



**CITY OF HUNTINGTON BEACH
SUPPLEMENTAL COMMUNICATION**

TO: Honorable Mayor and City Councilmembers

FROM: Ursula Luna-Reynosa, Community Development Director
Kellee Fritzel, Deputy Director of Economic Development

DATE: 11/01/2019

SUBJECT: SUPPLEMENTAL COMMUNICATION FOR ADMINISTRATIVE ITEM NO. 18 (19-1024) –
ACQUISITION LOAN AGREEMENT FOR 18431 BEACH BOULEVARD, ON THE
NOVEMBER 4, 2019 CITY COUNCIL/PFA REGULAR AND HOUSING AUTHORITY
SPECIAL MEETING AGENDA

Please find attached the draft Acquisition Loan Agreement for 18431 Beach Boulevard with Exhibits 1-12 for Administrative Item No. 18 (19-1024). Recommended City Council and Housing Authority Action A) is revised to reflect the correct listing of Agreement participants:

- A) Direct the City Manager/Executive Director and City Attorney/Authority Counsel to finalize the draft Acquisition Loan Agreement (18431 Beach Boulevard) by and among the Huntington Beach Housing Authority, City of Huntington Beach, and Beach Housing Partners LP; and,

Recommended City Council and Housing Authority Actions B) and C) remain unchanged.

Att. Draft Acquisition Loan Agreement w/Exhibits 1-12

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 11-04-2019

Agenda Item No.: #18(19-1024)

DRAFT

**ACQUISITION LOAN AGREEMENT
(18431 Beach Boulevard)**

by and among

**HUNTINGTON BEACH HOUSING AUTHORITY,
Authority,**

and

**CITY OF HUNTINGTON BEACH,
City,**

and

**BEACH HOUSING PARTNERS LP,
Borrower.**

ATTACHMENTS

ATTACHMENT NO. 1	-	SITE MAP
ATTACHMENT NO. 2	-	LEGAL DESCRIPTION
ATTACHMENT NO. 3	-	AGREEMENT CONTAINING COVENANTS
ATTACHMENT NO. 4	-	AUTHORITY LMIHAF LOAN NOTE
ATTACHMENT NO. 5	-	AUTHORITY LMIHAF LOAN DEED OF TRUST
ATTACHMENT NO. 6	-	AUTHORITY ASSIGNMENT OF AGREEMENTS
ATTACHMENT NO. 7	-	CITY INCLUSIONARY LOAN NOTE
ATTACHMENT NO. 8	-	CITY INCLUSIONARY LOAN DEED OF TRUST
ATTACHMENT NO. 9	-	CITY ASSIGNMENT OF AGREEMENTS
ATTACHMENT NO. 10	-	ENVIRONMENTAL INDEMNITY
ATTACHMENT NO. 11	-	OPTION AGREEMENT
ATTACHMENT NO. 12	-	MEMORANDUM OF OPTION

ACQUISITION LOAN AGREEMENT

THIS ACQUISITION LOAN AGREEMENT (“Agreement”) is entered into as of _____, 2019 (“Effective Date”) by and among the City of Huntington Beach, a municipal corporation of the State of California (“City”), the Huntington Beach Housing Authority, a public body corporate and politic (“Authority”), and Beach Housing Partners LP, a California limited partnership (“Borrower”). City, Authority and Borrower agree as follows:

PART 1. SUBJECT OF AGREEMENT

SECTION 1.1 Purpose of the Agreement

The purpose of this Agreement is to increase affordable housing in the City by providing financing for Borrower’s acquisition of the hereinafter defined Property, which, conditioned upon and subject to, among other things compliance with any subsequent environmental review and receipt of any all necessary and required entitlements and project approvals, will be developed and operated with forty-three (43) units of rental housing, forty-two (42) of which shall be affordable to Very Low Income Households and Extremely Low Income Households at an Affordable Rent and one (1) manager’s unit (“Project”). The acquisition of the Property pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws and requirements. Pursuant to this Agreement, the Authority and City will each make a loan to Borrower to pay the cost of acquiring the Property for the uses described above. This Agreement is in furtherance of the public purposes set forth in the Housing Authorities Law, Sections 34200 *et seq.* of the California Health and Safety Code and the Community Redevelopment Law of the State of California, Sections 33000 *et seq.* of the California Health and Safety Code.

SECTION 1.2 Definitions

For purposes of this Agreement, the following capitalized terms shall have the following meanings:

“Acquisition Costs” shall mean the total cost of acquiring the Property in conformance with the terms and conditions of this Agreement, in an amount approved by the Executive Director and the City Manager, including closing and escrow costs and the cost of the Title Insurance Policies.

“Affordable Housing Agreement” shall mean an Affordable Housing Agreement to be negotiated by the Authority, City and Borrower pursuant to which the City and Authority may agree that all or part of the City Loan and Authority Loan, respectively, would convert to construction and permanent financing for the Project, Borrower would agree to develop, construct,

and operate the Project and rent the Extremely Low Income Units and Very Low Income Units to Extremely Low Income Households and Very Low Income Households at an Affordable Rent, Authority, City and Borrower would agree to terms and conditions regarding the remaining financing for the development, construction, and operation of the Project, all on terms and conditions which may be negotiated and included in the Affordable Housing Agreement, as set forth in more detail in this Agreement.

“Affordable Rent” shall mean rental rates not to exceed the following:

- 1) In the case of an Extremely Low Income Unit, the product of 30 percent times 30 percent of the Area Median Income adjusted for family size appropriate for the unit.
- 2) In the case of a Very Low Income Unit shall not exceed the product of 30 percent times 50 percent of the Area Median Income adjusted for family size appropriate to the unit.

For purposes of determining Affordable Rent, household size appropriate to the unit shall mean two persons in the case of a 1-bedroom unit and three persons in the case of a 2-bedroom unit. Affordable Rent shall include a reasonable utility allowance for tenant-paid utilities based on the Orange County Housing Authority’s published utility schedules.

“Affordable Unit” shall mean one of the proposed forty-two (42) rental dwelling units in the Project restricted to occupancy by Very Low Income Households and Extremely Low Income Households at an Affordable Rent. The term “Affordable Unit” and “Affordable Units” shall be used as the context mandates and shall be reasonably interpreted in light of the context in which the term appears.

“Agreement” or any reference to this “Agreement” shall mean this Acquisition Loan Agreement executed by and among Authority, City and Borrower, including all exhibits attached hereto, which exhibits are incorporated herein by this reference and all other documents incorporated herein by reference.

“Agreement Containing Covenants” shall mean the Agreement Containing Covenants (Including Rental Restrictions) to be recorded upon the Close of Escrow, substantially in the form attached to this Agreement as ATTACHMENT No. 3. If an Affordable Housing Agreement is successfully negotiated and entered into, it is anticipated that the Agreement Containing Covenants would be replaced and superseded by a new Agreement Containing Covenants setting forth the Affordable Rents to be charged for the Affordable Units, which would be recorded at the Construction Financing Event for the Project. The Agreement Containing Covenants shall unconditionally be and at all times remain prior and superior to any lien recorded against the Property including, without limitation, any lien created by the Authority Loan or the City Loan or by the Option Agreement.

“Approved Title Conditions” shall mean title that is subject to current property taxes and assessments, easements and other encumbrances specifically approved by the Executive Director and the City Manager.

“Area Median Income” shall mean the area median income of the Orange County metropolitan statistical area (PMSA), with adjustments for household size, as estimated annually by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937 as amended and published by California’s Housing and Community Development Department pursuant to Health and Safety Code Section 50093.

“Authority” shall mean the Huntington Beach Housing Authority and any assignee of or successor to its rights, powers and responsibilities.

“Authority Assignment of Agreements” shall mean a document substantially in the form attached to this Agreement as ATTACHMENT No. 6, which is incorporated herein by this reference.

“Authority Instruments” shall mean and include this Agreement, the Agreement Containing Covenants, the Environmental Indemnity, the Option Agreement, the Memorandum of Option, and the Authority Loan Documents.

“Authority LMIHAF Loan” or “Authority Loan” shall mean the acquisition loan from the Authority to Borrower, in the original principal amount of Nine Hundred Thousand Dollars (\$900,000) from the Authority’s Low and Moderate Income Housing Asset Fund and pursuant to the terms and conditions described in this Agreement, secured by the Authority LMIHAF Loan Deed of Trust and the other Authority Loan Documents and having a lien on the Property that is first in priority over any other loans.

“Authority LMIHAF Loan Deed of Trust” shall mean the Deed of Trust with Assignment of Rents, in which Borrower is the Trustor and Authority is the Beneficiary, which secures the Authority LMIHAF Loan, substantially in the form attached to this Agreement as ATTACHMENT No. 5, which is incorporated herein by this reference. If an Affordable Housing Agreement is successfully negotiated and entered into, it is anticipated that the Authority LMIHAF Loan Deed of Trust may be replaced and superseded by a new Authority LMIHAF Loan Deed of Trust, which would be recorded at the Construction Financing Event for the Project.

“Authority LMIHAF Loan Note” shall mean the Promissory Note, evidencing the Authority LMIHAF Loan, substantially in the form attached to this Agreement as ATTACHMENT No. 4, which is incorporated herein by this reference. If an Affordable Housing Agreement is successfully negotiated and entered into, it is anticipated that the Authority LMIHAF Loan Note may be replaced and superseded by a new Authority LMIHAF Loan Note, which would be recorded at the Construction Financing Event for the Project.

“Authority Loan Documents” shall mean the instruments relating to the Authority Loan, including: the Authority LMIHAF Loan Promissory Note; the Authority LMIHAF Loan Deed of Trust; and the Authority Assignment of Agreements, each in a form that is reasonably acceptable to the Executive Director. The Authority Loan Documents do not include the Agreement Containing Covenants, Option Agreement, Memorandum of Option, or the Environmental Indemnity.

“City” shall mean the City of Huntington Beach, California and any assignee of or successor to its rights, powers and responsibilities.

“City Inclusionary Loan” or “City Loan” shall mean the acquisition loan from the City to Borrower, in the original principal amount of Two Million One Hundred Thousand Dollars (\$2,100,000) of Affordable Housing Trust Funds and pursuant to the terms and conditions described in this Agreement, secured by the City Inclusionary Loan Deed of Trust and the other City Loan Documents and having a lien on the Property that is second in priority over any other loans.

“City Inclusionary Loan Deed of Trust” shall mean the Deed of Trust with Assignment of Rents, in which Borrower is the Trustor and City is the Beneficiary, which secures the City Inclusionary Loan, substantially in the form attached to this Agreement as ATTACHMENT No. 8, which is incorporated herein by this reference. If an Affordable Housing Agreement is successfully negotiated and entered into, it is anticipated that the City Inclusionary Loan Deed of Trust may be replaced and superseded by a new City Inclusionary Loan Deed of Trust, which would be recorded at the Construction Financing Event for the Project.

“City Inclusionary Loan Note” shall mean the Promissory Note, evidencing the City Inclusionary Loan, substantially in the form attached to this Agreement as ATTACHMENT No. 7, which is incorporated herein by this reference. If an Affordable Housing Agreement is successfully negotiated and entered into, it is anticipated that the City Inclusionary Loan Note may be replaced and superseded by a new City Inclusionary Loan Note, which would be recorded at the Construction Financing Event for the Project.

“City Instruments” shall mean and include this Agreement, the Agreement Containing Covenants, the Option Agreement, the Environmental Indemnity, the Memorandum of Option, and the City Loan Documents.

“City Loan Documents” shall mean the instruments relating to the City Loan, including: the City Inclusionary Loan Promissory Note; the City Inclusionary Loan Deed of Trust; and the City Assignment of Agreements, each in a form that is reasonably acceptable to the City Manager. The City Loan Documents do not include the Agreement Containing Covenants, Option Agreement, Memorandum of Option, or the Environmental Indemnity.

“City Manager” shall mean the individual duly appointed to the position of City Manager of the City, or authorized designee.

“Close of Escrow” shall mean the point in time when all conditions precedent to the funding of the Authority Loan and City Loan have been satisfied as set forth herein.

“Construction Financing Event” shall mean the point in time when all of the following events have occurred or have been satisfied as determined by the City Manager and Executive Director:

- (i) Borrower shall have complied with all applicable provisions of federal, state and local laws pertaining to the Project, including the obligation to comply with environmental laws, including but not limited to the applicable requirements of CEQA;
- (ii) Borrower, Authority and City have negotiated and approved an Affordable Housing Agreement and Borrower has executed the Affordable Housing Agreement and any attachments thereto which require execution and any such attachments which require recordation have been duly recorded in the Official Records of the Orange County Recorder’s Office;
- (iii) Borrower has prepared and submitted a reasonably detailed scope of development for the Project as an attachment to the Affordable Housing Agreement for approval by the Authority and City which is consistent with the terms of this Agreement and contains the Extremely Low Income Units and the Very Low Income Units as set forth herein;
- (iv) Borrower has prepared and submitted a reasonably detailed project budget for the Project as an attachment to the Affordable Housing Agreement for approval by the Authority and City, which indicate the items for which payment will be sought, the anticipated cost of each item, the proposed source of funding and a proposed payment schedule. Line item estimates of costs shall be backed up by documentation, including appraisals and construction cost estimates, as may reasonably be required by the Authority or City;
- (v) Borrower has prepared and submitted a reasonably detailed method of financing for the Project as an attachment to the Affordable Housing Agreement for approval by the Authority and City, setting forth the financing for the Project;
- (vi) Borrower has executed any promissory notes, deeds of trust and/or other instruments as are customary and appropriate to the Authority and City approved funding mechanisms set forth in the approved method of financing for the Project all in a form that is acceptable to the City Manager and Executive Director and any such instruments which require recordation have been duly recorded in the Official Records of the Orange County Recorder’s Office;
- (vii) Borrower has submitted for approval by the Authority and City evidence of financing, including without limitation bond, grant or loan documents, consistent with the approved Project scope of development, approved Project budget, and approved method of financing sufficient to completely finance the development, construction and operation of the Project, including the financing required to convert from the construction to the permanent phase of the Project;

- (viii) Borrower has prepared and submitted a reasonably detailed schedule of performance for the Project as an attachment to the Affordable Housing Agreement for approval by the Authority and City providing for the timely commencement and completion of construction of the Project;
- (ix) Borrower has prepared and submitted for Authority and City review and approval all corporate and partnership or limited liability formation documents for any entity to be formed by the Borrower for the performance of the Project and its constituent general partners or members, certificates of good standing and/or other evidence of current authority for all such entities to conduct business within the State of California, agreements with tax credit investors (if any), and express consents and resolutions consenting to this transaction, as the Authority or City may determine to be applicable;
- (x) Borrower has obtained and provided evidence to the Authority and City of all policies of insurance in the form and in the amounts required by the Affordable Housing Agreement;
- (xi) Borrower has submitted evidence that the final working drawings for the Project have been approved by the City in connection with the permitting and project approvals of the Project;
- (xii) Borrower has submitted a copy of the fully executed general construction contract with a licensed general contractor, covering all construction work required by the Affordable Housing Agreement and the approved final working drawings;
- (xiii) Borrower has submitted evidence satisfactory to the City Manager and Executive Director the Borrower has satisfied all conditions precedent to the issuance of all permits and entitlements necessary for the Project, other than payment of fees (for which funds have been budgeted in the project budget);
- (xiv) Borrower has submitted for approval by the Authority and City and the Authority and City have approved a maintenance program, including the maintenance budget as is intended to be set forth in the Affordable Housing Agreement;
- (xv) Borrower has submitted for approval by the Authority and City and the Authority and City have approved an annual project budget for the first year of operation of the Project as is intended to be set forth in the Affordable Housing Agreement;
- (xvi) Borrower has submitted for approval by the Authority and City and the Authority and City have approved a management plan as is intended to be set forth in the Affordable Housing Agreement;
- (xvii) Borrower has submitted for approval by the Authority and City and the Authority and City have approved a binding commitment for the permanent loan for the Project;
- (xviii) The Authority and City have approved any limited partnership agreement and guaranty and reserve Agreements, as applicable; and
- (xix) Borrower has satisfied any other requirements for the Construction Financing Event as may be set forth in the Affordable Housing Agreement.

“Environmental Indemnity” shall mean an instrument substantially in the form attached to this Agreement as ATTACHMENT No. 10.

“Escrow” shall mean that certain escrow with Escrow Agent, which has been established to convey the Property from the Seller to Buyer, or another escrow mutually acceptable to Authority, City and Borrower.

“Escrow Agent” shall mean First American Title Insurance Company, or another escrow agent mutually acceptable to Authority, City and Borrower.

“Executive Director” shall mean the individual duly appointed to the position of Executive Director of the Authority, or authorized designee.

“Extremely Low Income Household” shall mean persons and families whose income does not exceed the income limits for Extremely Low Income households in Orange County, published approximately annually by California’s Housing and Community Development Department. If California’s Housing and Community Development Department discontinues publishing such income limits, the term “Extremely Low Income” shall mean a household income that does not exceed 30% of the Area Median Income, adjusted for family size.

“Extremely Low Income Unit” shall mean one of the thirty-three (33) one bedroom Affordable Units that are reserved for occupancy by Extremely Low Income Households at an Affordable Rent.

“Force Majeure” or “Force Majeure Event” shall mean the following events, provided that they actually delay and interfere with the timely performance of the matter to which it would apply and despite the exercise of diligence and good business practices are or would be beyond the reasonable control of the party claiming such interference: war; insurrection; strikes; lock-outs; 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; unusually severe weather; inability to secure necessary labor, materials or tools, provided that such inability is not caused by the party claiming a Force Majeure Delay; acts of any other party; or any other causes which despite the exercise of diligence and good business practices are or would be beyond the reasonable control of the party claiming such delay and interference; provided, however, that the parties agree that delay in obtaining, or the failure to obtain, construction financing, permanent financing, or project approvals or entitlements for the Project shall not excuse performance of Borrower hereunder). Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Event unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any party claiming a Force Majeure Delay shall deliver such written notice within ten (10) business days after it obtains actual knowledge of the event.

“Force Majeure Delay” shall mean any delay in taking any action required by this Agreement, proximately caused by the occurrence of any Force Majeure Event.

“Grant Deed” shall mean that certain Grant Deed that conveys the Property from the current owner, the Seller, to Borrower.

“Hazardous Substances” shall have the meaning set forth in the Environmental Indemnity.

“Legal Description” shall mean the legal description of the Property attached to this Agreement as ATTACHMENT No. 2 which is incorporated herein by this reference.

“Option Agreement” shall mean the Option Agreement and Joint Escrow Instructions, substantially in the form attached to this Agreement as ATTACHMENT No. 11, which is incorporated herein by this reference. The Option Agreement shall unconditionally be and at all times remain prior and superior to any lien created by the Authority Loan or the City Loan.

“Memorandum of Option” shall mean the Memorandum of Option, substantially in the form attached to this Agreement as ATTACHMENT No. 12, which is incorporated herein by this reference.

“Person” means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company or other entity, domestic or foreign.

“Property” shall mean that certain real property located in the City of Huntington Beach, County of Orange, State of California, commonly known as 18431 Beach Boulevard, Huntington Beach, California, legally described in the legal description attached to this Agreement as ATTACHMENT NO. 2, which is incorporated herein by this reference.

“Seller” shall mean Five Points Plaza LLC, a California limited liability company.

“Site Map” means the document which is attached to this Agreement as ATTACHMENT No. 1 which is incorporated herein by this reference.

“Title Company” shall mean First American Title Insurance Company, or another title insurance company mutually acceptable to Authority and Borrower.

“Title Insurance Policies” shall mean and include the following ALTA extended coverage policies of title insurance issued by the Title Company, subject to the Approved Title Conditions:

- a. A lender’s policy or policies of title insurance in favor of Authority, together with such endorsements as Authority may reasonably require, insuring the lien of the Authority LMIHAF Loan Deed of Trust, in the amount of the Authority Loan (the “Authority’s Title Policy”);

- b. A lender's policy or policies of title insurance in favor of City, together with such endorsements as City may reasonably require, insuring the lien of the City Inclusionary Loan Deed of Trust, in the amount of the City Loan (the "City's Title Policy"); and
- c. An owner's policy or policies of title insurance in favor of Borrower, together with such endorsements as Borrower may reasonably require, insuring Borrower's fee simple interest in the Property, in such amount as Borrower may reasonably require (the "Borrower's Title Policy").

