\$696,061	\$708,463	\$721,174	\$734,203	\$747,558	\$761,248	\$775,279	\$789,661	\$804,402	\$819,500	\$834,960
VACANCY ASSUMPTIONS																		
Restricted Units		\$29,721	\$30,464	\$31,225	\$32,006	\$32,806	\$33,626	\$34,467	\$35,329	\$36,212	\$37,117	\$38,045	\$38,996	\$39,971	\$40,971	\$41,995	\$43,043	\$44,113
Miscellaneous Income		\$222	\$227	\$233	\$239	\$245	\$251	\$257	\$264	\$270	\$277	\$284	\$291	\$298	\$306	\$313	\$321	\$329
TOTAL VACANCY LOSS		\$29,943	\$30,691	\$31,458	\$32,245	\$33,051	\$33,877	\$34,724	\$35,593	\$36,482	\$37,394	\$38,329	\$39,287	\$40,270	\$41,278	\$42,308	\$43,354	\$44,413
EFFECTIVE GROSS INCOME		\$587,793	\$607,755	\$617,948	\$628,397	\$639,107	\$650,085	\$661,337	\$672,870	\$684,692	\$696,806	\$709,229	\$721,961	\$735,009	\$748,385	\$762,094	\$776,146	\$790,547
OPERATING EXPENSES																		
Residential Expenses		\$220,000	\$227,700	\$235,670	\$243,918	\$252,455	\$261,281	\$270,436	\$279,961	\$289,898	\$299,837	\$310,332	\$321,193	\$332,435	\$344,070	\$356,113	\$368,566	\$381,433
Annual Loan Amortization		\$6,840	\$7,006	\$7,174	\$7,344	\$7,516	\$7,690	\$7,866	\$8,044	\$8,224	\$8,406	\$8,590	\$8,776	\$8,964	\$9,154	\$9,346	\$9,540	\$9,736
Special Assessments		\$6,300	\$6,436	\$6,572	\$6,708	\$6,844	\$6,980	\$7,116	\$7,252	\$7,388	\$7,524	\$7,660	\$7,796	\$7,932	\$8,068	\$8,204	\$8,340	\$8,476
CPD (Part 1 - 2%)		\$14,762	\$15,057	\$15,352	\$15,647	\$15,942	\$16,237	\$16,532	\$16,827	\$17,122	\$17,417	\$17,712	\$18,007	\$18,302	\$18,597	\$18,892	\$19,187	\$19,482
CPD (Part 2 - 0%)		\$40,915	\$41,838	\$42,761	\$43,684	\$44,607	\$45,530	\$46,453	\$47,376	\$48,299	\$49,222	\$50,145	\$51,068	\$51,991	\$52,914	\$53,837	\$54,760	\$55,683
Program Services		\$14,000	\$14,400	\$14,800	\$15,200	\$15,600	\$16,000	\$16,400	\$16,800	\$17,200	\$17,600	\$18,000	\$18,400	\$18,800	\$19,200	\$19,600	\$20,000	\$20,400
TOTAL DEBT SERVICE		\$299,117	\$309,027	\$318,936	\$328,846	\$338,755	\$348,664	\$358,573	\$368,482	\$378,391	\$388,300	\$398,209	\$408,118	\$418,027	\$427,936	\$437,845	\$447,754	\$457,663
NET OPERATING INCOME		\$588,676	\$598,728	\$608,780	\$618,832	\$628,884	\$638,936	\$648,988	\$659,040	\$669,092	\$679,144	\$689,196	\$699,248	\$709,300	\$719,352	\$729,404	\$739,456	\$749,508
RESERVE DEPOSITS																		
Replacement Reserve		\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000
AVAILABLE FOR DEBT SERVICE		\$577,676	\$587,728	\$597,780	\$607,832	\$617,884	\$627,936	\$637,988	\$648,040	\$658,092	\$668,144	\$678,196	\$688,248	\$698,300	\$708,352	\$718,404	\$728,456	\$738,508
DEBT SERVICE																		
Conventional Term Loan		\$714,660																
Principal		\$21,639	\$22,088	\$22,537	\$22,986	\$23,435	\$23,884	\$24,333	\$24,782	\$25,231	\$25,680	\$26,129	\$26,578	\$27,027	\$27,476	\$27,925	\$28,374	\$28,823
Interest		\$15,916	\$16,365	\$16,814	\$17,263	\$17,712	\$18,161	\$18,610	\$19,059	\$19,508	\$19,957	\$20,406	\$20,855	\$21,304	\$21,753	\$22,202	\$22,651	\$23,100
TOTAL DEBT SERVICE		\$37,555	\$38,453	\$39,351	\$40,249	\$41,147	\$42,045	\$42,943	\$43,841	\$44,739	\$45,637	\$46,535	\$47,433	\$48,331	\$49,229	\$50,127	\$51,025	\$51,923
NET CASH FLOW		\$20,121	\$20,275	\$20,429	\$20,583	\$20,737	\$20,891	\$21,045	\$21,199	\$21,353	\$21,507	\$21,661	\$21,815	\$21,969	\$22,123	\$22,277	\$22,431	\$22,585
DEBT SERVICE COVERAGE RATIO		1.20	1.20	1.21	1.21	1.21	1.21	1.21	1.21	1.21	1.21	1.21	1.21	1.21	1.21	1.21	1.21	1.21
Capitalized CPD		\$16,703	\$17,059	\$17,415	\$17,771	\$18,127	\$18,483	\$18,839	\$19,195	\$19,551	\$19,907	\$20,263	\$20,619	\$20,975	\$21,331	\$21,687	\$22,043	\$22,399
NET CASH FLOW DISTRIBUTION																		
LP Management Fee		\$5,000	\$5,150	\$5,300	\$5,450	\$5,600	\$5,750	\$5,900	\$6,050	\$6,200	\$6,350	\$6,500	\$6,650	\$6,800	\$6,950	\$7,100	\$7,250	\$7,400
General Partner Management Fee		\$20,000	\$20,500	\$21,000	\$21,500	\$22,000	\$22,500	\$23,000	\$23,500	\$24,000	\$24,500	\$25,000	\$25,500	\$26,000	\$26,500	\$27,000	\$27,500	\$28,000
Deferred Developer Fee Paid		\$11,941	\$11,821	\$11,701	\$11,581	\$11,461	\$11,341	\$11,221	\$11,101	\$10,981	\$10,861	\$10,741	\$10,621	\$10,501	\$10,381	\$10,261	\$10,141	\$10,021
50% Residential Reconciliation		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
City of San Marcos		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
CP Incentive Management Fee (0.01%)		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
General Partner (0.01 %)		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Limited Partner (99.99 %)		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