"Very Low Income Household" shall mean persons and families whose income does not exceed the income limits for Very Low Income households in Orange County, published approximately annually by California's Housing and Community Development Department. If California's Housing and Community Development Department discontinues publishing such income limits, the term "Very Low Income" shall mean a household income that does not exceed 50% of the Area Median Income, adjusted for family size.

"Very Low Income Unit" shall mean one of the six (6) one bedroom and three (3) two-bedroom Affordable Units that are reserved for occupancy by Very Low Income Households at an Affordable Rent.

SECTION 1.3 The Property

The "Property" is that property in the City of Huntington Beach, which will be acquired by Borrower, as illustrated on the "Site Map" (attached hereto as ATTACHMENT No. 1) and as described in the "Legal Description of the Property" (attached hereto as ATTACHMENT No. 2).

SECTION 1.4 Authority

a. Authority is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Housing Authorities Law of the State of California.

b. The address of the Authority for purposes of receiving notices pursuant to this Agreement shall is:

Huntington Beach Housing Authority
2000 Main Street
Huntington Beach, CA 92648
Attn: Executive Director

With a copy to: City Attorney's Office
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

c. "Authority" as used in this Agreement includes the Huntington Beach Housing Authority and any assignee or successor to its rights, powers and responsibilities.

SECTION 1.5 City

a. City is a municipal corporation of the state of California.

b. The address of the City for purposes of receiving notices pursuant to this Agreement shall is:

The City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

With a copy to: City Attorney's Office
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648.

c. "City" as used in this Agreement includes the City of Huntington Beach and any assignee or successor to its rights, powers and responsibilities.

SECTION 1.6 Borrower

a. Borrower is Beach Housing Partners LP, a California limited partnership. The address of Borrower for the purpose of receiving notices pursuant to this Agreement is:

Beach Housing Partners LP
c/o Jamboree Housing Corporation
17701 Cowan, Suite 200
Irvine, CA 92614
Attention: Michael Massie, Chief Development Officer

With a copy to:

Rutan & Tucker, LLP
Attn: Patrick D. McCalla, Esq.
611 Anton Boulevard, 14th Floor
Costa Mesa, California 92626

b. Whenever the term “Borrower” is used herein, such term shall mean and include: (1) the Borrower as of the date hereof; and (2) any assignee of or successor to its rights, powers and responsibilities approved by the Authority and City in accordance with this Agreement.

SECTION 1.7 Assignments and Transfers

a. The qualifications and identity of the Borrower are of particular concern to the City and the Authority. It is because of those qualifications and identity that the Authority and City have entered into this Agreement with the Borrower. No voluntary or involuntary successor in interest of the Borrower shall acquire any rights or powers under this Agreement except as expressly set forth herein.

b. The Borrower shall not assign all or any part of this Agreement without the prior written approval of the Authority and City. Any such change (or assignment of this Agreement in connection therewith) shall be by instruments satisfactory to the Executive Director and City Manager, and be subject to the approval by the Executive Director and City Manager of evidence of the proposed assignee’s qualifications to meet the obligations of the Borrower under this Agreement.

c. For the reasons cited above, the Borrower represents and agrees for itself and any successor in interest that without the prior written approval of the Authority and City, there shall be no cumulative change in ownership interest of any general partner of greater than 49%, or with respect to the identity of the parties in control of the Borrower or the degree thereof, by any method or means.

d. The Borrower shall promptly notify the Authority and City of any and all changes whatsoever in the identity of the parties in control of the Borrower or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information. This Agreement may be terminated by the Authority or City, and the Authority or City may each exercise its remedies pursuant to the Option Agreement or the Authority Loan Documents or City Loan Documents, respectively, if there is any significant change (voluntary or involuntary) in membership, management or control of the Borrower (other than such changes occasioned by the death or incapacity of any individual).

e. The Borrower shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any right herein, nor make any total or partial sale, transfer,

conveyance or assignment of the whole or any part of the Property (referred to hereinafter as a "Transfer"), without prior written approval of the Authority and City. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Any such proposed transferee shall have the qualifications and financial responsibility necessary and adequate as may be reasonably determined by the Authority and City to fulfill the obligations undertaken in this Agreement by the Borrower. Any such proposed transferee, by instrument in writing satisfactory to the Authority and City and in form recordable among the land records, for itself and its successors and assigns, and for the benefit of the Authority and City shall expressly assume all of the obligations of the Borrower under this Agreement and attachments hereto and agree to be subject to all conditions and restrictions applicable to the Borrower in this Agreement and attachments hereto. There shall be submitted to the Authority and City for review all instruments and other legal documents proposed to effect any such Transfer; and if approved by the Authority and City each of its approval shall be indicated to the Borrower in writing. This Agreement may be terminated by the Authority or City, and the Authority or City may each exercise its remedies pursuant to the Option Agreement or the Authority Loan Documents or City Loan Documents, respectively, if there is a Transfer or attempted Transfer in violation of this Agreement.

f. In the absence of specific written agreement by the Authority and City, no Transfer, or approval thereof by the Authority and City, shall be deemed to relieve the Borrower or any other party from any obligations under this Agreement.

PART 2. FINANCING AND CLOSE OF ESCROW

SECTION 2.1 Method of Financing

The Acquisition Costs shall be financed with the Authority Loan, City Loan and Borrower's funds.

SECTION 2.2 Authority Loan and City Loan

a. In accordance with and subject to the terms and conditions of this Agreement, the Authority agrees to lend to the Borrower, and the Borrower agrees to borrow from the Authority, the Authority Loan for the purpose of payment of a portion of the Acquisition Costs. In accordance with and subject to the terms and conditions of this Agreement, the City agrees to lend to the Borrower, and the Borrower agrees to borrow from the City, the City Loan for the purpose of payment of a portion of the Acquisition Costs.

b. The Authority Loan and City Loan shall each bear simple interest at the rate of three percent (3%), which shall begin to accrue upon disbursement. The maturity date for each the Authority Loan and City Loan shall be the date that is eighteen (18) months following the Close of Escrow and as otherwise set forth in the Authority LMIHAF Loan Note and the City Inclusionary Loan Note. If the Construction Financing Event has not occurred within eighteen (18) months following the Close of Escrow, the Authority Loan and the City Loan shall each

immediately become all due and payable, and then the Authority or City may each exercise its remedies pursuant to the Authority Loan Documents or City Loan Documents, respectively.

c. If an Affordable Housing Agreement is successfully negotiated and entered into, it is contemplated that the Authority LMIHAF Loan Note shall be cancelled, the Authority LMIHAF Deed of Trust shall be reconveyed, and Borrower shall execute a new promissory note to the Authority for the total amount of the Authority Loan plus any accrued interest on the Authority Loan theretofore unpaid plus any other sums secured by the Authority LMIHAF Deed of Trust, and the City Inclusionary Loan Note shall be cancelled, the City Inclusionary Deed of Trust shall be reconveyed, and Borrower shall execute a new promissory note to the City for the total amount of the City Loan plus any accrued interest on the City Loan theretofore unpaid plus any other sums secured by the City Inclusionary Deed of Trust. The new promissory notes shall be secured by deeds of trust on the Property. The repayment terms of the Authority Loan are set forth in the form of Authority LMIHAF Loan Note attached to this Agreement as ATTACHMENT No. 4 and repayment terms of the City Loan are set forth in the form of City Inclusionary Loan Note attached to this Agreement as ATTACHMENT No. 7.

d. Prior to the Close of Escrow, the Authority, City and Borrower shall execute and deliver such instruments and documents as may be necessary to evidence and secure the Authority Loan and City Loan, consistent with the terms of this Agreement, and each in a form that is acceptable to the Executive Director and City Manager (as applicable), including the following documents:

- (1) the Agreement Containing Covenants;
- (2) Option Agreement;
- (3) Memorandum of Option;
- (4) Authority LMIHAF Loan Promissory Note;
- (5) Authority LMIHAF Loan Deed of Trust;
- (6) Authority Assignment of Agreements;
- (7) Environmental Indemnity;
- (8) City Inclusionary Loan Promissory Note;
- (9) City Inclusionary Loan Deed of Trust; and
- (10) City Assignment of Agreements.

e. The Authority Loan and City Loan shall be used exclusively to pay the approved Acquisition Costs. Borrower will be obligated to pay, at its own cost and expense all Acquisition Costs in excess of the Authority Loan plus the City Loan.

f. The Close of Escrow and the funding of the Authority Loan and City Loan is conditioned upon each of the following occurring to the satisfaction of the Executive Director and City Manager:

(i) Borrower shall have submitted to the Authority and City evidence of the insurance policies required by this Agreement;

(ii) Borrower shall have submitted to the Authority and City a fully executed copy of Borrower's agreement to purchase the Property, together with all amendments and addendums thereto (the "Purchase Agreement").

(iii) Borrower shall have submitted to Authority and City a certified resolution of its Board of Directors authorizing Borrower to enter into the Purchase Agreement, this Agreement and all agreements contemplated herein and designating the person or persons authorized to execute all necessary documents;

(iv) Title Insurance Company is prepared to issue the Title Insurance Policies;

(v) Borrower shall have duly executed and delivered to the Authority or into Escrow all of the Authority Instruments to be executed by Borrower;

(vi) Borrower shall have duly executed and delivered to the City or into Escrow all of the City Instruments to be executed by Borrower;

(vii) Executive Director determines that Borrower is not in default of its obligations to the Authority under this Agreement or any attachments hereto;

(viii) City Manager determines that Borrower is not in default of its obligations to the Authority under this Agreement or any attachments hereto;

(ix) all conditions precedent under the Purchase Agreement to the conveyance of marketable fee simple title to the Property to Borrower have been satisfied; and

(x) the Grant Deed conveying title to the Property to Borrower is executed and recorded.

Notwithstanding the foregoing, the Authority, in the sole discretion of the Executive Director, and the City, in the sole discretion of the City Manager, may each waive any of the foregoing conditions precedent to the Close of Escrow. A waiver of any of the foregoing conditions shall not operate in any way as a waiver, or estoppel with respect to, any subsequent or other failure to comply with such condition, or any other condition contained in this Agreement or any of the other Authority Instruments or City Instruments.

g. Upon the Close of Escrow, the Title Company shall record the recordable Authority Instruments in accordance with instructions provided by the Authority, and shall be prepared to issue to the Authority an ALTA policy of title insurance, insuring the priority of the Authority LMIHAF Loan Deed of Trust as set forth in this Agreement, in amounts and with endorsements as the Authority may determine is appropriate. Upon the Close of Escrow, the Title Company shall record the recordable City Instruments in accordance with instructions provided by the City, and shall be prepared to issue to the City an ALTA policy of title insurance, insuring the priority of the City Inclusionary Loan Deed of Trust as set forth in this Agreement, in amounts and with endorsements as the City may determine is appropriate.

h. The following documents shall be recorded in the following order at the Close of Escrow:

1. Agreement Containing Covenants;
2. Memorandum of Option;
3. Authority LMIHAF Loan Deed of Trust;
4. City Inclusionary Loan Deed of Trust; and
5. Such other instruments as the parties may mutually agree to be recorded at the Close of Escrow.

SECTION 2.3 Negotiation of Affordable Housing Agreement

So long as this Agreement is in effect and Borrower is not in default hereunder or under any of the City Instruments or Authority Instruments, the Authority, City, and Borrower agree to negotiate the terms and conditions of a mutually acceptable Affordable Housing Agreement. The negotiations will address, among other items, a sources and uses project budget for the Project, the form, amount and terms of financing for the Project, including without limitation repayment terms, security, and priority of any Authority or City financing in relation to other Project financing, a scope of development and schedule of performance for the Project, a method of financing the Project, affordability restrictions to be placed on the Property which must remain senior to all financing for the Project, and the requirements for a Project management and maintenance plan.

Borrower, at its sole cost and expense, will be responsible for compliance with the requirements of the California Environmental Quality Act (“CEQA”) in connection with the development of the Project. Borrower will respond fully and in a timely manner to requests for information from the Authority or City and any of its consultants. Consideration of the Affordable Housing Agreement by the City and the Authority is conditioned on the City’s and the Authority’s determination to proceed with, modify or cancel the Project based on the results of the subsequent environmental review. Borrower must not undertake or unconditionally commit any funds to physical or choice-limiting actions, including demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance.

During the negotiations, Borrower agrees to make full disclosure to the City and the Authority of all pertinent information in its possession or under its control concerning Borrower, the Property and/or the Project.

By execution of this Agreement, neither the City nor the Authority is committing itself to take any action with respect to the proposed Project. If the negotiations hereunder culminate in an Affordable Housing Agreement, such agreement shall become effective only after it has been duly executed by the Borrower, has been considered and approved by the Authority Board and City Council after a public meeting, and has been duly executed by the City and the Authority. The City and the Authority will reasonably cooperate with Borrower in order to enable Borrower to meet its deadlines; however, neither the City nor the Authority is obligated to expedite any reviews, approvals, notices, meetings or other matters, and nothing contained in this Agreement will be construed to limit the City’s or the Authority’s discretion in its activities in connection with the Project.

The City and the Authority reserve final discretion and approval over the Project and all proceedings and decisions in connection therewith. This Agreement will not be construed as a grant of development rights or land use entitlements to construct the proposed Project. By its execution of this Agreement, neither the City nor the Authority is committing itself to, or agreeing to perform, any acts or activities that require their subsequent independent exercise of discretion or the independent exercise of discretion by any agency or department thereof. The Authority and City reserve for subsequent Authority Board and City Council action any final discretion and approval regarding the execution of an Affordable Housing Agreement and all proceedings and decisions in connection therewith. Each party assumes the risk that, notwithstanding good faith negotiations, the Authority, the City, and Borrower might not enter into an Affordable Housing Agreement due to their failure to agree upon essential terms of a transaction or a decision by the Authority Board or City Council not to authorize execution of one or more of the Project agreements or approve of the Project.

This Agreement shall not be construed to limit in any manner (i) the right or the authority of the City, or any other governmental agency having jurisdiction, to require public improvements, dedications, exactions or other conditions of approval in connection with the development of the Property or any portion thereof; or (ii) Borrower’s responsibility to pay for the cost of complying

therewith. Nothing contained herein shall be deemed to entitle Borrower to any City permit or other City approval necessary for the development of the Property, or waive any applicable City requirements relating thereto. This Agreement does not: (a) grant any land use entitlement to Borrower; (b) supersede, nullify or amend any condition which may be imposed by the City in connection with approval of the development described herein; (c) guarantee to Borrower or any other party any profits from the development of the Property; or (d) amend any City laws, codes or rules.

The parties in no way intend for this Agreement to give rise to or create any relationship of partnership, joint venture, or any other form of association of any kind or nature between any of them.

PART 3 COMPLIANCE WITH LAWS; INDEMNIFICATION AND INSURANCE

SECTION 3.1 Local, State, and Federal Laws

a. Borrower shall carry out all activities on the Property, 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, the requirement to pay state prevailing wages, if applicable).

b. Borrower hereby expressly acknowledges and agrees that neither City nor Authority has ever previously affirmatively represented to the Borrower or its contractor(s) in writing or otherwise, in a call for bids or otherwise, that the work to be covered by the bid or contract is not a “public work,” as defined in Section 1720 of the Labor Code. Borrower hereby agrees that Borrower shall have the obligation to provide any and all disclosures or identifications required by Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other similar law. Borrower shall indemnify, protect, defend and hold harmless the Authority, City and their respective officers, employees, contractors and agents, with counsel reasonably acceptable to Authority and City, from and against any and all loss, liability, damage, claim, cost, expense, and/or “increased costs” (including 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: (1) the noncompliance by Borrower of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, the requirement to pay state prevailing wages); (2) the implementation of Section 1781 of the Labor Code, as the same may be enacted, adopted or amended from time to time, or any other similar law; and/or (3) failure by Borrower to provide any required disclosure or identification as required by Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other similar law.

c. It is agreed by the parties that Borrower shall bear all risks of payment or non-payment of state prevailing wages and/or Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, and/or any other similar law. "Increased costs" as used in this Section 3.1 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.

d. The foregoing indemnity shall survive termination of this Agreement and shall continue after Close of Escrow.

SECTION 3.2 Indemnification and Insurance

a. During the period commencing with execution of this Agreement by the Authority and City, and until the Construction Financing Event, Borrower agrees to and shall defend, indemnify and hold the Authority, the City and their respective officers, employees, contractors and agents harmless from and against all claims, liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to the property of any person arising directly or indirectly out of or related to the Property or the Borrower or its officers, employees, contractors or agents. Borrower shall not be responsible for (and such indemnity shall not apply to) to the extent of any gross negligence or willful misconduct of the Authority, the City or their respective officers, employees, contractors or agents.

b. Prior to the Close of Escrow, Borrower shall furnish or cause to be furnished to the Authority and City evidence of the following policies of insurance, naming Borrower as insured and the Authority and the City as additional insureds.

(i) Fire Insurance: Borrower shall maintain or cause to be maintained a policy or policies of insurance against loss or damage to the Property and all property of an insurable nature located upon the Property, resulting from fire, lightning, vandalism, malicious mischief, riot and civil commotion, and such other perils ordinarily included in extended coverage fire insurance policies. Such insurance shall be maintained in an amount not less than one hundred percent (100%) of the full insurable value of the improvements, as defined herein in paragraph d.

(ii) Liability Insurance: Borrower shall maintain or cause to be maintained liability insurance, to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever on or about the Property and the business of the Borrower on the Property, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Borrower or its lessees, or any person acting for Borrower, or under its respective control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person occurring on or about the Property, or in connection with the operation thereof, caused directly or indirectly by or from acts or activities of Borrower or its tenants, or any person acting for Borrower, or under its control or direction. Such property damage and personal injury insurance shall also provide for and protect Authority and City against incurring any legal

cost in defending claims for alleged loss. Such personal injury and property damage insurance shall be maintained in full force and effect in the following amounts: commercial general liability in a general aggregate amount of not less than Two Million Dollars (\$2,000,000); and not less than One Million Five Hundred Thousand Dollars (\$1,500,000) of bodily injury and property damage insurance. Borrower agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Borrower may be held responsible for the indemnification of Authority or City or the payment of damages to persons or property resulting from Borrower's activities, activities of its tenants or the activities of any other person or persons for which Borrower is otherwise responsible.

(iii) Workers' Compensation Insurance: Borrower shall maintain or cause to be maintained workers' compensation insurance issued by a responsible carrier authorized under the laws of the State of California to insure employers against liability for compensation under the workers' compensation laws now in force in California, or any laws hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Borrower in connection with the Property and shall cover liability within statutory limits for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of any person incurring or suffering injury or death in connection with the Property or the operation thereof by Borrower. Notwithstanding the foregoing, Borrower may, in compliance with the laws of the State of California and in lieu of maintaining such insurance, self-insure for workers' compensation in which event Borrower shall deliver to Authority and City evidence that such self-insurance has been approved by the appropriate State authorities.

c. All policies hereunder shall not be subject to cancellation, reduction in coverage, or non-renewal except after notice in writing shall have been sent by registered mail addressed to Authority and City, to the extent practicable within 30 days but in any event prior to the effective date thereof. All policies may name the Authority, City and Borrower as insureds, additional insureds, and/or loss payable parties as their interests may appear.

d. The term "full insurable value" as used in this Section 3.2 shall mean the actual replacement cost (excluding the cost of excavation, foundation and footings below the lowest floor and without deduction for depreciation) of the improvements on the Property immediately before such casualty or other loss, including the cost of construction, architectural and engineering fees, and inspection and supervision. To ascertain the amount of coverage required, Borrower shall cause the full insurable value to be determined from time to time by appraisal by the insurer, by agreement between Borrower and Authority and City or by an appraiser mutually acceptable to Authority, City, and Borrower.

e. All insurance provided under this Section 3.2 shall be for the benefit of Borrower, Authority and City. Borrower agrees to timely pay all premiums for such insurance and, at its sole cost and expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of such insurance. Borrower agrees to submit policies of all

insurance required by this Section 3.2, or certificates and endorsements evidencing the existence thereof, to Authority and City prior to the Close of Escrow, indicating full coverage of the contractual liability imposed hereby. Within thirty (30) days, if practicable, but in any event prior to expiration of any such policy, copies of renewal policies, or certificates and endorsements evidencing the existence thereof, shall be submitted to Authority and City. All insurance herein provided for under this Section 3.2 shall be effected under policies issued by insurers of recognized responsibility, licensed or permitted to do business in the State of California reasonably approved by Authority and City. All policies or certificates of insurance shall provide that such policies shall not be canceled or limited in any manner without at least thirty (30) days prior written notice to Authority and City.

f. If Borrower fails or refuses to procure or maintain insurance as required by this Agreement, Authority and City shall each have the right, at its election, and upon ten (10) days prior notice to Borrower, to procure and maintain such insurance. The premiums paid by Authority or City shall be treated as a loan, due from Borrower, to be paid on the first day of the month following the date on which the premiums were paid. Authority and City shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

SECTION 3.3 Disclaimer of Responsibility by the Authority and City

Neither the Authority nor the City undertakes or assumes or will have any responsibility, right or duty to Borrower or to any third party to review, inspect, supervise, pass judgment upon or inform Borrower or any third party of any matter in connection with the Property, whether with respect to the condition of the Property or its quality, adequacy or suitability to the Project, or with respect to any person furnishing services with regard to the Property, or otherwise. Borrower and all third parties shall rely upon its or their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment or information supplied to Borrower or to any third party by the Authority or the City in connection with such matter is for the public purpose of providing affordable housing, and neither Borrower nor any third party is entitled to rely thereon.

SECTION 3.4 Rights of Access

Commencing upon the Close of Escrow, representatives of the Authority and the City shall have the reasonable right of access to the Property, upon two (2) business days' written notice to Borrower (except in the case of an emergency, in which case Authority shall provide such notice as may be practical under the circumstances), without charges or fees, at normal hours for the purposes of this Agreement.

SECTION 3.5 Taxes, Assessments, Encumbrances and Liens

Borrower shall pay when due all real estate taxes and assessments assessed and levied on or against the Property. Borrower shall not place, or allow to be placed, on title to the Property or any portion thereof, any mortgage, trust deed, encumbrance or lien. In addition, Borrower shall remove, or shall have removed, any levy or attachment made on title to the Property (or any portion thereof), or shall assure the satisfaction thereof within a reasonable time but in any event prior to a sale thereunder. Nothing herein contained shall be deemed to prohibit the Borrower from contesting the validity or amount of any tax assessment, nor to limit the remedies available to the Borrower in respect thereto. Any violation of the provisions of this Section 3.5 shall be a material default of Borrower hereunder.

SECTION 3.6 Rights to Plans

a. All work product prepared with regard to the Property or the Project, including (but not limited to), all plans, construction documents, soils tests and similar reports, permits and other entitlements are hereby assigned to the Authority and City as security for Borrower's obligations hereunder. In the event that this Agreement is terminated by the Authority or City, Borrower shall, within ten (10) business days of such termination, transmit all such work product to the Authority and City.

b. To effectuate the assignment described in paragraph a., concurrently with executing a contract with the project architect, Borrower shall execute and deliver to the Authority an Assignment of Agreements, substantially in the form attached to this Agreement as ATTACHMENT No. 6 in a form that is acceptable to the Executive Director, granting to the Authority all of Borrower's rights to: (1) the plans prepared for the Project; (2) the contract between Borrower and its architect; (3) all permits relating to the Project; and similar rights and property interests, and Borrower shall execute and deliver to the City an Assignment of Agreements, substantially in the form attached to this Agreement as ATTACHMENT No. 9 in a form that is acceptable to the City Manager, granting to the City all of Borrower's rights to: (1) the plans prepared for the Project; (2) the contract between Borrower and its architect; (3) all permits relating to the Project; and similar rights and property interests.

PART 4. USE OF THE PROPERTY

SECTION 4.1 Uses

Borrower covenants and agrees (for itself, its successors, its assigns, and every successor in interest to the Property or any part thereof) that Borrower, its successors and assigns shall use the Property exclusively to provide affordable housing for Extremely Low Income Households and Very Low Income Households in accordance with the Agreement Containing Covenants.

SECTION 4.2 Obligation to Refrain from Discrimination

Borrower covenants and agrees for itself, its successors and its assigns in interest to the Property or any part thereof, 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, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Borrower itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property.

SECTION 4.3 Effect and Duration of Covenants

The covenants established in this Agreement shall run with the land, without regard to technical classification and designation, and shall be for the benefit and in favor of Authority and City, and their respective successors and assigns. The covenants described in this Part 4 shall commence upon the Close of Escrow and shall be set forth in the Agreement Containing Covenants and shall remain in effect for the respective periods specified therein.

SECTION 4.4 Effect of Violation of the Terms and Provisions of this Agreement

The Authority and the City are deemed beneficiaries of the terms and provisions of this Agreement and the covenants herein, both for and in their own right and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants running with the land have been provided. The Authority and City shall each have the right if the covenants contained in this Agreement 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 covenants are entitled.

SECTION 4.5 Hazardous Substances.

At the Close of Escrow, Borrower shall execute and deliver to the Authority and City an Environmental Indemnity, substantially in the form of ATTACHMENT No. 7.

PART 5. DEFAULTS AND REMEDIES

SECTION 5.1 Defaults - General

a. Failure or delay by any party to perform any term or provision of this Agreement constitutes a default under this Agreement. The party who fails or delays must immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

b. The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in giving such notice

shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by any 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. Delays by any party in asserting any of its rights and remedies shall not deprive either 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.

c. If a monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default written notice of such default. The party in default shall have a period of seven (7) days after such notice is given within which to cure the default prior to exercise of remedies by the injured party.

d. If a non-monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the party in default shall have such period to effect a cure prior to exercise of remedies by the injured party. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and the party in default (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then the party in default shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the injured party but in no event longer than sixty (60) days.

SECTION 5.2 Institution of Legal Actions.

Subject to the notice and cure provisions of Section 5.1, in addition to any other rights or remedies (and except as otherwise provided in this Agreement), any party may institute legal action 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 Superior Court of the County of Orange, State of California, in any other appropriate court of that county, or in the United States District Court for the Central District of California.

SECTION 5.3 Applicable Law.

The internal laws of the State of California shall govern the interpretation and enforcement of this Agreement.

SECTION 5.4 Acceptance of Service of Process

In the event that any legal action is commenced by the Authority or City against the Borrower, service of process on the Borrower shall be made by personal service upon the Borrower (or upon a general partner, managing member or officer of the Borrower) and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

SECTION 5.5 Rights and Remedies Are Cumulative

The rights and remedies of the parties are cumulative, and the exercise by any 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.

SECTION 5.6 Damages

If any party defaults with regard to any of the provisions of this Agreement, subject to the notice and cure provisions of Section 5.1 and the non-recourse provisions of Section 5.10, the defaulting party shall be liable to the non-defaulting party for any damages caused by such default, and the non-defaulting party may, after such notice and opportunity to cure (but not before) commence an action for damages against the defaulting party with respect to such default; provided however, that neither the City nor the Authority will be liable to Borrower, or any party claiming through Borrower, for payment of special, incidental, indirect, punitive, exemplary, or consequential costs, liabilities, loss, expense, or damages, including without limitation economic loss, commercial loss, lost business, lost profits, lost revenues, interruptions of service, or any delay, error, or loss of data or information, whether foreseeable or unforeseeable, whether based on breach of warranty, breach of contract, negligence, strict liability, or any other legal theory, even if Borrower has been informed of the possibility of such costs, liabilities, loss, expense, or damages.

SECTION 5.7 Specific Performance

Borrower hereby waives on behalf of itself and any party claiming through Borrower the right to bring an action for specific performance against the City or the Authority.

If Borrower defaults with regard to any of the provisions of this Agreement, subject to the notice and cure provisions of Section 5.1, City or Authority, each at its option, may, after such notice and opportunity to cure (but not before) commence an action for specific performance of the terms of this Agreement pertaining to such default.

SECTION 5.8 Termination by the Borrower

Prior to the Close of Escrow, subject to the notice and cure provisions of Section 5.1, Borrower shall have the right to terminate this Agreement, by providing written notice to the Authority and City, in the event of a default by Authority or City pursuant to this Agreement.

SECTION 5.9 Termination by Authority and City.

a. Notwithstanding anything in this Agreement to the contrary, the Authority and City shall each have the right to terminate this Agreement, in its sole discretion and without further notice to Borrower and without requirement of the expiration of any cure period, in the event that, subject to Force Majeure Delay, the Close of Escrow has not occurred by December

31, 2019, or such later date as may be approved in writing by Executive Director and City Manager, each in his sole discretion.

b. Notwithstanding anything in this Agreement to the contrary, the Authority and City shall each have the right to terminate this Agreement, in its sole discretion and without further notice to Borrower and without requirement of the expiration of any cure period, in the event that, subject to Force Majeure Delay, the Construction Financing Event has not occurred within eighteen (18) months following the Close of Escrow.

c. Prior to the Close of Escrow, subject to the notice and cure provisions of Section 5.1, Authority and City shall each have the right to terminate this Agreement, by providing written notice to the Borrower, in the event of a default by Borrower pursuant to this Agreement.

SECTION 5.10 Limited Recourse Obligations

Subject to the provisions and limitations of this Section 5.10, the obligation to repay the Authority Loan and the City Loan is a nonrecourse obligation of the Borrower. Borrower, its principals, shareholders, partners or its successors and assigns shall not have any personal liability for repayment of the loan, except as provided in this Section 5.10. The sole recourse of Authority and City shall be the exercise of the option under the Option Agreement and the exercise of its rights against the Property and any related security for the Authority Loan and City Loan, as applicable. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by the Authority LMIHAF Loan Note, the Authority LMIHAF Loan Deed of Trust, the City Inclusionary Loan Note, or the City Inclusionary Loan Deed of Trust; (b) limit the right of the Authority or City to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under the Authority LMIHAF Loan Note, the Authority LMIHAF Loan Deed of Trust, the City Inclusionary Loan Note, or the City Inclusionary Loan Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (c) release or impair the Authority LMIHAF Loan Note, the Authority LMIHAF Loan Deed of Trust, the City Inclusionary Loan Note, or the City Inclusionary Loan Deed of Trust; (d) prevent or in any way hinder Authority or City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the Authority LMIHAF Loan Note or the City Inclusionary Loan Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder Authority or City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Authority LMIHAF Loan Note or the City Inclusionary Loan Note; (f) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to Authority and/or City; or (g) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by the Authority LMIHAF Loan Note, the Authority LMIHAF Loan Deed of Trust, the City Inclusionary Loan Note, or the City Inclusionary Loan Deed of Trust. The

foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of a default, Borrower and its successors and assigns shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Borrower, its principals, shareholders, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property after the occurrence of such default, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the mortgaged Property, ordinary and reasonable capital improvements to the mortgaged Property, debt service, real estate taxes in respect of the mortgaged Property and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Borrower in connection with the operation of the mortgaged Property, which are then due and payable. Notwithstanding the first sentence of this paragraph, Authority and City may each recover directly from Borrower or from any other party:

(A) any damages, costs and expenses incurred by Authority or City as a result of fraud or any criminal act or acts of Borrower or any partner, shareholder, officer, director or employee of Borrower, or of any member or general or limited partner of Borrower, or of any general or limited partner of such member or general or limited partner;

(B) any damages, costs and expenses incurred by Authority or City as a result of any misappropriation of funds provided for the acquisition of the Property or proceeds of insurance policies or condemnation proceeds;

(C) any and all amounts owing by Borrower pursuant to the indemnification regarding Hazardous Substances pursuant to the Environmental Indemnity, and

(D) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions.

PART 6. GENERAL PROVISIONS

SECTION 6.1 Notices

Formal notices, demands and communications between the parties shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the Authority and the Borrower, as designated in Sections 1.4, 1.5, and 1.6 hereof. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section 6.1. Any notice that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by the recipient; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

SECTION 6.2 Conflicts of Interest

a. No member, official or employee of the Authority or 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.

b. The Borrower warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

SECTION 6.3 Nonliability of Authority Officials and Employees

No member, official, employee or consultant of the Authority or City shall be personally liable to the Borrower, or any successor in interest, in the event of any default or breach by the Authority or for any amount which may become due to the Borrower or to its successor, or on any obligations under the terms of this Agreement.

SECTION 6.4 Inspection of Books and Records

Borrower shall maintain complete, accurate, and current records pertaining to the Property for a period of five (5) years after the creation of such records, and shall permit any duly authorized representative of the Authority or City to inspect and copy records, during regular business hours upon reasonable advance notice. Records must be kept accurate and current.

SECTION 6.5 Approvals

a. Except as otherwise expressly provided in this Agreement, approvals required of Authority, City, or Borrower in this Agreement, including the attachments hereto, shall not be unreasonably withheld or delayed. All approvals shall be in writing. Except as otherwise expressly provided in this Agreement, failure by either party to approve a matter within the time provided for approval of the matter shall not be deemed a disapproval, and failure by either party to disapprove a matter within the time provided for approval of the matter shall not be deemed an approval.

b. Except as otherwise expressly provided in this Agreement, approvals required of the Authority shall be deemed granted by the written approval of the Executive Director and approvals required of the City shall be deemed granted by the written approval of the City Manager. Notwithstanding the foregoing, the Executive Director or City Manager may each, in his or her sole discretion, refer to its governing body any item requiring approval; otherwise, "Authority approval" shall mean and refer to approval by the Executive Director and "City Approval" shall mean and refer to approval by the City Manager.

SECTION 6.6 Real Estate Commissions

Borrower warrants that it has not paid or given, and will not pay or give, any person any money or other consideration for obtaining this Agreement that is in violation of any law. Neither the City, Authority nor the Borrower shall be liable for any real estate commissions, brokerage fees or finder's fees which may arise from this transaction. Borrower represents to the City and Authority that it has employed no broker, agent, or finder in connection with this transaction. Borrower hereby indemnifies, defends, and holds harmless the City and Authority from any claims or damages for payment of any real estate commissions or broker's fees or finder's fees arising out of the acts or representations of the other with respect to any of the transactions contemplated by this Agreement.

SECTION 6.7 No Third Party Beneficiaries

This Agreement is made solely and specifically between the Authority, City and Borrower and their respective successors and assigns; and, except as expressly provided otherwise in this Agreement, no other person will have any rights, interest or claims under this Agreement or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

SECTION 6.8 Authority to Sign

Borrower hereby represents that the person executing this Agreement on behalf of Borrower has full authority to do so and to bind Borrower to perform pursuant to the terms and conditions of this Agreement.

SECTION 6.9 No Partnership

Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, or any other similar relationship between the parties hereto or cause Authority or City to be responsible in any way for the debts or obligations of Borrower or any other Person.

SECTION 6.10 Compliance with Law

Borrower agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the development and use of the Property, as well as operations conducted thereon. The judgment of any court of competent jurisdiction, or the admission of Borrower in any action or proceeding, whether Authority or City be a party thereto or not, that Borrower has violated any such ordinance or statute in the development and use of the Property shall be conclusive of that fact as between Authority and Borrower or City and Borrower.

SECTION 6.11 Binding Effect

This Agreement, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

SECTION 6.12 Incorporation by Reference.

Each of the attachments and exhibits attached hereto is incorporated herein by this reference.

SECTION 6.13 Counterparts

This Agreement may be executed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

SECTION 6.14 Construction and Interpretation of Agreement

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

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

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

d. References in this instrument to this "Agreement" mean, refer to and include this instrument as well as any riders, exhibits, addenda and attachments hereto (which are

hereby incorporated herein by this reference) or other documents expressly incorporated by reference in this instrument. Any references to any covenant, condition, obligation, and/or undertaking “herein,” “hereunder,” or “pursuant hereto” (or language of like import) shall mean, refer to, and include the covenants, obligations, and undertakings existing pursuant to this instrument and any riders, exhibits, addenda, and attachments or other documents affixed to or expressly incorporated by reference in this instrument.

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

SECTION 6.15 Attorneys’ Fees

If any action or proceeding arising out of or relating to this Agreement is commenced by any party to this Agreement, the prevailing party shall be entitled to receive from the non-prevailing party, in addition to any other relief that may be granted, the reasonable attorneys’ fees, costs and expenses incurred in the action or proceeding by the prevailing party.

PART 7 ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

a. This Agreement shall be executed in three duplicate originals each of which is deemed to be an original. This Agreement shall constitute the entire understanding and agreement of the parties.

b. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the Property.

c. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Authority, City or Borrower, and all amendments hereto must be in writing and signed by the appropriate authorities of the Authority, City and the Borrower. This Agreement and any provisions hereof may be amended by mutual written agreement by the Borrower, City, and the Authority.

d. The City Manager is hereby authorized and directed to take such other and further actions, and sign such other and further agreements and documents on behalf of the City as may be necessary or proper to effect the terms of this Agreement. The Executive Director is hereby authorized and directed to take such other and further actions, and sign such other and further agreements and documents on behalf of the Authority as may be necessary or proper to effect the terms of this Agreement.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, City, Authority and Borrower have signed this Agreement as of the Effective Date.

“BORROWER”

BEACH HOUSING PARTNERS LP
a California limited partnership

By: JHC-Beach LLC, a California limited
liability company

Its: Managing General Partner

By: Jamboree Housing
Corporation,
a California nonprofit public
benefit corporation

Its: Manager

By _____

Name: Michael Massie

Title: Chief Development
Officer

“CITY”

THE CITY OF HUNTINGTON BEACH, a
municipal corporation of the state of California

By: _____

Mayor

ATTEST:

By: _____

City Clerk

APPROVED AS TO FORM:

By: _____

City Attorney

[SIGNATURES CONTINUE ON NEXT PAGE]

“AUTHORITY”

HUNTINGTON BEACH HOUSING AUTHORITY,
a public body corporate and politic

By: _____
Executive Director

ATTEST:

By: _____
Secretary

APPROVED AS TO FORM:

By: _____
City Attorney

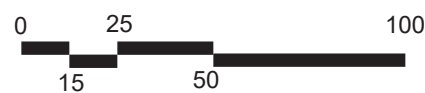
ATTACHMENT NO. 1

SITE MAP

[behind this page]



BEACH BLVD STREET LEVEL



PROJECT SUMMARY

ZONING:	BEACH / EDINGER SP. PLAN
BOUNDARY AREA:	(TOWN CENTER NEIGHBORHOOD)
SITE AREA:	.78 ACRES
TOTAL UNITS:	43 DU
NET DENSITY:	55.1 DU/AC
BUILDING:	4-STORY PODIUM
PARKING:	36 SPACES

UNIT MIX

1BR + 1BA	(+/- 559 S.F.)	39 UNITS	(91 %)
2BR + 1BA	(+/- 758 S.F.)	4 UNITS	(9 %)
TOTAL:		43 UNITS	(100 %)

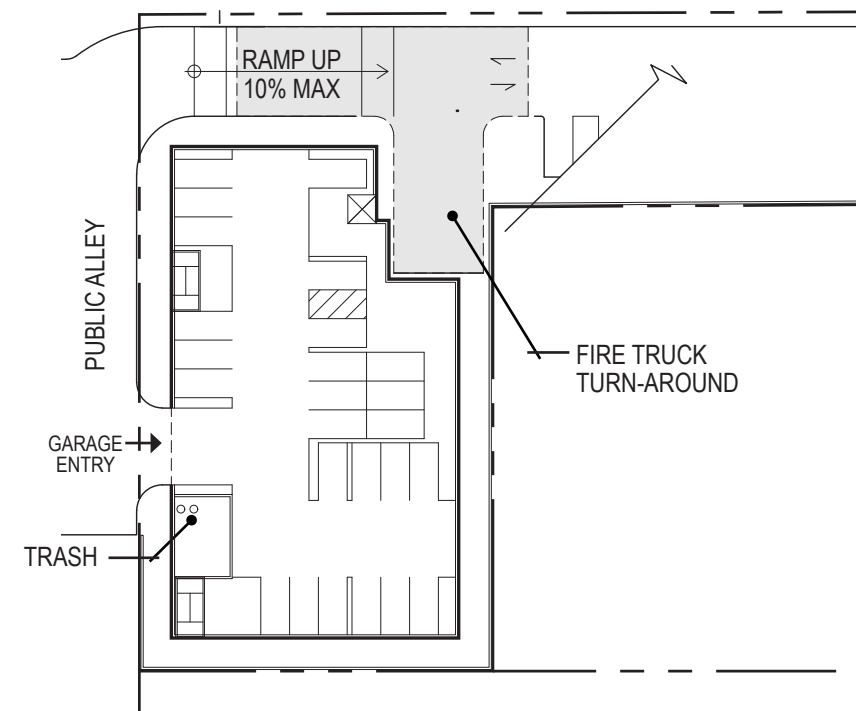
PARKING SUMMARY

PARKING REQUIRED PER AB 744:

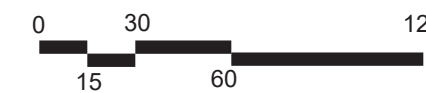
1BR: .5 / UNIT	20 SPACES
2BR: .5 / UNIT	2 SPACES
TOTAL REQUIRED:	22 SPACES
OPEN SPACES:	11 SPACES

PARKING PROVIDED:

OPEN SPACES:	11 SPACES
GARAGE:	19 SPACES
GARAGE TANDEM:	6 SPACES
TOTAL PROVIDED:	36 SPACES
PARKING RATIO:	0.84



GARAGE LEVEL



HUNTINGTON BEACH SENIOR HOUSING

CONCEPTUAL SITE PLAN

HUNTINGTON BEACH, CA

10-15-19



ATTACHMENT NO. 2

LEGAL DESCRIPTION

[behind this page]

LEGAL DESCRIPTION

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

PARCEL 2, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 76, PAGE 4](#) OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 159-031-18

ATTACHMENT NO. 3
AGREEMENT CONTAINING COVENANTS

[behind this page]

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

THE CITY OF HUNTINGTON BEACH
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

FREE RECORDING REQUESTED
(Gov't Code Section 27383)

AGREEMENT CONTAINING COVENANTS
(Including Rental Restrictions)
(18431 Beach Boulevard)

THIS AGREEMENT CONTAINING COVENANTS (Including Rental Restrictions) (the "Agreement") is entered into as of _____, 20____, by and between BEACH HOUSING PARTNERS LP, A CALIFORNIA LIMITED PARTNERSHIP ("Owner"), and the HUNTINGTON BEACH HOUSING AUTHORITY, a public body, corporate and politic ("Authority").