El Dorado Apartments - Phase II

OHDC/C&C Development

Version: Preliminary Analysis - 44 units

Page A

Revised: 9/19/2014

MISCELLANEOUS CALCULATIONS

Potential Non-Deferred Developer Fee Payment Schedule

	Amount	%
Closing	\$350,000	25%
100% Complete	\$350,000	25%
Perm Conversion	\$350,000	25%
8609	\$350,000	25%
	<u>\$1,400,000</u>	100%

TCAC'S 2014 TIEBREAKER CALCULATION

Advantage to Projects with the highest sum of the following two ratios:

1st Ratio (Committed Perm Public Funds to Total Residential Cost)

City of San Marcos (Agency Loan I) (for Resid. Costs)	\$3,308,541
City of San Marcos (City Property) (for Resid. Costs)	\$1,696,050
Total Committed Public Funds (for Residential Costs)	<u>\$5,004,591</u>
Adjustment to Total Committed Public Funds	<u>\$5,004,591</u>

Total Residential Cost (Inc. Land Value/Exc. Syndication)* \$17,863,613

1st Ratio 28.0156

2nd Ratio - One (1) minus Ratio of Requested Unadjusted Eligible Basis to Total Residential Dev. Cost./3

Requested Unadjusted Eligible Basis	\$11,952,007
Total Residential Cost (Inc. Land Value/Exc. Syndication)*	\$17,863,613
Ratio	0.6691

Second Ratio: (One (1) Minus ratio)/3 11.0310

Combined Ratios 39.047

*** Syndication/Other Costs Excluded from TDC**

Legal: Organization of Partnership	\$2,500
Legal: Syndication	\$30,000
Syndication Consultant	\$22,000
Investor Due Diligence	\$54,000
Total Syndication Costs	<u>\$108,500</u>