WHEREAS, Owner is the owner of that certain real property (the "Property") located in the City of Huntington Beach more particularly described in Exhibit "A" which is attached hereto and incorporated herein by this reference;

WHEREAS, for the purpose of providing housing that will be affordable to Extremely Low Households and Very Low Households, the Owner, Authority, and the City of Huntington Beach ("City") have entered into that certain Acquisition Loan Agreement, dated as of _____, 20____ (the "Loan Agreement") to which this Agreement is attached as Attachment No. 3, which is incorporated herein by this reference (any capitalized term that is not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Loan Agreement);

WHEREAS, pursuant to the Loan Agreement, the Authority has provided financial assistance to Owner to acquire the Property, using Low and Moderate Income Housing Asset Funds ("Authority LMIHAF Loan") and the City has provided financial assistance to Owner to acquire the Property, using Affordable Housing Trust Funds ("City Inclusionary Loan"); and

WHEREAS, the Loan Agreement contains certain provisions relating to the restricted use of the Property for affordable housing purposes.

NOW, THEREFORE, AUTHORITY AND OWNER COVENANT AND AGREE AS FOLLOWS:

1. Affordable Units. For the Term of this Agreement, Owner covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof or any interest therein, that Owner, its successors and assigns shall use the Property exclusively to provide thirty-three (33) one bedroom Affordable Units (hereinafter defined) that are reserved for occupancy by Extremely Low Income Households (hereinafter defined) at an Affordable Rent (hereinafter defined) and six (6) one bedroom and three (3) two-bedroom Affordable Units that are reserved for occupancy by Very Low Income Households (hereinafter defined) at an Affordable Rent.

“Affordable Unit” shall mean one of the forty-two (42) rental dwelling units developed on the Property restricted to occupancy by Very Low Income Households and Extremely Low Income Households at an Affordable Rent. The term “Affordable Unit” and “Affordable Units” shall be used as the context mandates and shall be reasonably interpreted in light of the context in which the term appears.

2. Maximum Incomes.

a. “Extremely Low Income Household” shall mean persons and families whose income does not exceed the income limits for Extremely Low Income households in Orange County, published approximately annually by California’s Housing and Community Development Department. If California’s Housing and Community Development Department discontinues publishing such income limits, the term “Extremely Low Income” shall mean a household income that does not exceed 30% of the Area Median Income, adjusted for family size.

b. “Very Low Income Household” shall mean persons and families whose income does not exceed the income limits for Very Low Income households in Orange County, published approximately annually by California’s Housing and Community Development Department. If California’s Housing and Community Development Department discontinues publishing such income limits, the term “Very Low Income” shall mean a household income that does not exceed 50% of the Area Median Income, adjusted for family size.

3. Maximum Rents. “Affordable Rent” shall mean rental rates not to exceed the following:

a. In the case of an Extremely Low Income Unit, the product of 30 percent times 30 percent of the Area Median Income adjusted for family size appropriate for the unit.

b. In the case of a Very Low Income Unit shall not exceed the product of 30 percent times 50 percent of the Area Median Income adjusted for family size appropriate to the unit.

For purposes of determining Affordable Rent, household size appropriate to the unit shall mean two persons in the case of a 1-bedroom unit and three persons in the case of a 2-bedroom

unit. Affordable Rent shall include a reasonable utility allowance for tenant-paid utilities based on the Orange County Housing Authority's published utility schedules.

"Area Median Income" shall mean the area median income of the Orange County metropolitan statistical area (PMSA), with adjustments for household size, as estimated annually by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937 as amended and published by California's Housing and Community Development Department pursuant to Health and Safety Code Section 50093.

4. Failure to Comply. Subject to the notice and cure provisions herein, failure to comply with the affordability covenants in this Agreement is an event of default under the terms of the Authority LMIHAF Loan and City Inclusionary Loan. Pursuant to the Promissory Note evidencing the Authority LMIHAF Loan and the Promissory Note evidencing the City Inclusionary Loan, upon a default under this Agreement not cured within the notice and cure period provided herein, the Authority LMIHAF Loan and City Inclusionary Loan will each become immediately due and payable.

5. Nondiscrimination. The Owner covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, national origin, religion or sex in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property nor shall Owner itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property.

6. Term of Covenants. The covenants established in this Agreement and any amendments hereto approved by the Authority and the Owner shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Authority, its successors and assigns, and the City of Huntington Beach and its successors and assigns. The covenants in this Agreement shall remain in effect for the longest feasible time, but not less than fifty-five (55) years from the date of this Agreement (the "Term").

7. Enforcement of Covenants. In amplification and not in restriction of the provisions set forth hereinabove, it is intended and agreed that Authority and City shall each be deemed beneficiaries of the covenants and agreements provided hereinabove both for and in their own rights and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of Authority and City, and such covenants shall run in favor of Authority and City for the entire period during which such covenants shall be in force and effect, without regard to whether Authority or City is or remains an owner of any land or interest therein to which such covenants relate. Authority and City and their respective successors or assigns shall each have the right, in the event of any breach (or threatened breach) of any covenant or agreement, to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of covenant or agreement including, without limitation, enjoining any actions that would or do violate the covenants.

8. Covenants Run with the Land. The covenants established in this Agreement, shall, without regard to technical classification or designation, run with the land, and shall be enforceable against and be binding on Owner and any successor in interest to the Property or any part thereof or any interest therein for the benefit and in favor of Authority, City and their respective successors and assigns.

9. Amendments. Only Authority, its successors and assigns, and Owner and the successors and assigns of Owner in and to fee title to the Property shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements, or other restrictions contained in this Agreement, or to subject the Property to additional covenants, easements or other restrictions. Authority, its successors and assigns, and Owner and the successors and assigns of Owner in and to fee title to the Property shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements, or restrictions contained in this Agreement or to subject the Property to additional covenants, easements, or other restrictions without the consent of any tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust, or any other person or entity having any interest less than a fee in the Property.

10. Notice and Cure. Failure or delay by Owner to perform or a breach or threatened breach of any term or provision of this Agreement constitutes a default under this Agreement. Authority or City shall give written notice of default to Owner, specifying the default complained of by the Authority or City, as applicable. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default. Any failures or delays by Authority or City in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Authority or City in asserting any of its rights and remedies shall not deprive Authority or City 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.

If the default is reasonably capable of being cured within thirty (30) calendar days after any written notice of default is received or deemed received, Owner shall have such period to effect a cure prior to exercise of remedies by the Authority or City under this Agreement. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Owner (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Owner shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Authority or City. In no event shall Authority or City be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within sixty (60) days after the notice of default is received or deemed received.

Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed received upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Owner; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof. Notices hereunder shall be sent to the address(es) set

forth in the Loan Agreement.

11. Severability; Waiver.

a. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

b. A waiver by any party of the performance of any covenant or condition herein shall not invalidate this Agreement nor shall it be considered a waiver of any other covenants or conditions, nor shall the delay or forbearance by any party in exercising any remedy or right be considered a waiver of, or an estoppel against, the later exercise of such remedy or right.

12. Governing Law. This Agreement shall be governed by the internal laws of the State of California.

13. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one original and all of which shall be one and the same instrument. This Agreement may be executed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

14. Attorneys' Fees. If any action or proceeding arising out of or relating to this Agreement is commenced by any party to this Agreement, the prevailing party shall be entitled to receive from the non-prevailing party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs and expenses incurred in the action or proceeding by the prevailing party.

[Signatures on Following Page]

IN WITNESS WHEREOF, Authority and Owner have signed this Agreement as of the date first written above.

“BORROWER”

BEACH HOUSING PARTNERS LP
a California limited partnership

By: JHC-Beach LLC, a California limited
liability company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public
benefit corporation

Its: Manager

By: _____
Name: Michael Massie
Title: Chief Development
Officer

“AUTHORITY”

HUNTINGTON BEACH HOUSING
AUTHORITY,
a public body corporate and politic

By: _____
Executive Director

ATTEST:

By: _____
Secretary

APPROVED AS TO FORM:

By: _____
City Attorney

Exhibit "A"

LEGAL DESCRIPTION

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

PARCEL 2, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 76, PAGE 4](#) OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 159-031-18

ATTACHMENT NO. 4

AUTHORITY LMIHAF LOAN NOTE

[behind this page]

**PROMISSORY NOTE
TO THE HUNTINGTON BEACH HOUSING AUTHORITY
[LOW AND MODERATE INCOME HOUSING ASSET FUND]**

3% Interest
\$900,000

Huntington Beach, California
_____, 20____

FOR VALUE RECEIVED, BEACH HOUSING PARTNERS LP, a California limited partnership ("Borrower"), hereby promises to pay to the HUNTINGTON BEACH HOUSING AUTHORITY ("Authority"), a public body, corporate and politic, or order, a principal amount of NINE HUNDRED THOUSAND DOLLARS (\$900,000) (the "Authority LMIHAF Loan"). This Note is given pursuant to that certain Acquisition Loan Agreement dated _____, 20____, between Borrower, Authority, and the City of Huntington Beach (the "Loan Agreement") and evidences the Authority LMIHAF Loan to Borrower, which provides part of the financing for the acquisition of that certain real property in the City of Huntington Beach legally described in the Deed of Trust securing this Note (the "Property"). The obligation of Borrower to Authority hereunder is subject to the terms of the Loan Agreement, this Note and the following instruments, each dated on or about the date hereof, and, where applicable, executed and delivered by Borrower for the purpose of securing this Note: a Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) ("Authority LMIHAF Loan Deed of Trust") and an Assignment of Agreements ("Assignment of Agreements"). Said documents are public records on file in the offices of Authority, and the provisions of said documents are incorporated herein by this reference. The Borrower shall pay interest at the rate, in the amount and at the time hereinafter provided.

Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement.

2. This Note evidences the obligation of the Borrower to the Authority for the repayment of the Authority Loan. None of the funds provided pursuant to the Authority Loan were funded directly or indirectly with any obligation the interest on which is exempt from tax under Section 103 of the Internal Revenue Code of 1986, as amended, or pursuant to any United States government federal source.

3. This Note is payable at the principal office of Authority, 2000 Main Street, Huntington Beach, CA 92648, Attn: Executive Director, or at such other place as the holder hereof may inform the Borrower in writing, in lawful money of the United States.

4. This Note shall be secured by the Authority LMIHAF Loan Deed of Trust.

v1 10-30-19

LMIHAF Note
Page 1 of 4

5. This Note shall bear simple interest at the rate of three percent (3%) per annum, which shall begin to accrue upon disbursement.

6. Until the Maturity Date, no payments shall be due and payable under this Note except to the extent of any refinancing. “Maturity Date” means the earliest to occur of:

- (a) The date of the Construction Financing Event for the Project;
- (b) Eighteen (18) months following the Close Escrow;
- (c) The date that the Property or any portion thereof or interest therein is sold, transferred, assigned or refinanced, without the prior written approval of the Authority;
- (d) The date of a default by the Borrower under the terms of this Note, the Loan Agreement, the Authority LMIHAF Loan Deed of Trust, the Assignment of Agreements, or the Agreement Containing Covenants that is not cured within the time period provided herein or therein; or
- (e) The expiration or earlier termination of the Loan Agreement.

7. The entire unpaid principal balance of this Note and any accrued but unpaid interest shall be immediately due and payable upon the Maturity Date.

8. All payments to the Authority shall be applied first to interest, then to reduce the principal amount owed.

9. The Authority LMIHAF Loan is funded from the Authority’s Low and Moderate Income Housing Asset Fund. Accordingly, Borrower agrees for itself, its successors and assigns that the use of the Property shall be subject to the restrictions on rent and occupancy set forth in the Agreement Containing Covenants.

10. Borrower waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorney’s fees, which may be incurred by the holder hereof, in the enforcement of this Note.

11. Upon the failure of Borrower to perform or observe any term or provision of this Note, the holder may exercise its rights or remedies hereunder.

12. (a) Failure or delay by Borrower to perform or a breach or threatened breach of any term or provision of this Note constitutes a default under this Note.

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

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

(d) If a monetary event of default occurs under the terms of this Note, prior to exercising any remedies hereunder Authority shall give Borrower written notice of such default. Borrower shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Authority under this Note. In no event shall Authority be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of this Note, prior to exercising any remedies hereunder, Authority shall give Borrower notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Borrower shall have such period to effect a cure prior to exercise of remedies by the Authority under this Note. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Borrower (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Authority. In no event shall Authority be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within sixty (60) days after the notice of default is received or deemed received.

(f) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a “hard” copy, shall be deemed received upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Owner; and any notice of default that is sent by registered or certified mail, postage prepaid,

return receipt required shall be deemed received on the date of receipt thereof. Notices hereunder shall be sent to the address(es) set forth in the Loan Agreement.

13. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.

14. Borrower shall have the right to prepay the obligation evidenced by this Note, or any part thereof, without penalty, but any such repayment shall nor relieve the Property from the burden of the Agreement Containing Covenants.

IN WITNESS WHEREOF Borrower has executed this Note as of the day and year set forth above.

BEACH HOUSING PARTNERS LP
a California limited partnership

By: JHC-Beach LLC, a California limited liability
company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public benefit corporation

Its: Manager

By _____
Name: Michael Massie
Title: Chief Development Officer

ATTACHMENT NO. 5

AUTHORITY LMIHAF LOAN DEED OF TRUST

[behind this page]

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF HUNTINGTON BEACH
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

FREE RECORDING REQUESTED
(Gov't Code Section 27383)

**DEED OF TRUST,
SECURITY AGREEMENT AND FIXTURE FILING
(WITH ASSIGNMENT OF RENTS)
BY BEACH HOUSING PARTNERS LP FOR THE BENEFIT OF
THE HUNTINGTON BEACH HOUSING AUTHORITY
[LOW AND MODERATE INCOME HOUSING ASSET FUND]**

This Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) (this **"Deed of Trust"**), dated as of _____, 20____, is made by Beach Housing Partners LP, a California limited partnership, whose address is Beach Housing Partners LP, c/o Jamboree Housing Corporation, 17701 Cowan, Suite 200, Irvine, CA 92614, Attention: Michael Massie, Chief Development Officer (the **"Trustor"**), in favor of First American Title Insurance Company (the **"Trustee"**), and the Huntington Beach Housing Authority, a public body, corporate and politic, whose address is 2000 Main Street, Huntington Beach, CA 92648, Attn: Executive Director (the **"Beneficiary"**), and is executed to secure that certain Promissory Note to the Huntington Beach Housing Authority [Low and Moderate Income Housing Asset Fund] dated on or about the date hereof in a principal amount of up to \$900,000 executed by the Trustor in favor of the Beneficiary (such Promissory Note, as it may from time to time be supplemented, amended, extended, renewed or otherwise modified from time to time being referred to in this Deed of Trust as the **"Promissory Note"**), the provisions of which are incorporated in this Deed of Trust by this reference.

1. Grant in Trust and Security Agreement. For valuable consideration, the Trustor irrevocably grants, transfers and assigns to the Trustee, in trust, with power of sale, for the benefit of the Beneficiary, the following property (the **"Trust Estate"**):

- (a) the real property described in Exhibit A attached to this Deed of Trust and incorporated herein by this reference (the **"Land"**); and
- (b) all buildings, structures and other improvements now or in the future located or to be constructed on the Land (the **"Improvements"**); and

- (c) all tenements, hereditaments, appurtenances, privileges and other rights and interests now or in the future benefitting or otherwise relating to the Land or the Improvements, including easements, rights-of-way, development rights, mineral rights, water rights and water stock (the “**Appurtenances**”). The Appurtenances, together with the Land and the Improvements, shall be referred to as the “**Property**”.

2. Obligations Secured. This Deed of Trust is given for the purpose of securing payment and performance of the following (collectively, the “**Secured Obligations**”): (a) all present and future indebtedness evidenced by the Promissory Note, including principal and all other amounts payable under the terms of the Promissory Note; (b) all present and future obligations of the Trustor to the Beneficiary under this Deed of Trust; (c) present and future obligations of the Trustor to the Beneficiary under that certain Acquisition Loan Agreement dated as of _____ entered into by and between the Trustor (the “Borrower” therein), the Beneficiary (the “Authority” therein), and the City of Huntington Beach (the “City” therein) (the “**Agreement**”); and (d) all additional present and future obligations of the Trustor to the Beneficiary under any other agreement or instrument (whether existing now or in the future) which states that it is, or such obligations are, secured by this Deed of Trust; in each case as such indebtedness and other obligations may from time to time be supplemented, modified, amended, renewed and extended, whether evidenced by new or additional documents or otherwise.

3. Trustor’s Covenants. To protect the security of this Deed of Trust, the Trustor agrees as follows:

(a) Payment and Performance of Secured Obligations. The Trustor shall pay and perform all Secured Obligations in accordance with the respective terms of such Secured Obligations, whether evidenced by or arising under this Deed of Trust or the Promissory Note.

(b) Liens and Taxes. The Trustor shall pay, prior to delinquency, all taxes, if any, which are or may become a lien affecting any part of the Trust Estate, and the Trustor shall pay and perform when due all other obligations secured by or constituting a lien affecting any part of the Trust Estate, provided that the Trustor shall not be in violation of this provision if the Trustor is protesting or contesting such taxes in good faith and by legal means.

4. Obligations With Respect to Trust Estate. Neither the Beneficiary nor the Trustee shall be under any obligation to preserve, maintain or protect the Trust Estate or any of the Trustor’s rights or interests in the Trust Estate, or make or give any presentments, demands for performance, protests, notices of nonperformance, protest or dishonor or other notices of any kind in connection with any rights, or take any other action with respect to any other matters relating to the Trust Estate. The Beneficiary and the Trustee do not assume and shall have no liability for, and shall not be obligated to perform, any of the Trustor’s obligations with respect to any rights or any other matters relating to the Trust Estate, and nothing contained in this Deed of Trust shall release the Trustor from any such obligations.

5. Remedies Upon Event of Default. Upon the occurrence of any Event of Default (as hereinafter defined): (a) the Trustor shall be in default under this Deed of Trust, and upon

acceleration of the payment of any Secured Obligations in accordance with the terms of the Promissory Note, all Secured Obligations shall immediately become due and payable without further notice to the Trustor; (b) upon demand by the Beneficiary, the Trustor shall pay to the Beneficiary, in addition to all other payments specifically required under the Promissory Note, at the times and in the amounts required by the Beneficiary from time to time, sums which when cumulated will be sufficient to pay one month prior to the time the same become delinquent, all taxes which are or may become a lien affecting the Trust Estate and the premiums for any policies of insurance to be obtained hereunder (all such payments to be held in a cash collateral account as additional security for the Secured Obligations over which the Beneficiary shall have sole and exclusive control and right of withdrawal); and (c) the Beneficiary may, without notice to or demand upon the Trustor, which are expressly waived by the Trustor (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by the Trustor and any notices or demands specified below), and without releasing the Trustor from any of its Secured Obligations, exercise any one or more of the following remedies as the Beneficiary may determine.

The Beneficiary may, either directly or through an agent or court-appointed receiver, and without regard to the adequacy of any security for the Secured Obligations:

(i) enter, take possession of, manage, operate, protect, preserve and maintain, and exercise any other rights of an owner of the Trust Estate, and use any other properties or facilities of the Trustor relating to the Trust Estate, all without payment of rent or other compensation to the Trustor;

(ii) enter into such contracts and take such other action as the Beneficiary deems appropriate to complete all or any part of any construction which may have commenced on the Land, subject to such modifications and other changes in the plan of development as the Beneficiary may deem appropriate;

(iii) conduct any business of the Trustor in relation to the Trust Estate and deal with the Trustor's creditors, debtors, agents and employees and any other persons having any relationship with the Trustor in relation to the Trust Estate, and amend any contracts between them, in any manner the Beneficiary may determine;

(iv) endorse, in the name of the Trustor, all checks, drafts and other evidences of payment relating to the Trust Estate, and receive, open and dispose of all mail addressed to the Trustor and notify the postal authorities to change the address for delivery of such mail to such address as the Beneficiary may designate; and

(v) take such other action as the Beneficiary deems appropriate to protect the security of this Deed of Trust.

The Beneficiary's agent or court-appointed receiver shall hold all monies and proceeds, including, without limitation, proceeds from the sale of the Property or any portion thereof, for the benefit of the Trustor and shall not disburse the monies or proceeds for the satisfaction of the Secured Obligations without the prior written consent of the Beneficiary. The

Beneficiary's agent or court-appointed receiver may, but without any obligation to do so and without notice to or demand upon the Trustor and without releasing the Trustor from any Secured Obligations under this Deed of Trust, and at the expense of the Trustor, follow the written instruction of the Beneficiary under this Section 5.

The Beneficiary may execute and deliver to the Trustee written declaration of default and demand for sale and written notice of default and of election to cause all or any part of the Trust Estate to be sold, which notice the Trustee shall cause to be filed for record; and after the lapse of such time as may then be required by law following the recordation of such notice of default, and notice of sale having been given as then required by law, the Trustee, without demand on the Trustor, shall sell such Property at the time and place fixed by it in such notice of sale, either as a whole or in separate parcels and in such order as the Beneficiary may direct (the Trustor waiving any right to direct the order of sale), at public auction to the highest bidder for cash in lawful money of the United States (or cash equivalents acceptable to the Trustee to the extent permitted by applicable law), payable at the time of sale. The Trustee may postpone the sale of all or any part of the Trust Estate by public announcement at such time and place of sale, and from time to time after any such postponement may postpone such sale by public announcement at the time fixed by the preceding postponement. The Trustee shall deliver to the purchaser at such sale its deed conveying the property so sold, but without any covenant or warranty, express or implied, and the recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Trustee or the Beneficiary, may purchase at such sale, and any bid by the Beneficiary may be, in whole or in part, in the form of cancellation of all or any part of the Secured Obligations. Any such sale shall be free and clear of any interest of the Trustor and any lease, encumbrance or other matter affecting the property so sold which is subject or subordinate to this Deed of Trust, except that any such sale shall not result in the termination of any such lease (i) if and to the extent otherwise provided in any estoppel or other agreement executed by the tenant and the Beneficiary (or executed by the tenant in favor of, and accepted by, the Beneficiary), or (ii) if the purchaser at such sale gives written notice to the tenant, within 30 days after date of sale, that the lease will continue in effect.

The Beneficiary may proceed to protect, exercise and enforce any and all other remedies provided under the Agreement, the Promissory Note, this Deed of Trust or by applicable laws.

All proceeds of collection, sale or other liquidation of the Trust Estate shall be applied first to all costs, fees, expenses and other amounts payable by the Trustor under this Deed of Trust and to all other Secured Obligations not otherwise repaid in such order and manner as the Beneficiary may determine, and the remainder, if any, to the person or persons legally entitled thereto.

Each of the remedies provided in this Deed of Trust is cumulative and not exclusive of, and shall not prejudice, any other remedy provided in this Deed of Trust or by applicable laws. Each remedy may be exercised from time to time as often as deemed necessary by the Trustee and the Beneficiary, and in such order and manner as the Beneficiary may determine. This Deed of Trust is independent of any other security for the Secured Obligations,

and upon the occurrence of an Event of Default, the Trustee or the Beneficiary may proceed in the enforcement of this Deed of Trust independently of any other remedy that the Trustee or the Beneficiary may at any time hold with respect to the Trust Estate or the Secured Obligations or any other security. The Trustor, for itself and for any other person claiming by or through the Trustor, waives, to the fullest extent permitted by applicable laws, all rights to require a marshaling of assets by the Trustee or the Beneficiary or to require the Trustee or the Beneficiary to first resort to any particular portion of the Trust Estate or any other security (whether such portion shall have been retained or conveyed by the Trustor) before resorting to any other portion, and all rights of redemption, stay and appraisal.

6. Event of Default. An “**Event of Default**” shall be deemed to occur if the Trustor is in default of any provision of the Promissory Note, this Deed of Trust or the Agreement and fails to cure such default subject to the notice and cure provisions thereof.

7. Costs, Fees and Expenses. The Trustor shall pay, on demand, all reasonable costs, fees, expenses, advances, charges, losses and liabilities of the Trustee and the Beneficiary under or in connection with this Deed of Trust or the enforcement of, or the exercise of, any remedy or any other action taken by the Trustee or the Beneficiary under this Deed of Trust or the collection of the Secured Obligations, in each case including, without limitation, (a) reconveyance and foreclosure fees of the Trustee, (b) costs and expenses of the Beneficiary or the Trustee or any receiver appointed under this Deed of Trust in connection with the operation, maintenance, management, protection, preservation, collection, sale or other liquidation of the Trust Estate or foreclosure of this Deed of Trust, (c) advances made by the Beneficiary to complete or partially construct all or any part of any construction which may have commenced on the Land or otherwise to protect the security of this Deed of Trust, (d) cost of evidence of title, and (e) the reasonable fees and disbursements of the Trustee’s and the Beneficiary’s legal counsel and other out-of-pocket expenses, and the reasonable charges of the Beneficiary’s legal counsel.

8. Late Payments. By accepting payment of any part of the Secured Obligations after its due date, the Beneficiary does not waive its right either to require prompt payment when due of all other Secured Obligations or to declare a default for failure to so pay.

9. Action by Trustee. At any time and from time to time upon written request of the Beneficiary and presentation of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of the Secured Obligations or the security of this Deed of Trust for the full amount of the Secured Obligations on all Property remaining subject to this Deed of Trust, the Trustee may, without notice and without liability for such action, and notwithstanding the absence of any payment on the Secured Obligations or any other consideration: (a) reconvey all or any part of the Trust Estate, (b) consent to the making and recording, or either, of any map or plat of the Land, (c) join in granting any easement affecting the Land, or (d) join in or consent to any extension agreement or any agreement subordinating the lien of this Deed of Trust. The Trustee is not obligated to notify the Trustor or the Beneficiary of any pending sale under any other deed of trust or of any action or other proceeding in which the Trustor, the Beneficiary or the Trustee is a party unless brought by the Trustee.

10. Reconveyance. Upon written request of the Beneficiary and surrender of this Deed of Trust and the Promissory Note to the Trustee for cancellation or endorsement, and upon payment of its fees and charges, the Trustee shall reconvey, without warranty, all or any part of the Property then subject to this Deed of Trust. Any reconveyance, whether full or partial, may be made in terms to “the person or persons legally entitled thereto”, and the recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Beneficiary shall not be required to cause any Property to be released from this Deed of Trust until final payment and performance in full of all Secured Obligations and termination of all obligations of the Beneficiary under or in connection with the Promissory Note or until the Secured Obligations are forgiven.

11. Substitution of Trustee. The Beneficiary may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named in or acting under this Deed of Trust, which instrument, when executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Land is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees who shall, without conveyance from the predecessor Trustee, succeed to all of its title, estate, rights, powers and duties. Such instrument must contain the name of the original Trustor, the Trustee and the Beneficiary, the book and page where this Deed of Trust is recorded (or the date of recording and instrument number) and the name and address of the new Trustee.

12. Successors and Assigns. This Deed of Trust applies to and shall be binding on and inure to the benefit of all parties to this Deed of Trust and their respective successors and permitted assigns.

13. Acceptance. Notice of acceptance of this Deed of Trust by the Beneficiary or the Trustee is waived by the Trustor. The Trustee accepts this Deed of Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

14. Beneficiary's Statements. For any statement regarding the Secured Obligations, the Beneficiary may charge the maximum amount permitted by law at the time of the request for such statement.

15. Governing Law. This Deed of Trust shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

16. Recording. The Trustee shall record this Deed of Trust against the Property in the Orange County's Recorder's office.

[Signature on Following Page]

[Remainder of Page Intentionally Left Blank]

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

BEACH HOUSING PARTNERS LP
a California limited partnership

By: JHC-Beach LLC, a California limited liability
company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public benefit corporation

Its: Manager

By: _____
Name: Michael Massie
Title: Chief Development Officer

Exhibit "A"

LEGAL DESCRIPTION

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

PARCEL 2, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 76, PAGE 4](#) OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 159-031-18

ATTACHMENT NO. 6

AUTHORITY ASSIGNMENT OF AGREEMENTS

[behind this page]

ASSIGNMENT OF AGREEMENTS

FOR VALUE RECEIVED, the undersigned, Beach Housing Partners LP, a California limited partnership ("Borrower"), assigns to the Huntington Beach Housing Authority, a public body corporate and politic ("Authority"), all of its right, title and interest in and to:

1. All architectural, design, engineering and development agreements, and any and all amendments, modifications, supplements, addenda and general conditions thereto (collectively, "Architectural Agreements"); and
2. All plans and specifications, shop drawings, working drawings, amendments, modifications, changes, supplements, general conditions and addenda thereto (collectively "Plans and Specifications")

heretofore or hereafter into or prepared by any architect, engineer or other person or entity (collectively "Architect"), for or on behalf of Borrower in connection with the development and construction of the Project. The Plans and Specifications, as of the date hereof, are those which Borrower has heretofore, or will hereafter deliver to Authority.

This ASSIGNMENT OF AGREEMENTS AND PLANS AND SPECIFICATION ("Assignment") constitutes a present and absolute assignment to Authority as of the date of this Assignment; provided, however, Authority confers upon Borrower the right to enforce the terms of the Architectural Agreements and Borrower's rights to the Plans and Specifications so long as no default or event which would constitute a default after notice or the passage of time, or both, has occurred and is continuing under that certain Acquisition Loan Agreement dated as of _____, between Authority, Borrower, and the City of Huntington Beach ("City") (the "Loan Agreement"), as well as any future amendments and implementation agreements between which refer to this Assignment. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Loan Agreement. Upon the occurrence of a default or event which would constitute a default after notice or the passage of time, or both, under the Loan Agreement, Authority may, in its sole discretion, give notice to Architect of its intent to enforce the rights of Borrower under the Architect Agreements and of its rights to the Plans and Specifications and may initiate or participate in any legal proceedings respecting the enforcement of said rights. Borrower acknowledges that by accepting this Assignment, Authority does not assume any of Borrower's obligations under the Architectural Agreements or with respect to the Plans and Specifications.

Borrower represents and warrants to Authority that: (a) any Architectural Agreements entered into by Borrower are in full force and effect and are enforceable in accordance with their terms and no default, or event which would constitute a default after notice or the passage of

time, or both, exists with respect to said Architectural Agreements; (b) any copies of the Architectural Agreements and Plans and Specifications delivered to Authority are complete and correct; and (c) Borrower has not assigned any of its rights under the Architectural Agreements or with respect to the Plans and Specifications except to the City.

Borrower agrees: (a) to pay and perform all obligations of Borrower under the Architectural Agreements; (b) to enforce the payment and performance of all obligations of any other person or entity under the Architectural Agreements; (c) not to modify the existing Architectural Agreements nor to enter into any future Architectural Agreements without Authority's prior written approval except as otherwise may be permitted in the Loan Agreement; and (d) not to further assign (other than assignment in connection with a loan from the City), for security or any other purposes, its rights under the Architectural Agreements or with respect to the Plans and Specifications without Authority's prior written consent.

This Assignment secures performance by Borrower of all obligations of Borrower under the Loan Agreement. This Assignment is supplemented by the provisions of the Loan Agreement and said provisions are incorporated herein by reference.

This Assignment shall be governed by the laws of the State of California, except to the extent that Federal laws preempt the laws of the State of California, and Borrower consents to the jurisdiction of any Federal or State Court within the State of California having proper venue for the filing and maintenance of any action arising hereunder and agrees that the prevailing party in any such action shall be entitled, in addition to any other recovery, to reasonable attorney's fees and costs.

This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, and successors-in-interest of Borrower and Authority; provided, however, this shall not be construed and is not intended to waive any restrictions on assignment, sale, transfer, mortgage, pledge, hypothecation or encumbrance by Borrower contained in any of the Loan Agreement.

The attached Architect's Consent, Schedule 1 and Exhibit A are incorporated by reference.

[SIGNATURE ON FOLLOWING PAGE]

Executed as of _____20____.

BEACH HOUSING PARTNERS LP

a California limited partnership

By: JHC-Beach LLC, a California limited liability
company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public benefit corporation

Its: Manager

By _____
Name: Michael Massie
Title: Chief Development Officer

ARCHITECT'S CONSENT

The undersigned architect ("Architect") hereby consents to the foregoing Assignment to which this Architect's Consent ("Consent") is part, and acknowledges that there presently exists no unpaid claims due to the Architect except as set forth on Schedule 1 attached hereto, arising out of the preparation and delivery of the Plans and Specifications to Borrower and/or the performance of the Architect's obligations under the Assignment.

Architect agrees that if, at any time, Authority shall become the owner of said Property, or, pursuant to its rights under the Loan Agreement, elects to undertake or cause the completion of construction of the Project on any portion of the Property, in accordance with the Plans and Specifications, and gives Architect written notice of such election; THEN, so long as Architect has received, receives or continues to receive the compensation called for under the Agreements, Authority may, at its option, use and rely on the Plans and Specifications for the purposes for which they were prepared, and Architect will continue to perform its obligations under the Agreements for the benefit and account of Authority in the same manner as if performed for the benefit or account of Borrower in the absence of the Assignment.

Architect further agrees that, in the event of a breach by Borrower of the Agreements, or any agreement entered into with Architect in connection with the Plans and Specifications, so long as Borrower's interest in the Agreements and Plans and Specifications is assigned to Authority, Architect will give written notice to Authority of such breach at the address shown below. Authority shall have thirty (30) days from the receipt of such written notice of default to remedy or cure said default. Nothing herein shall require Authority to cure said default or to undertake completion of construction of the Project.

Architect warrants and represents that it/he has no knowledge of any prior assignment(s) of any interest in the Plans and Specifications and/or the Agreements. Except as otherwise defined herein, the terms used herein shall have the meanings given them in the Assignment.

Executed as of _____, 20____.

By: _____

Name:

Title:

Authority's Address:

Huntington Beach Housing Authority
2000 Main Street
Huntington Beach, CA 92648
Attn: Executive Director

SCHEDULE OF UNPAID CLAIMS

Schedule 1 to Assignment of Architectural Agreements and Plans and Specifications dated as of _____, 20____ between BEACH HOUSING PARTNERS LP, a California limited partnership, as Borrower, and HUNTINGTON BEACH HOUSING AUTHORITY, as Authority.

EXHIBIT A
PROPERTY DESCRIPTION

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

PARCEL 2, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 76, PAGE 4](#) OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 159-031-18

ATTACHMENT NO. 7

CITY INCLUSIONARY LOAN NOTE

[behind this page]

**PROMISSORY NOTE
TO THE CITY OF HUNTINGTON BEACH
[AFFORDABLE HOUSING TRUST FUNDS]**

3% Interest
\$2,100,000

Huntington Beach, California
_____, 20____

FOR VALUE RECEIVED, BEACH HOUSING PARTNERS LP, a California limited partnership ("Borrower"), hereby promises to pay to the CITY OF HUNTINGTON BEACH ("City"), a California municipal corporation, or order, a principal amount of TWO MILLION ONE HUNDRED THOUSAND DOLLARS (\$2,100,000) (the "City Inclusionary Loan"). This Note is given pursuant to that certain Acquisition Loan Agreement dated _____, 20____, between Borrower, City, and the Huntington Beach Housing Authority (the "Loan Agreement") and evidences the City Inclusionary Loan to Borrower, which provides part of the financing for the acquisition of that certain real property in the City of Huntington Beach legally described in the Deed of Trust securing this Note (the "Property"). The obligation of Borrower to City hereunder is subject to the terms of the Loan Agreement, this Note and the following instruments, each dated on or about the date hereof, and, where applicable, executed and delivered by Borrower for the purpose of securing this Note: a Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) ("City Inclusionary Loan Deed of Trust") and an Assignment of Agreements ("Assignment of Agreements"). Said documents are public records on file in the offices of City, and the provisions of said documents are incorporated herein by this reference. The Borrower shall pay interest at the rate, in the amount and at the time hereinafter provided.

Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement.

2. This Note evidences the obligation of the Borrower to the City for the repayment of the City Loan. None of the funds provided pursuant to the City Loan were funded directly or indirectly with any obligation the interest on which is exempt from tax under Section 103 of the Internal Revenue Code of 1986, as amended, or pursuant to any United States government federal source.

3. This Note is payable at the principal office of City, 2000 Main Street, Huntington Beach, CA 92648, Attn: City Manager, or at such other place as the holder hereof may inform the Borrower in writing, in lawful money of the United States.

4. This Note shall be secured by the City Inclusionary Loan Deed of Trust.

5. This Note shall bear simple interest at the rate of three percent (3%) per annum, which shall begin to accrue upon disbursement.

6. Until the Maturity Date, no payments shall be due and payable under this Note except to the extent of any refinancing. “Maturity Date” means the earliest to occur of:

- (a) The date of the Construction Financing Event for the Project;
- (b) Eighteen (18) months following the Close Escrow;
- (c) The date that the Property or any portion thereof or interest therein is sold, transferred, assigned or refinanced, without the prior written approval of the City;
- (d) The date of a default by the Borrower under the terms of this Note, the Loan Agreement, the City Inclusionary Loan Deed of Trust, the Assignment of Agreements, or the Agreement Containing Covenants that is not cured within the time period provided herein or therein; or
- (e) The expiration or earlier termination of the Loan Agreement.

7. The entire unpaid principal balance of this Note and any accrued but unpaid interest shall be immediately due and payable upon the Maturity Date.

8. All payments to the City shall be applied first to interest, then to reduce the principal amount owed.

9. The City Inclusionary Loan is funded from the City’s Affordable Housing Trust Funds. Accordingly, Borrower agrees for itself, its successors and assigns that the use of the Property shall be subject to the restrictions on rent and occupancy set forth in the Agreement Containing Covenants.

10. Borrower waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorney’s fees, which may be incurred by the holder hereof, in the enforcement of this Note.

11. Upon the failure of Borrower to perform or observe any term or provision of this Note, the holder may exercise its rights or remedies hereunder.

12. (a) Failure or delay by Borrower to perform or a breach or threatened breach of any term or provision of this Note constitutes a default under this Note.

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

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

(d) If a monetary event of default occurs under the terms of this Note, prior to exercising any remedies hereunder City shall give Borrower written notice of such default. Borrower shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by City under this Note. In no event shall City be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of this Note, prior to exercising any remedies hereunder, City shall give Borrower notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Borrower shall have such period to effect a cure prior to exercise of remedies by the City under this Note. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Borrower (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by City. In no event shall City be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within sixty (60) days after the notice of default is received or deemed received.

(f) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed received upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Owner; and any notice of default that is sent by registered or certified mail, postage prepaid,

return receipt required shall be deemed received on the date of receipt thereof. Notices hereunder shall be sent to the address(es) set forth in the Loan Agreement.

13. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.

14. Borrower shall have the right to prepay the obligation evidenced by this Note, or any part thereof, without penalty, but any such repayment shall not relieve the Property from the burden of the Agreement Containing Covenants.

IN WITNESS WHEREOF Borrower has executed this Note as of the day and year set forth above.

BEACH HOUSING PARTNERS LP
a California limited partnership

By: JHC-Beach LLC, a California limited liability
company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public benefit corporation

Its: Manager

By _____
Name: Michael Massie
Title: Chief Development Officer

ATTACHMENT NO. 8

CITY INCLUSIONARY LOAN DEED OF TRUST

[behind this page]

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF HUNTINGTON BEACH
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

FREE RECORDING REQUESTED
(Gov't Code Section 27383)

**DEED OF TRUST,
SECURITY AGREEMENT AND FIXTURE FILING
(WITH ASSIGNMENT OF RENTS)
BY BEACH HOUSING PARTNERS LP FOR THE BENEFIT OF
THE CITY OF HUNTINGTON BEACH
[AFFORDABLE HOUSING TRUST FUND]**

This Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) (this **"Deed of Trust"**), dated as of _____, 20____, is made by Beach Housing Partners LP, a California limited partnership, whose address is Beach Housing Partners LP, c/o Jamboree Housing Corporation, 17701 Cowan, Suite 200, Irvine, CA 92614, Attention: Michael Massie, Chief Development Officer (the **"Trustor"**), in favor of First American Title Insurance Company (the **"Trustee"**), and the City of Huntington Beach, a California municipal corporation, whose address is 2000 Main Street, Huntington Beach, CA 92648, Attn: Executive Director (the **"Beneficiary"**), and is executed to secure that certain Promissory Note to the City of Huntington Beach [Affordable Housing Trust Fund] dated on or about the date hereof in a principal amount of up to \$2,100,000 executed by the Trustor in favor of the Beneficiary (such Promissory Note, as it may from time to time be supplemented, amended, extended, renewed or otherwise modified from time to time being referred to in this Deed of Trust as the **"Promissory Note"**), the provisions of which are incorporated in this Deed of Trust by this reference.

1. Grant in Trust and Security Agreement. For valuable consideration, the Trustor irrevocably grants, transfers and assigns to the Trustee, in trust, with power of sale, for the benefit of the Beneficiary, the following property (the **"Trust Estate"**):

- (a) the real property described in Exhibit A attached to this Deed of Trust and incorporated herein by this reference (the **"Land"**); and
- (b) all buildings, structures and other improvements now or in the future located or to be constructed on the Land (the **"Improvements"**); and

- (c) all tenements, hereditaments, appurtenances, privileges and other rights and interests now or in the future benefitting or otherwise relating to the Land or the Improvements, including easements, rights-of-way, development rights, mineral rights, water rights and water stock (the “**Appurtenances**”). The Appurtenances, together with the Land and the Improvements, shall be referred to as the “**Property**”.

2. Obligations Secured. This Deed of Trust is given for the purpose of securing payment and performance of the following (collectively, the “**Secured Obligations**”): (a) all present and future indebtedness evidenced by the Promissory Note, including principal and all other amounts payable under the terms of the Promissory Note; (b) all present and future obligations of the Trustor to the Beneficiary under this Deed of Trust; (c) present and future obligations of the Trustor to the Beneficiary under that certain Acquisition Loan Agreement dated as of _____ entered into by and between the Trustor (the “Borrower” therein), the Beneficiary (the “City” therein), and the Huntington Beach Housing Authority (the “Authority” therein) (the “**Agreement**”); and (d) all additional present and future obligations of the Trustor to the Beneficiary under any other agreement or instrument (whether existing now or in the future) which states that it is, or such obligations are, secured by this Deed of Trust; in each case as such indebtedness and other obligations may from time to time be supplemented, modified, amended, renewed and extended, whether evidenced by new or additional documents or otherwise.

3. Trustor’s Covenants. To protect the security of this Deed of Trust, the Trustor agrees as follows:

(a) Payment and Performance of Secured Obligations. The Trustor shall pay and perform all Secured Obligations in accordance with the respective terms of such Secured Obligations, whether evidenced by or arising under this Deed of Trust or the Promissory Note.

(b) Liens and Taxes. The Trustor shall pay, prior to delinquency, all taxes, if any, which are or may become a lien affecting any part of the Trust Estate, and the Trustor shall pay and perform when due all other obligations secured by or constituting a lien affecting any part of the Trust Estate, provided that the Trustor shall not be in violation of this provision if the Trustor is protesting or contesting such taxes in good faith and by legal means.

4. Obligations With Respect to Trust Estate. Neither the Beneficiary nor the Trustee shall be under any obligation to preserve, maintain or protect the Trust Estate or any of the Trustor’s rights or interests in the Trust Estate, or make or give any presentments, demands for performance, protests, notices of nonperformance, protest or dishonor or other notices of any kind in connection with any rights, or take any other action with respect to any other matters relating to the Trust Estate. The Beneficiary and the Trustee do not assume and shall have no liability for, and shall not be obligated to perform, any of the Trustor’s obligations with respect to any rights or any other matters relating to the Trust Estate, and nothing contained in this Deed of Trust shall release the Trustor from any such obligations.

5. Remedies Upon Event of Default. Upon the occurrence of any Event of Default (as hereinafter defined): (a) the Trustor shall be in default under this Deed of Trust, and upon

acceleration of the payment of any Secured Obligations in accordance with the terms of the Promissory Note, all Secured Obligations shall immediately become due and payable without further notice to the Trustor; (b) upon demand by the Beneficiary, the Trustor shall pay to the Beneficiary, in addition to all other payments specifically required under the Promissory Note, at the times and in the amounts required by the Beneficiary from time to time, sums which when cumulated will be sufficient to pay one month prior to the time the same become delinquent, all taxes which are or may become a lien affecting the Trust Estate and the premiums for any policies of insurance to be obtained hereunder (all such payments to be held in a cash collateral account as additional security for the Secured Obligations over which the Beneficiary shall have sole and exclusive control and right of withdrawal); and (c) the Beneficiary may, without notice to or demand upon the Trustor, which are expressly waived by the Trustor (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by the Trustor and any notices or demands specified below), and without releasing the Trustor from any of its Secured Obligations, exercise any one or more of the following remedies as the Beneficiary may determine.

The Beneficiary may, either directly or through an agent or court-appointed receiver, and without regard to the adequacy of any security for the Secured Obligations:

(i) enter, take possession of, manage, operate, protect, preserve and maintain, and exercise any other rights of an owner of the Trust Estate, and use any other properties or facilities of the Trustor relating to the Trust Estate, all without payment of rent or other compensation to the Trustor;

(ii) enter into such contracts and take such other action as the Beneficiary deems appropriate to complete all or any part of any construction which may have commenced on the Land, subject to such modifications and other changes in the plan of development as the Beneficiary may deem appropriate;

(iii) conduct any business of the Trustor in relation to the Trust Estate and deal with the Trustor's creditors, debtors, agents and employees and any other persons having any relationship with the Trustor in relation to the Trust Estate, and amend any contracts between them, in any manner the Beneficiary may determine;

(iv) endorse, in the name of the Trustor, all checks, drafts and other evidences of payment relating to the Trust Estate, and receive, open and dispose of all mail addressed to the Trustor and notify the postal authorities to change the address for delivery of such mail to such address as the Beneficiary may designate; and

(v) take such other action as the Beneficiary deems appropriate to protect the security of this Deed of Trust.

The Beneficiary's agent or court-appointed receiver shall hold all monies and proceeds, including, without limitation, proceeds from the sale of the Property or any portion thereof, for the benefit of the Trustor and shall not disburse the monies or proceeds for the satisfaction of the Secured Obligations without the prior written consent of the Beneficiary. The

Beneficiary's agent or court-appointed receiver may, but without any obligation to do so and without notice to or demand upon the Trustor and without releasing the Trustor from any Secured Obligations under this Deed of Trust, and at the expense of the Trustor, follow the written instruction of the Beneficiary under this Section 5.

The Beneficiary may execute and deliver to the Trustee written declaration of default and demand for sale and written notice of default and of election to cause all or any part of the Trust Estate to be sold, which notice the Trustee shall cause to be filed for record; and after the lapse of such time as may then be required by law following the recordation of such notice of default, and notice of sale having been given as then required by law, the Trustee, without demand on the Trustor, shall sell such Property at the time and place fixed by it in such notice of sale, either as a whole or in separate parcels and in such order as the Beneficiary may direct (the Trustor waiving any right to direct the order of sale), at public auction to the highest bidder for cash in lawful money of the United States (or cash equivalents acceptable to the Trustee to the extent permitted by applicable law), payable at the time of sale. The Trustee may postpone the sale of all or any part of the Trust Estate by public announcement at such time and place of sale, and from time to time after any such postponement may postpone such sale by public announcement at the time fixed by the preceding postponement. The Trustee shall deliver to the purchaser at such sale its deed conveying the property so sold, but without any covenant or warranty, express or implied, and the recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Trustee or the Beneficiary, may purchase at such sale, and any bid by the Beneficiary may be, in whole or in part, in the form of cancellation of all or any part of the Secured Obligations. Any such sale shall be free and clear of any interest of the Trustor and any lease, encumbrance or other matter affecting the property so sold which is subject or subordinate to this Deed of Trust, except that any such sale shall not result in the termination of any such lease (i) if and to the extent otherwise provided in any estoppel or other agreement executed by the tenant and the Beneficiary (or executed by the tenant in favor of, and accepted by, the Beneficiary), or (ii) if the purchaser at such sale gives written notice to the tenant, within 30 days after date of sale, that the lease will continue in effect.

The Beneficiary may proceed to protect, exercise and enforce any and all other remedies provided under the Agreement, the Promissory Note, this Deed of Trust or by applicable laws.

All proceeds of collection, sale or other liquidation of the Trust Estate shall be applied first to all costs, fees, expenses and other amounts payable by the Trustor under this Deed of Trust and to all other Secured Obligations not otherwise repaid in such order and manner as the Beneficiary may determine, and the remainder, if any, to the person or persons legally entitled thereto.

Each of the remedies provided in this Deed of Trust is cumulative and not exclusive of, and shall not prejudice, any other remedy provided in this Deed of Trust or by applicable laws. Each remedy may be exercised from time to time as often as deemed necessary by the Trustee and the Beneficiary, and in such order and manner as the Beneficiary may determine. This Deed of Trust is independent of any other security for the Secured Obligations,

and upon the occurrence of an Event of Default, the Trustee or the Beneficiary may proceed in the enforcement of this Deed of Trust independently of any other remedy that the Trustee or the Beneficiary may at any time hold with respect to the Trust Estate or the Secured Obligations or any other security. The Trustor, for itself and for any other person claiming by or through the Trustor, waives, to the fullest extent permitted by applicable laws, all rights to require a marshaling of assets by the Trustee or the Beneficiary or to require the Trustee or the Beneficiary to first resort to any particular portion of the Trust Estate or any other security (whether such portion shall have been retained or conveyed by the Trustor) before resorting to any other portion, and all rights of redemption, stay and appraisal.

6. Event of Default. An “**Event of Default**” shall be deemed to occur if the Trustor is in default of any provision of the Promissory Note, this Deed of Trust or the Agreement and fails to cure such default subject to the notice and cure provisions thereof.

7. Costs, Fees and Expenses. The Trustor shall pay, on demand, all reasonable costs, fees, expenses, advances, charges, losses and liabilities of the Trustee and the Beneficiary under or in connection with this Deed of Trust or the enforcement of, or the exercise of, any remedy or any other action taken by the Trustee or the Beneficiary under this Deed of Trust or the collection of the Secured Obligations, in each case including, without limitation, (a) reconveyance and foreclosure fees of the Trustee, (b) costs and expenses of the Beneficiary or the Trustee or any receiver appointed under this Deed of Trust in connection with the operation, maintenance, management, protection, preservation, collection, sale or other liquidation of the Trust Estate or foreclosure of this Deed of Trust, (c) advances made by the Beneficiary to complete or partially construct all or any part of any construction which may have commenced on the Land or otherwise to protect the security of this Deed of Trust, (d) cost of evidence of title, and (e) the reasonable fees and disbursements of the Trustee’s and the Beneficiary’s legal counsel and other out-of-pocket expenses, and the reasonable charges of the Beneficiary’s legal counsel.

8. Late Payments. By accepting payment of any part of the Secured Obligations after its due date, the Beneficiary does not waive its right either to require prompt payment when due of all other Secured Obligations or to declare a default for failure to so pay.

9. Action by Trustee. At any time and from time to time upon written request of the Beneficiary and presentation of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of the Secured Obligations or the security of this Deed of Trust for the full amount of the Secured Obligations on all Property remaining subject to this Deed of Trust, the Trustee may, without notice and without liability for such action, and notwithstanding the absence of any payment on the Secured Obligations or any other consideration: (a) reconvey all or any part of the Trust Estate, (b) consent to the making and recording, or either, of any map or plat of the Land, (c) join in granting any easement affecting the Land, or (d) join in or consent to any extension agreement or any agreement subordinating the lien of this Deed of Trust. The Trustee is not obligated to notify the Trustor or the Beneficiary of any pending sale under any other deed of trust or of any action or other proceeding in which the Trustor, the Beneficiary or the Trustee is a party unless brought by the Trustee.

10. Reconveyance. Upon written request of the Beneficiary and surrender of this Deed of Trust and the Promissory Note to the Trustee for cancellation or endorsement, and upon payment of its fees and charges, the Trustee shall reconvey, without warranty, all or any part of the Property then subject to this Deed of Trust. Any reconveyance, whether full or partial, may be made in terms to “the person or persons legally entitled thereto”, and the recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Beneficiary shall not be required to cause any Property to be released from this Deed of Trust until final payment and performance in full of all Secured Obligations and termination of all obligations of the Beneficiary under or in connection with the Promissory Note or until the Secured Obligations are forgiven.

11. Substitution of Trustee. The Beneficiary may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named in or acting under this Deed of Trust, which instrument, when executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Land is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees who shall, without conveyance from the predecessor Trustee, succeed to all of its title, estate, rights, powers and duties. Such instrument must contain the name of the original Trustor, the Trustee and the Beneficiary, the book and page where this Deed of Trust is recorded (or the date of recording and instrument number) and the name and address of the new Trustee.

12. Successors and Assigns. This Deed of Trust applies to and shall be binding on and inure to the benefit of all parties to this Deed of Trust and their respective successors and permitted assigns.

13. Acceptance. Notice of acceptance of this Deed of Trust by the Beneficiary or the Trustee is waived by the Trustor. The Trustee accepts this Deed of Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

14. Beneficiary's Statements. For any statement regarding the Secured Obligations, the Beneficiary may charge the maximum amount permitted by law at the time of the request for such statement.

15. Governing Law. This Deed of Trust shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

16. Recording. The Trustee shall record this Deed of Trust against the Property in the Orange County's Recorder's office.

[Signature on Following Page]

[Remainder of Page Intentionally Left Blank]

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

BEACH HOUSING PARTNERS LP
a California limited partnership

By: JHC-Beach LLC, a California limited liability
company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public benefit corporation

Its: Manager

By: _____
Name: Michael Massie
Title: Chief Development Officer

Exhibit "A"

LEGAL DESCRIPTION

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

PARCEL 2, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 76, PAGE 4](#) OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 159-031-18

ATTACHMENT NO. 9

CITY ASSIGNMENT OF AGREEMENTS

[behind this page]

ASSIGNMENT OF AGREEMENTS

FOR VALUE RECEIVED, the undersigned, Beach Housing Partners LP, a California limited partnership ("Borrower"), assigns to the City of Huntington, a California municipal corporation ("City"), all of its right, title and interest in and to:

1. All architectural, design, engineering and development agreements, and any and all amendments, modifications, supplements, addenda and general conditions thereto (collectively, "Architectural Agreements"); and
2. All plans and specifications, shop drawings, working drawings, amendments, modifications, changes, supplements, general conditions and addenda thereto (collectively "Plans and Specifications")

heretofore or hereafter into or prepared by any architect, engineer or other person or entity (collectively "Architect"), for or on behalf of Borrower in connection with the development and construction of the Project. The Plans and Specifications, as of the date hereof, are those which Borrower has heretofore, or will hereafter deliver to City.

This ASSIGNMENT OF AGREEMENTS AND PLANS AND SPECIFICATION ("Assignment") constitutes a present and absolute assignment to City as of the date of this Assignment; provided, however, City confers upon Borrower the right to enforce the terms of the Architectural Agreements and Borrower's rights to the Plans and Specifications so long as no default or event which would constitute a default after notice or the passage of time, or both, has occurred and is continuing under that certain Acquisition Loan Agreement dated as of _____, between City, Borrower, and the Huntington Beach Housing Authority ("Authority") (the "Loan Agreement"), as well as any future amendments and implementation agreements between which refer to this Assignment. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Loan Agreement. Upon the occurrence of a default or event which would constitute a default after notice or the passage of time, or both, under the Loan Agreement, City may, in its sole discretion, give notice to Architect of its intent to enforce the rights of Borrower under the Architect Agreements and of its rights to the Plans and Specifications and may initiate or participate in any legal proceedings respecting the enforcement of said rights. Borrower acknowledges that by accepting this Assignment, City does not assume any of Borrower's obligations under the Architectural Agreements or with respect to the Plans and Specifications.

Borrower represents and warrants to City that: (a) any Architectural Agreements entered into by Borrower are in full force and effect and are enforceable in accordance with their terms and no default, or event which would constitute a default after notice or the passage of time, or

both, exists with respect to said Architectural Agreements; (b) any copies of the Architectural Agreements and Plans and Specifications delivered to City are complete and correct; and (c) Borrower has not assigned any of its rights under the Architectural Agreements or with respect to the Plans and Specifications except to the Authority.

Borrower agrees: (a) to pay and perform all obligations of Borrower under the Architectural Agreements; (b) to enforce the payment and performance of all obligations of any other person or entity under the Architectural Agreements; (c) not to modify the existing Architectural Agreements nor to enter into any future Architectural Agreements without City's prior written approval except as otherwise may be permitted in the Loan Agreement; and (d) not to further assign (other than assignment in connection with a loan from the Authority), for security or any other purposes, its rights under the Architectural Agreements or with respect to the Plans and Specifications without City's prior written consent.

This Assignment secures performance by Borrower of all obligations of Borrower under the Loan Agreement. This Assignment is supplemented by the provisions of the Loan Agreement and said provisions are incorporated herein by reference.

This Assignment shall be governed by the laws of the State of California, except to the extent that Federal laws preempt the laws of the State of California, and Borrower consents to the jurisdiction of any Federal or State Court within the State of California having proper venue for the filing and maintenance of any action arising hereunder and agrees that the prevailing party in any such action shall be entitled, in addition to any other recovery, to reasonable attorney's fees and costs.

This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, and successors-in-interest of Borrower and City; provided, however, this shall not be construed and is not intended to waive any restrictions on assignment, sale, transfer, mortgage, pledge, hypothecation or encumbrance by Borrower contained in any of the Loan Agreement.

The attached Architect's Consent, Schedule 1 and Exhibit A are incorporated by reference.

[SIGNATURE ON FOLLOWING PAGE]

Executed as of _____20____.

BEACH HOUSING PARTNERS LP

a California limited partnership

By: JHC-Beach LLC, a California limited liability
company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public benefit corporation

Its: Manager

By _____
Name: Michael Massie
Title: Chief Development Officer

ARCHITECT'S CONSENT

The undersigned architect ("Architect") hereby consents to the foregoing Assignment to which this Architect's Consent ("Consent") is part, and acknowledges that there presently exists no unpaid claims due to the Architect except as set forth on Schedule 1 attached hereto, arising out of the preparation and delivery of the Plans and Specifications to Borrower and/or the performance of the Architect's obligations under the Assignment.

Architect agrees that if, at any time, City shall become the owner of said Property, or, pursuant to its rights under the Loan Agreement, elects to undertake or cause the completion of construction of the Project on any portion of the Property, in accordance with the Plans and Specifications, and gives Architect written notice of such election; THEN, so long as Architect has received, receives or continues to receive the compensation called for under the Agreements, City may, at its option, use and rely on the Plans and Specifications for the purposes for which they were prepared, and Architect will continue to perform its obligations under the Agreements for the benefit and account of City in the same manner as if performed for the benefit or account of Borrower in the absence of the Assignment.

Architect further agrees that, in the event of a breach by Borrower of the Agreements, or any agreement entered into with Architect in connection with the Plans and Specifications, so long as Borrower's interest in the Agreements and Plans and Specifications is assigned to City, Architect will give written notice to City of such breach at the address shown below. City shall have thirty (30) days from the receipt of such written notice of default to remedy or cure said default. Nothing herein shall require City to cure said default or to undertake completion of construction of the Project.

Architect warrants and represents that it/he has no knowledge of any prior assignment(s) of any interest in the Plans and Specifications and/or the Agreements. Except as otherwise defined herein, the terms used herein shall have the meanings given them in the Assignment.

Executed as of _____, 20____.

By: _____

Name:

Title:

City's Address:

City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

SCHEDULE OF UNPAID CLAIMS

Schedule 1 to Assignment of Architectural Agreements and Plans and Specifications dated as of _____, 20____ between BEACH HOUSING PARTNERS LP, a California limited partnership, as Borrower, and CITY OF HUNTINGTON, as City.

EXHIBIT A
PROPERTY DESCRIPTION

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

PARCEL 2, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 76, PAGE 4](#) OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 159-031-18

ATTACHMENT NO. 10

ENVIRONMENTAL INDEMNITY

[behind this page]

ENVIRONMENTAL INDEMNITY

THIS ENVIRONMENTAL INDEMNITY (this "Indemnity"), dated as of _____, 20____ made by BEACH HOUSING PARTNERS LP, A CALIFORNIA LIMITED PARTNERSHIP (referred to as "Borrower"), in favor of the HUNTINGTON BEACH HOUSING AUTHORITY, a public body corporate and politic (the "Authority"), and the CITY OF HUNTINGTON BEACH, a California municipal corporation ("City").

WITNESSETH

WHEREAS, Borrower is the owner of real property in the City of Huntington Beach, as more particularly described on Exhibit A attached hereto and made a part hereof, and the real property improvements thereon (collectively referred to as the "Property");

WHEREAS, Borrower, Authority, and City entered into that certain Acquisition Loan Agreement, dated as of _____ (the "Loan Agreement"), pursuant to which the Authority and City each agreed to make a loan (collectively, the "Loans") to Borrower for the purposes of providing financing for the acquisition of property for affordable housing purposes (the Loan Agreement and the documents and instruments referred to therein which are being executed by Borrower concurrently herewith are referred to collectively as the "Loan Documents");

WHEREAS, Borrower has agreed to execute and deliver to the Authority and City this Indemnity to induce the Authority and City to make the Loans.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual agreements hereinafter set forth, Borrower hereby agrees with the Authority and City as follows:

Section 1. DEFINITIONS

For the purpose of this Indemnity, "Hazardous Materials" or "Hazardous Substances" shall include, but not be limited to, substances defined as "extremely hazardous substances," "hazardous substances," "hazardous materials," "hazardous waste" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, et seq.; and those substances defined as "hazardous waste" in Section 25117 of the California Health and Safety Code, as "infectious waste" in Section 25117.5 of the California Health and Safety Code, or as "hazardous substances" in Section 25316 of the California Health and Safety Code or "hazardous materials" as defined in Section 353 of the California Vehicle Code; and in the regulations adopted and publications promulgated pursuant to said laws. Other capitalized terms used in this Indemnity shall have the meanings ascribed to them in the Loan Agreement with the same force and effect as if set forth in full below.

Section 2. COVENANTS AND INDEMNITY

The following covenants and indemnities are hereby given and made by Borrower:

2.1 Covenants.

(a) Borrower covenants that it shall comply with any and all laws, regulations, and/or orders which may be promulgated, from time to time, with respect to the discharge and/or removal of Hazardous Materials, to pay immediately when due the costs of the removal of, or any other action required by law with respect to, any such Hazardous Materials, and to keep the Property free of any lien imposed pursuant to any such laws, regulations, or orders.

(b) Borrower covenants that the Property will not, while Borrower is the owner thereof, be used for any activities involving, directly or indirectly, the use, generation, treatment, storage, release, or disposal of any Hazardous Materials, except for de minimis quantities used at the Property in compliance with all applicable environmental laws and required in connection with the routine construction, operation and maintenance of the Property.

(c) Borrower further agrees that Borrower shall not release or dispose of any Hazardous Materials at the Property without the express written approval of the Authority and City and that any such release or disposal shall be effected in strict compliance with all applicable laws and all conditions, if any, established by the Authority or City.

(d) The Authority and City shall each have the right, at any time, to conduct an environmental audit of the Property at the Authority's or City's, as applicable, expense, unless Hazardous Materials are found, then at Borrower's sole cost and expense, and Borrower shall cause Borrower to cooperate in the conduct of any such environmental audit but in no event shall such audit be conducted unless the Authority or City believes that such audit is warranted. Other than in an emergency, such audit shall be conducted only after prior notice has been given to Borrower and only in the presence of a representative of Borrower. Borrower shall give the Authority and City and their respective agents and employees access to the Property to remove, or otherwise to mitigate against the effects of, Hazardous Materials.

(e) Borrower shall not install, or permit to be installed, on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal or state regulations respecting such material, and, with respect to any such material currently present in the Property, Borrower shall promptly either (i) remove or cause to be removed any material that such regulations deem hazardous and require to be removed, or (ii) otherwise comply with such federal and state regulations, at Borrower's sole cost and expense. If Borrower shall fail to so do within the cure period permitted under applicable law, regulation, or order, the Authority and City may each do whatever is necessary to eliminate said substances from the premises or to otherwise comply with the applicable law, regulation, or order, and the costs thereof shall be added to the Obligations (as hereinafter defined) of Borrower under this Section 2.

(f) Borrower shall immediately advise the Authority and City in writing of any of the following: (i) any pending or threatened environmental claim against Borrower or the Property, (ii) any condition or occurrence on the Property that (A) results in noncompliance by Borrower with any applicable environmental law, (B) could reasonably be anticipated to cause the Property to be subject to any restrictions on the ownership, occupancy, use or transferability of the Property under any environmental law, or (C) could reasonably be anticipated to form the basis of an environmental claim against the Property or Borrower.

2.2 Indemnity. Borrower shall indemnify, protect, and hold the Authority and City harmless from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements, or expenses (including, without limitation, attorneys' and experts' fees and disbursements) of any kind or of any nature whatsoever (collectively, the Obligations) which may at any time be imposed upon, incurred by or asserted or awarded against the Authority or City and arising from or out of:

- (a) The presence of any Hazardous Materials on, in, under, or affecting all or any portion of the Property or any surrounding areas;
- (b) The breach of any covenant made by Borrower in Section 2.1 hereof; or
- (c) The enforcement by the Authority or City of any of the provisions of this Section 2.2 or the assertion by Borrower of any defense to its obligations hereunder.

Subject to the qualifications set forth in Section 2.3, below, Borrower shall be liable for payment and performance of the Obligations to the full extent (but only to the extent) of the property and assets (including the Property) which constitute security for such Obligations. If default occurs in the timely and proper payment and performance of any such Obligations (after notice and reasonable opportunity to cure), any judicial proceedings brought by the Authority or City against Borrower shall be limited to the protection and preservation of the Property, the preservation, enforcement and foreclosure of the liens, mortgages, assignments, rights and security interests securing such Obligations and enforcement and collection of such Obligations for which Borrower remains directly liable as provided in this Section. If there is a foreclosure of any such liens, mortgages, assignments, rights and security interests by power of sale or otherwise, no personal judgment for any deficiency thereon shall be sought or obtained by the Authority or City against Borrower, or its officers, directors, agents, attorneys, servants or employees.

2.3 Exceptions to Non-Recourse Liability. Notwithstanding the foregoing provisions of Section 2.2 or any other agreements,

(a) the Authority and City may each proceed against any other person or entity whatsoever with respect to the enforcement of any guarantees, surety bonds, letters of credit, reimbursement agreements or similar rights to payment or performance; and

(b) The Authority and City may each recover personally from any person or entity other than Borrower's Managing General Partner and Limited Partners:

(1) any damages, costs and expenses incurred by the Authority or City as a result of the negligence of such person or entity, involving, directly or indirectly, the use, generation, treatment, storage, release, or disposal of any Hazardous Materials by such person or entity or by others; provided, however, that neither Borrower nor any officer, partner, agent, attorney, servant or employee of Borrower shall have any personal liability if the act or omission complained of was performed in good faith and was not reckless, wanton, intentional or grossly negligent;

(2) any damages, costs and expenses incurred by Authority or City as a result of fraud or any criminal act or acts of Borrower or any partner, shareholder, officer, director or employee of Borrower, or of any general or limited partner of Borrower; and

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

Section 3. BORROWER'S UNCONDITIONAL OBLIGATIONS

3.1 Unconditional Obligations. Borrower hereby agrees that the Obligations will be paid and performed strictly in accordance with the terms of this Indemnity, regardless of any law, regulation, or order now or hereafter in effect in any jurisdiction affecting any of the Loan Documents or affecting any of the rights of the Authority or City with respect thereto. The obligations of Borrower hereunder shall be absolute and unconditional irrespective of:

- (a) The validity, regularity, or enforceability of the Loan Documents or any other instrument or document executed or delivered in connection therewith;
- (b) Any alteration, amendment, modification, release, termination, or cancellation of any of the Loan Documents, or any change in the time, manner, or place of payment of, or in any other term in respect of, all or any of the obligations of Borrower contained in any of the Loan Documents;
- (c) Any extension of the maturity of the Loans or any waiver of, or consent to any departure from, any provision contained in any of the Loan Documents;
- (d) Any exculpatory provision in any of the Loan Documents limiting the Authority's or City's recourse to property encumbered by the Deed of Trust securing the Loans, or to any other security, or limiting the Authority's or City's rights to a deficiency judgment against Borrower;

(e) Any exchange, addition, subordination, or release of, or nonperfection of any lien on or security interest in, any collateral for the Loans, or any release, amendment, waiver of, or consent to any departure from any provision of, any other Borrower or guarantee given in respect of the Loans;

(f) The insolvency or bankruptcy of Borrower, Borrower, or of any indemnitor or guarantor under any other indemnity or guarantee given in respect of the Loans; or

(g) Any other circumstance that might otherwise constitute a defense available to, or a discharge of, Borrower, Borrower, or any other indemnitor or guarantor with respect to the Loans or any or all of the Obligations.

3.2 Continuation. This Indemnity (a) is a continuing indemnity and shall remain in full force and effect until the satisfaction in full of all of the Obligations (notwithstanding the payment in full of the Loans or the release or other extinguishment of any security for the Loans); and (b) shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by the Authority or City upon the insolvency, bankruptcy, or reorganization of Borrower, Borrower or otherwise, all as though such payment had not been made.

3.3 Termination. Notwithstanding the payment (and performance) in full of all of the Obligations and the payment (or performance) in full of all of Borrower's obligations under the Loan Documents, this Indemnity shall not terminate if any of the following shall have occurred:

(a) The Authority or City has at any time or in any manner participated in the management or control of, taken possession of (whether personally, by agent or by appointment of a receiver), or taken title to the Property or any portion thereof, whether by foreclosure, deed in lieu of foreclosure, sale under power of sale or otherwise; or

(b) There has been a change, between the date hereof and the date on which all of the Obligations are paid and performed in full, in any Hazardous Materials laws, the effect of which may be to make a lender or mortgagee liable in respect of any of the Obligations, notwithstanding the fact that no event, circumstance, or condition of the nature described in paragraph (a) above ever occurred.

Section 4. WAIVER

Borrower hereby waives the following:

(a) Promptness and diligence;

(b) Notice of acceptance and notice of the incurrence of any obligation by Borrower;

(c) Notice of any action taken by the Authority, City, Borrower, or any other interested party under any Loan Document or under any other agreement or instrument relating thereto;

(d) All other notices, demands, and protests, and all other formalities of every kind, in connection with the enforcement of the Obligations, the omission of or delay in which, but for the provisions of this Section 4, might constitute grounds for relieving Borrower of its Obligations hereunder;

(e) The right to a trial by jury with respect to any dispute arising under, or relating to, this Indemnity;

(f) Any requirement that the Authority or City protect, secure, perfect, or insure any security interest or lien in or on any property subject thereto;

(g) Any requirement that the Authority or City exhaust any right or take any action against Borrower or any other person or collateral; and

(h) Any defense that may arise by reason of:

(1) The incapacity, lack of authority, death or disability of, or revocation hereof by, any person or persons;

(2) The failure of the Authority or City to file or enforce any claim against the estate (in probate, bankruptcy, or any other proceedings) of any person or persons; or

(3) Any defense based upon an election of remedies by the Authority or City, including, without limitation, an election to proceed by nonjudicial foreclosure or which destroys or otherwise impairs the subrogation rights of the Authority or City or any other right of the Authority to proceed against Borrower.

Section 5. NOTICES

Any notice, demand, statement, request, or consent made hereunder shall be in writing and shall be personally served, mailed by first-class registered mail, return receipt requested, to the address set forth in the first paragraph of this Indemnity, above, or given by telecopier to the telecopier numbers stated below, with confirmations mailed by first class registered mail, return receipt requested to the address set forth above, of the party to whom such notice is to be given (or to such other address as the parties hereto, shall designate in writing):

In the case of the Authority:

Huntington Beach Housing Authority
2000 Main Street
Huntington Beach, CA 92648
Attn: Executive Director

With a copy to:

City Attorney's Office
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

In the case of the City:

City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

With a copy to:

City Attorney's Office
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

In the case of Borrower:

Beach Housing Partners LP
c/o Jamboree Housing Corporation
17701 Cowan, Suite 200
Irvine, CA 92614
Attention: Michael Massie, Chief Development Officer

With a copy to:

Rutan & Tucker, LLP
Attn: Patrick D. McCalla, Esq.
611 Anton Boulevard, 14th Floor
Costa Mesa, California 92626

Any notice that is transmitted by electronic facsimile transmission followed by delivery of a “hard” copy, shall be deemed delivered upon its transmission; any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

Section 6. MISCELLANEOUS

6.1 Borrower shall make any payment required to be made hereunder in lawful money of the United States of America, and in same day funds, to the Authority or City at its address specified in the first paragraph hereof.

6.2 No amendment of any provision of this Indemnity shall be effective unless it is in writing and signed by Borrower, City, and the Authority, and no waiver of any provision of this Indemnity, and no consent to any departure by Borrower from any provision of this Indemnity, shall be effective unless it is in writing and signed by City and the Authority, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

6.3 No failure on the part of the Authority or City to exercise, and no delay in exercising, any right hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of the Authority and City provided herein and in the other Loan Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law. The rights of the Authority or City under any Loan Document against any party thereto are not conditional or contingent on any attempt by the Authority or City to exercise any of its rights under any other Loan Document against such party or against any other person or collateral.

6.4 Any provision of this Indemnity that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof and without affecting the validity or enforceability of such provision in any other jurisdiction.

6.5 This Indemnity shall (a) be binding upon Borrower, and Borrower’s successors and assigns; and (b) inure, together with all rights and remedies of the Authority and City hereunder, to the benefit of the Authority, City, and their respective directors, officers, employees, and agents, any successors to the Authority’s or City’s interest in the Property, any other person who acquires any portion of the Property at a foreclosure sale or otherwise through the exercise of the Authority’s or City’s rights and remedies under the Loan Documents, any successors to any such person, and all directors, officers, employees, and agents of all of the aforementioned parties. Without limiting the generality of clause (b) of the immediately preceding sentence, the Authority or City may each, subject to, and in accordance with, the

provisions of the Loan Documents, assign or otherwise transfer all or any portion of its rights and obligations under any other Loan Document, to any other person, and such other person shall thereupon become vested with all of the rights and obligations in respect thereof that were granted to the Authority or City herein or otherwise. None of the rights or obligations of Borrower hereunder may be assigned or otherwise transferred without the prior written consent of the Authority and City.

6.6 Borrower hereby (a) irrevocably submits to the jurisdiction of any California or federal court sitting, in each instance, in Los Angeles County in any action or proceeding arising out of or relating to this Indemnity, (b) waives any defense based on doctrines of venue or forum non convenient or similar rules or doctrines, and (c) irrevocably agrees that all claims in respect of any such action or proceeding may be heard and determined in such California or federal court. Borrower irrevocably consents to the service of any and all process which may be required or permitted in any such action or proceeding to the address specified in the first paragraph of this Indemnity, above. Borrower agrees that a final judgment in any such action or proceeding shall be inclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

6.7 The title of this document and the captions used herein are inserted only as a matter of convenience and for reference and shall in no way define, limit, or describe the scope or the intent of this Indemnity or any of the provisions hereof.

6.8 This Indemnity shall be governed by, and construed and interpreted in accordance with, the laws of the State of California applicable to contracts made and to be performed therein, except to the extent that the laws of the United States preempt the laws of the State of California.

6.9 This Indemnity may be executed in any number of counterparts, each of which shall constitute an original and all of which together shall constitute one agreement.

[Signature on Following Page]

IN WITNESS WHEREOF, Borrower has duly executed this Indemnity as of the date first set forth above.

BEACH HOUSING PARTNERS LP

a California limited partnership

By: JHC-Beach LLC, a California limited liability
company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public benefit corporation

Its: Manager

By _____
Name: Michael Massie
Title: Chief Development Officer

Exhibit "A"

LEGAL DESCRIPTION

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

PARCEL 2, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 76, PAGE 4](#) OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 159-031-18

ATTACHMENT NO. 11

OPTION AGREEMENT

[behind this page]

OPTION AGREEMENT AND JOINT ESCROW INSTRUCTIONS

To: First American Title Insurance Company Escrow/Order No.: _____
 ("Escrow Holder" and "Title Company") ("Escrow")

Attn.: _____ ("Escrow Officer")
Telephone: _____
Facsimile: _____
Email: _____

This Option Agreement and Joint Escrow Instructions ("Option Agreement"), is entered into as of _____, 20____, ("Effective Date") by and among the City of Huntington Beach, a municipal corporation of the State of California ("City"), the Huntington Beach Housing Authority, a public body corporate and politic ("Authority"), and Beach Housing Partners LP, a California limited partnership ("Borrower"), each a "Party" and collectively, the "Parties" to this Option Agreement.

RECITALS

A. This Option Agreement is entered into pursuant to that certain Acquisition Loan Agreement entered into by and between the Parties dated _____ (the "Loan Agreement"). The term "Loan Agreement" as used herein shall mean, refer to and include the Loan Agreement, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in the Loan Agreement. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement.

B. Pursuant to the Loan Agreement, the Authority and City have each provided financial assistance to Borrower to acquire certain real property within the City of Huntington Beach for affordable housing purposes (the "Property"), using Low and Moderate Income Housing Asset Funds ("Authority LMIHAF Loan") and Affordable Housing Trust Funds ("City Inclusionary Loan"). The legal description of the Property is set forth in the Legal Description attached to this Option Agreement as Exhibit "A" and incorporated herein by this reference.

C. Subject to the terms and conditions of this Option Agreement, and in accordance with the Loan Agreement, the Authority and City each desire to acquire an option to purchase fee title to the Property from Borrower and Borrower desires to grant to Authority and City each an option to purchase fee title to the Property from Borrower.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. Grant and Basic Terms of Option.

1.1 Subject to the terms and conditions of this Option Agreement, Authority and City shall each have the option ("Option") to purchase fee title to the Property more particularly described on Exhibit "A," attached hereto and incorporated herein by this reference, together with all of Borrower's right, title and interest in and to all improvements, easements, appurtenances, and other intangible property of Borrower to the extent relating exclusively to said land (collectively herein, "the Option Property").

1.2 The Option shall commence on the Effective Date and end on the date that is the later to occur of (a) the Construction Financing Event (as defined in the Loan Agreement) or (b) twenty-two (22) months following the Close of Escrow (as defined in the Loan Agreement) (the "Option Term").

1.3 The exercise of the Option shall be subject to the Conditions Precedent to Right of Option, below.

1.4 The consideration for the Option shall be the sum of ONE DOLLAR AND NO CENTS (\$1.00) ("Option Price") as and for the full and complete consideration for the Option and the option purchase price for the Option Property.

1.5 The Option shall be exercised in accordance with the procedures set forth in this Option Agreement.

2. Exercise of Option

2.1 Notice of Exercise. Upon the occurrence of any event described in Section 2.2 of this Option Agreement, below, not later than the expiration of the Option Term described in Section 1.2 of this Option Agreement, above, Authority and City shall each have the right to exercise the Option, by delivering written notice (the "Option Notice") to Borrower, or its successor or assignee, stating that Authority or City, as applicable, elects to purchase the Option Property upon the terms and conditions set forth in this Option Agreement. For purposes of this Option Agreement, if Authority or City delivers such Option Notice, Authority or City, as applicable, may be referred to herein as the "Optionee". The Authority Executive Director is hereby authorized to exercise the Option on behalf of the Authority without any further approval by the Authority Board and the City Manager is hereby authorized to exercise the Option on behalf of the City without any further approval by the City Council.

2.2 Conditions Precedent to Right of Option. The right to exercise the Option shall be conditioned upon the occurrence of any of the following events:

(i) A default by Borrower under the terms of any of the Authority Instruments or City Instruments that is not cured within the time provided for therein;

(ii) The failure of the Construction Financing Event to occur within eighteen (18) months following the Close of Escrow; or

(iii) Expiration or termination of the Loan Agreement without the Construction Financing Event occurring.

2.3 Termination of Option. Provided that neither Authority nor City has delivered the Option Notice hereunder prior to the expiration of the Option Term, this Option Agreement shall terminate and be of no further force or effect upon the final day of the Option Term.

2.4 Opening of Escrow. Subject to Sections 2.1 and 2.2, above, the Optionee shall deliver to Escrow Holder a fully-executed copy of this Option Agreement within five (5) business days after the Option Notice Date (as defined below). As used in this Option Agreement, the term "Option Notice Date" shall mean the date on which Optionee shall have delivered the Option Notice to Borrower, or its successor or assignee, in accordance with this Option Agreement. When the fully-executed copy of this Option Agreement is delivered to Escrow Holder, as provided above, Escrow shall be deemed opened ("Opening of Escrow"). Escrow Holder shall immediately notify Optionee and Borrower, in writing, of the date of Opening of Escrow.

3. Condition of Property.

3.1. Physical Conditions. At all times during the Option Term, Borrower shall maintain the Option Property or cause the Option Property to be maintained in a safe, neat and orderly condition in the same or substantially similar condition as of the Effective Date (the "Required Site Conditions"). At any time after delivery of an Option Notice, Optionee, without cost or expense to Borrower, shall have the right to perform such investigation of the physical condition of the Option Property, as Optionee shall deem necessary. Upon notice from the Optionee, Borrower shall promptly, without cost to the Optionee, take such actions as may be necessary to restore the Option Property to the Required Site Conditions, to the reasonable satisfaction of the Optionee. Any and all costs, fees and expenses to restore the Option Property to the Required Site Conditions to the reasonable satisfaction of the Optionee shall be the responsibility of Borrower and shall be paid by Borrower prior to conveyance of the Option Property to the Optionee pursuant to this Option Agreement.

3.2 Environmental Conditions. Reference is hereby made to that certain Environmental Indemnity dated _____, 20____, in the form attached to the Loan Agreement as Attachment No. 10 (the "Environmental Indemnity"), which was executed by Borrower for the benefit of City and Authority. Borrower shall comply with the Environmental Indemnity, and indemnify, defend and hold harmless City and Authority, and their respective elected officials, members, officers, agents, employees, contractors and consultants, in accordance with the Environmental Indemnity.

3.3 Condition of Title. Unless and until this Option Agreement is terminated or expires as provided in Section 2.3 above, Borrower shall have no right to

encumber the Option Property with any deed of trust, mortgage, easement, lease, or other encumbrance against title to the Option Property or record any instrument against title to the Option Property. At any time after delivery of an Option Notice, the Optionee shall have the right to obtain a Title Policy (either CLTA or ALTA, at Optionee's option, including any endorsements and other coverage reasonably requested by Optionee), in the liability amount of the fair market value of the Option Property, as reasonably estimated by Optionee, at the sole cost of Borrower, insuring that fee simple merchantable title to the Option Property will vest in the Optionee upon the Closing Date (described below), free and clear of all recorded and unrecorded possessory interests, liens, encumbrances, mortgages, deeds of trust, assessments, easements, leases and taxes, except those approved in writing by the Optionee. Any and all costs, fees and expenses to remove or satisfy any such possessory interests, liens, encumbrances, mortgages, deeds of trust, assessments, easements, leases and taxes shall be the responsibility of Borrower and shall be paid by Borrower prior to conveyance of the Option Property to the Optionee pursuant to this Option Agreement.

4. Closing of Escrow.

4.1 Closing Date.

4.1.1 Escrow shall close on or before 5:00 p.m. on the sixtieth (60th) day after the Option Notice Date (the "Closing Date"). So long as the Option Notice is duly and properly delivered prior to the expiration of the Option Term, the Closing Date may occur either before or after the expiration of the Option Term.

4.1.2 The terms "Close of Escrow" and/or "Closing" are used in this Option Agreement to mean the time and date (which shall be as provided in Section 4.1.1) on which the Grant Deed (as defined in Section 4.3.1) is filed for recording by Escrow Holder in the Office of the County Recorder for Orange County, California.

4.2 Deposits to be Made by Authority. At or before 5:00 p.m. on the last business day immediately before the Close of Escrow, Optionee shall deliver to Escrow Holder:

4.2.1 Immediately available funds in a total amount equal to the Option Price and any other sums payable by Optionee hereunder.

4.2.2 Any additional funds and/or instruments, properly executed and acknowledged by Optionee, as appropriate, as may be necessary to comply with this Option Agreement.

4.3 Deposits to be Made by Borrower. At or before 5:00 p.m. on the last business day immediately before the Close of Escrow, Borrower shall deliver to Escrow Holder:

4.3.1 A grant deed conveying fee title to the Property (the "Grant Deed"), properly executed and acknowledged by Borrower in the form attached to this Option Agreement as Exhibit "B";

4.3.2 A Certification of Non-Foreign Status certifying, pursuant to Internal Revenue Code Section 1445, that Borrower is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations), along with California Form 593-C.

4.3.3 Any additional instruments, signed and properly acknowledged by Borrower if appropriate, as may be necessary to Close Escrow and comply with this Option Agreement.

4.3.4 Any additional funds as may be necessary to comply with this Option Agreement.

4.4 Possession. Exclusive possession of the Option Property shall be given to the Optionee at the Close of Escrow.

5. Title Policy.

5.1 At Close of Escrow, Title Company shall issue to Optionee the title policy described in Section 3.3 above (the "Title Policy"), with liability in the amount of the fair market value of the Option Property (as determined by the Authority Executive Director or City Manager, as applicable) and insuring fee title is vested in the Optionee in accordance with this Option Agreement.

6. Specific Performance. If Borrower defaults hereunder, the Authority or the City, at its option, may each commence an action for specific performance of the terms of this Option Agreement pertaining to such default.

7. Borrower's Representations and Warranties. Borrower hereby agrees and represents and warrants to Authority and City as follows, which representations and warranties are true in all respects as of the date hereof and shall be true on the Close of Escrow:

7.1 Authority. Borrower has the legal power, right and authority to own property and to enter into this Option Agreement and the documents referenced herein, and to consummate the transactions contemplated hereby. The individuals executing this Option Agreement and the documents referenced herein on behalf of Borrower have the legal power, right and actual authority to bind Borrower to the terms and conditions hereof and thereof.

7.2 Requisite Action. As of the date hereof, all requisite action (corporate, partnership or otherwise) has been taken by Borrower in connection with the entering into of this Option Agreement and the documents referenced herein, and the consummation of the transactions contemplated hereby.

7.3 Validity. This Option Agreement and all documents required hereby to be executed by Borrower are and shall be valid, legally binding obligations of and enforceable against Borrower in accordance with their terms, subject to principles of equity and laws affecting creditors' rights generally.

8. Brokerage Commissions. Borrower hereby represents and warrants to Authority and City that Borrower has made no statement or representation to, nor entered into any agreement with, any broker, salesman or finder in connection with the transactions contemplated by this Option Agreement. Borrower agrees to indemnify, defend, protect and hold the Authority and City harmless from and against any claim, loss, damage, cost or liability for any broker's commission or salesman's or finder's fee asserted as a result of its own act or omission in connection with this transaction.

9. General Provisions.

9.1 Assignment. This Option Agreement and the obligations of the Borrower hereunder shall be binding upon Borrower and its successors and assignees as to the Option Property, and shall inure to the benefit of Authority, City, and their respective representatives, successors and assigns, whether such succession or assignment is voluntary, involuntary, by force of law or otherwise. Authority and City shall each have the right to assign this Option Agreement or any interest or right under this Option Agreement or under the Escrow or to appoint a nominee to act as Optionee under this Option Agreement. Authority and City shall each have the right to assign this Option Agreement and its rights, duties and obligations hereunder in its sole and absolute discretion so long as the assignee shall be bound by the terms and conditions of this Option Agreement.

9.2 Attorneys' Fees. In any action between the Parties arising out of this Option Agreement or the Escrow, or in connection with the Option Property, the prevailing party in the action shall be entitled, in addition to damages, injunctive relief or other relief, to its reasonable costs and expenses, including, without limitation, costs and reasonable attorneys' fees fixed by the court.

9.3 Approval and Notices. Any notice, demand, approval, consent or other communication required or desired to be given under this Option Agreement in writing may be given by personal service, fax (with a hard copy to follow immediately), recognized overnight air courier or by certified mail and shall be directed to the Parties to the address(es) in the Loan Agreement. Any notice, demand, approval, consent or other communication given: (a) personally shall be deemed to have been given upon receipt, (b) by recognized overnight air courier, freight prepaid, shall be deemed to have been given on the next business day, (c) by certified mail shall be deemed to have been given on the third business day after it was deposited in the U.S. mail, certified and postage prepaid. Notices shall be deemed to have been validly given if given by either Authority's, City's, or Borrower's respective counsel in the manner set forth above. In any case, in order for such notice, demand, approval, consent or other communication to be given, the same shall be addressed to the party to be served at said address or at such other address and/or to such other notice recipient of which that party may have given notice under the provisions of this Section.

9.4 General Escrow Provisions. The Parties agree that this Option Agreement shall also constitute instructions to Escrow Holder. In addition, the Borrower and Optionee agree to execute and deliver to Escrow Holder, such reasonable and customary escrow

instructions in the usual form of Escrow Holder for the purpose of consummating the transaction contemplated by this Option Agreement; provided, however, that any standard extension provisions in such escrow instructions shall not apply, and in the event of any conflict or inconsistency between the provisions of such escrow instructions and the provisions of this Option Agreement, the provisions of this Option Agreement shall control. Escrow Holder shall perform all customary functions of an escrow holder to consummate this transaction, including, among other duties, calculation of the prorations and closing costs required by this Option Agreement, as well as serving as depository for all funds, instruments and documents needed for the Close of Escrow. If the requirements relating to the duties or obligations of Escrow Holder are unacceptable to Escrow Holder, or if Escrow Holder requires additional instructions, the parties agree to make any deletions, substitutions and additions, as counsel for Borrower and Optionee shall mutually approve, and which do not materially alter the terms of this Option Agreement. Any supplemental instructions shall be signed only as an accommodation to Escrow Holder and shall not be deemed to modify or amend the rights of Borrower and Optionee, as between Borrower and Optionee, unless those signed supplemental instructions expressly so provide.

9.5 Prorations; Refundable Deposits. Property taxes and assessments on the Property, and any rents, utilities and maintenance and other income and operating expenses for the Property, shall be paid by/to Borrower as of Close of Escrow, based on the most current statements and information available to Escrow Holder. Borrower shall be responsible for the lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California for acts or events occurring on or before Close of Escrow.

9.6 Payment of Costs. Borrower shall pay all closing costs, including without limitation, escrow fees, recording fees, title premiums.

9.7 Escrow Holder Authorized to Complete Documents. If necessary, Escrow Holder is authorized to insert the date Escrow closes as the date of documents conveying interests therein.

9.8 Recordation of Documents. Upon Close of Escrow, Escrow Holder shall cause the Grant Deed, and any other recordable instruments to be filed for recordation in the Office of the Orange County Recorder. Escrow Holder shall supply Borrower and Optionee with conformed copies of documents submitted for recording.

9.9 Delivery of Documents and Funds. Upon Close of Escrow, Escrow Holder shall deliver to Borrower and to Optionee all documents and funds to which each is entitled and for whose benefit those documents and funds were delivered to Escrow Holder.

9.10 Performance by Escrow Holder. Escrow Holder is to be concerned only with those Sections under this Option Agreement where Escrow Holder is given instructions to perform certain acts or with those Sections where escrow holders generally and reasonably would be expected to act.

9.11 Intentionally Omitted.

9.12 Interpretation. This Option Agreement shall be construed under the laws of the State of California in effect at the time of the signing of this Option Agreement. Each Party acknowledges that it has been represented by independent counsel in connection with this Option Agreement and that this Option Agreement is the result of negotiations between the Parties hereto. Any uncertainty or ambiguity shall not be construed against any Party because that Party's counsel, as a matter of convenience or otherwise, prepared this Option Agreement in its final form.

9.13 Titles, Captions and Sections. Titles and captions are for convenience only and shall not constitute a portion of this Option Agreement. References to Section numbers are to Sections as numbered in this Option Agreement unless expressly stated otherwise.

9.14 Gender, Etc. As used in this Option Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. As used in this Option Agreement, the terms "including" and "include" shall have their most comprehensive meanings and shall be deemed to mean "including, without limitation" and "include, without limitation," respectively.

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

9.16 Modifications. Any alteration, change or modification of or to this Option Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each Party.

9.17 Severability. If any term, provision, condition or covenant of this Option Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Option 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.

9.18 Merger of Prior Agreements and Understandings. This Option Agreement, together with the Loan Agreement, contains the entire understanding between the Parties relating to the transaction contemplated by this Option Agreement. All prior or contemporaneous agreements (other than those attached as exhibits to the Loan Agreement), understandings, representations and statements, oral or written, are merged into this Option Agreement and shall be of no further force.

9.19 Time of Essence. Time is expressly made of the essence with respect to the performance by the Parties of each and every obligation and condition of this Option Agreement.

9.20 Counterparts. This Option Agreement may be signed in multiple counterparts which, when signed by all Parties, shall constitute a binding Agreement.

9.21 Exhibits Incorporated by Reference. All exhibits attached to this Option Agreement are incorporated into this Option Agreement by reference.

9.22 Computation of Time. The time in which any act is to be done under this Option 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, in which case the time shall be extended to the next business day.

9.23 Further Actions. Each Party agrees to sign such other and further instruments and documents and take such other and further actions as may be reasonably necessary or proper in order to accomplish the intent of this Option Agreement.

9.24 Preliminary Change of Ownership Report. Optionee shall be fully responsible for all matters in connection with the filing of a Preliminary Change of Ownership Report in accordance with the California Revenue and Taxation Code Section 480.3.

9.25 No Recordation. Neither this Option Agreement nor any memorandum hereof shall be recorded or filed except for the Memorandum to be recorded pursuant to Section 9.27.

9.26 No Third Party Beneficiaries. This Option Agreement does not create, and it shall not be construed as creating, any rights enforceable by any person or entity not a party to this Option Agreement except to the extent such person or entity is the beneficiary of any indemnity, waiver or release contained herein.

9.27 Memorandum of Option. Concurrently with the execution of this Option Agreement, the Parties shall execute in a form suitable for recordation a Memorandum of Option disclosing the grant of the Option, such Memorandum of Option to be in the form of Attachment No. 12 to the Loan Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have duly executed this Option Agreement as of the Effective Date.

“BORROWER”

BEACH HOUSING PARTNERS LP
a California limited partnership

By: JHC-Beach LLC, a California limited
liability company
Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public
benefit corporation

Its: Manager
By: _____
Name: Michael Massie
Title: Chief Development
Officer

“CITY”

THE CITY OF HUNTINGTON BEACH, a
municipal corporation of the state of California

By: _____
Mayor

ATTEST:
By: _____
City Clerk

APPROVED AS TO FORM:
By: _____
City Attorney

[Signatures on Following Page]

“AUTHORITY”

HUNTINGTON BEACH HOUSING AUTHORITY,
a public body corporate and politic

By: _____
Executive Director

ATTEST:

By: _____
Secretary

APPROVED AS TO FORM:

By: _____
City Attorney

Exhibit "A"

LEGAL DESCRIPTION

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

PARCEL 2, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 76, PAGE 4](#) OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 159-031-18

EXHIBIT "B"

FORM OF GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF HUNTINGTON BEACH
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

SPACE ABOVE THIS LINE FOR RECORDING USE

Assessor's Parcel No. _____

OFFICIAL BUSINESS

Document Entitled to Free Recording
Per Government Code §§ 6103 & 27383

DOCUMENTARY TRANSFER TAX \$ _____

___ Computed on the consideration or value of property conveyed; OR

___ Computed on the consideration or value of property conveyed less liens or encumbrances
remaining at time of sale.

Signature of Declarant or Agent determining tax

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
BEACH HOUSING PARTNERS LP, a California limited partnership ("Grantor"), hereby grants
to _____, a _____, ("Optionee") the real
property described in the document attached hereto, labeled Exhibit A and incorporated herein
by this reference.

This Grant Deed can be executed in one or more counterparts with all counterparts taken together constituting a single document.

BEACH HOUSING PARTNERS LP
a California limited partnership

By: JHC-Beach LLC, a California limited liability
company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public benefit corporation

Its: Manager

Date: _____

By _____

Name: Michael Massie

Title: Chief Development Officer

CERTIFICATE OF ACCEPTANCE

Pursuant to the provisions of Government Code Section 27281, this is to certify that the interest in real property conveyed by the Grant Deed dated _____, 20__, from BEACH HOUSING PARTNERS LP, a California limited partnership (“Grantor”) to _____ (“Optionee”), is hereby accepted pursuant to the authority conferred by the _____ on _____, 20__ by Resolution No. ____ and the Optionee consents to recordation thereof by its duly authorized officer.

EXHIBIT A

LEGAL DESCRIPTION TO GRANT DEED

ATTACHMENT NO. 12

MEMORANDUM OF OPTION

[behind this page]

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF HUNTINGTON BEACH
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

FREE RECORDING REQUESTED
(Gov't Code Section 27383)

MEMORANDUM OF OPTION

THIS MEMORANDUM OF OPTION (this "Memorandum") is entered into as of _____, 20____, by and among the City of Huntington Beach, a municipal corporation of the State of California ("City"), the Huntington Beach Housing Authority, a public body corporate and politic ("Authority"), and Beach Housing Partners LP, a California limited partnership ("Borrower"). All capitalized terms used and not otherwise defined in this Memorandum, but defined in the Option Agreement (as defined below), shall have the same meaning in this Memorandum as in the Option Agreement.

RECITALS

A. Borrower, City, and Authority have entered into that certain Option Agreement and Joint Escrow Instructions dated _____, ____ (the "Option Agreement"), pursuant to which Borrower has granted to Authority and City each the option to purchase ("Option") the real property more particularly described in Exhibit "A" attached hereto, together with all improvements thereon ("the Option Property").

B. Pursuant to the Option Agreement, the parties now desire to enter into this Memorandum to provide record notice of the Option Agreement.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, it is hereby agreed as follows:

AGREEMENT

1. Option to Purchase. Borrower grants to Authority and City each an Option to purchase the Option Property for the price and upon all of the terms and conditions set forth in the Option Agreement, which Option Agreement is incorporated herein by this reference.

2. Purpose of Memorandum of Option. This Memorandum is prepared for the purpose of recordation only, and in no way modifies the provisions of the Option Agreement. In

the event that any provisions of this Memorandum are inconsistent with provisions of the Option Agreement, the provisions in the Option Agreement shall prevail.

3. Governing Law. This Memorandum shall be construed and enforced in accordance with the laws of the State of California.

4. Counterparts. This Memorandum may be executed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

[Signatures on Following Page]

IN WITNESS WHEREOF, Authority, City and Borrower have signed this Memorandum as of the date first written above.

“BORROWER”

BEACH HOUSING PARTNERS LP
a California limited partnership

By: JHC-Beach LLC, a California limited
liability company

Its: Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public
benefit corporation

Its: Manager

By: _____
Name: Michael Massie
Title: Chief Development
Officer

“AUTHORITY”

HUNTINGTON BEACH HOUSING
AUTHORITY,
a public body corporate and politic

By: _____
Executive Director

ATTEST:

By: _____
Secretary

APPROVED AS TO FORM:

By: _____
City Attorney

[Signatures on Following Page]

“CITY”

THE CITY OF HUNTINGTON BEACH,
a municipal corporation of the state of California

By: _____
Mayor

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

Exhibit "A"

LEGAL DESCRIPTION

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

PARCEL 2, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 76, PAGE 4](#) OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 159-031-18