

CITY OF SIMI VALLEY • MEMORANDUM

DATE: May 30, 2024

TO: Affordable Housing Subcommittee

FROM: Department of Environmental Services

SUBJECT: REVIEW OF A REQUEST FROM HEYWOOD STREET ASSOCIATES LLC FOR FINANCIAL ASSISTANCE THROUGH THE CITY'S SUCCESSOR HOUSING AGENCY FUND, TO ESTABLISH THE NECESSARY FINANCING FOR THE CONSTRUCTION AND STABILIZATION OF THE CHURCHILL APARTMENTS, AN APPROVED 91-UNIT MULTIFAMILY HOUSING PROJECT WITH FIVE DEED RESTRICTED AFFORDABLE UNITS, LOCATED AT 1850 HEYWOOD STREET

Applicant

Heywood Street Associates LLC
920 Hampshire Road, Suite A4
Westlake Village, CA 91361

Representative

Chris Itule, Managing Member
Itule Real Estate Group
(805) 379-5005

RECOMMENDATION

The Applicant requests that the Affordable Housing Subcommittee recommend that the City Council adopt a resolution to:

1. Approve the Second Amended and Restated Affordable Housing Agreement, AHA-2024-0001 (Attachment A, page 7) for the Churchill Apartments, to set aside one (1) unit for occupancy by qualified extremely low-income household at 30% of the Area Median Income (AMI), four (4) apartment units for occupancy by qualified very low-income households at 50% of AMI, and related conditions, for the 91-unit apartment project deed restricted for 55 years in exchange for a bridge loan from the City; and
2. Approve the Loan Agreement (Attachment B, page 35) and accompanying documents, between the City and Heywood Street Associates LLC, where the City would provide a bridge loan in an amount not to exceed \$1,000,000 with a 3.0% annual (simple) interest for a term of 18 years.

BACKGROUND AND OVERVIEW

The Applicant, Heywood Street Associates LLC, is requesting the City to provide a bridge loan to help finance the construction and stabilization of The Churchill Apartments (the "Project"), an approved multifamily residential Project with affordable housing units located at 1850 Heywood Street. The Heywood Street Associates LLC is comprised of a

partnership under the managing member of the Chris Itule Real Estate Group, who has previously completed two similar multifamily residential communities in Simi Valley within the past 5 years along Patricia Avenue: the 65-unit Patricia Parc Apartments (inclusive of 5 affordable units), and the 54-unit Vantage Apartments (inclusive of 4 affordable units) - a combined \$35 million in housing development dollars invested in Simi Valley to date. Anticipating budget constraints with inflation at a 30-year high, cost of construction and operation elevated, and the interest rate environment still volatile, gap financing assistance from the City could expedite construction of the Project by reducing the Applicant's construction and operating costs for the affordable housing units including one unit for 30% Area Median Income households, which assists with the City's Regional Housing Needs Assessment.

FINDINGS AND ALTERNATIVES

Bridge Loan Request

According to the Applicant, the total Project cost for the Churchill Apartment complex is estimated at \$35 million, which is approximately \$384,600 per unit or approximately \$2 million for the five affordable units. The Applicant has submitted an Amortized Loan Repayment Schedule and Project Milestones to the City in support of its request for a \$1 million bridge loan in exchange to add additional affordability as mentioned in the above AHA Amendment discussion. The bridge loan is intended to provide construction and project stabilization financing for five (5) floating affordable units, with one (1) floating unit to be occupied by qualified extremely low-income household, and four (4) floating units to be occupied by qualified very low-income households, and bedroom mix shall be adjustable according to each household size.

In contrast to a standard AHA with a City permanent loan incentive for a term of 55 years, the term of the bridge loan would be limited to 18 years, allowing for reinvestment for future projects much sooner than a standard loan. The bridge loan shall accrue 3% annual (simple) interest, prorated at \$333,047.60 over the 18-year term, with interest-only payments during the initial three years (the construction phase - estimated at three years), and principal plus interest repayment beginning in the fourth year until the bridge loan is repaid in full (the project stabilization phase - estimated at 15 years). During the construction phase, the bridge loan would be recorded as a subordinate lien to the Loans. Once construction is complete, the City loan would be subordinate to the loans, which will provide financing for 15 years to allow the residential project stabilize. All principal repayments and interests accrued shall be deposited into the Successor Housing Agency Fund for future housing program uses. The Applicant has requested that the City release the funds at the time a zoning clearance is issued, tentatively December 1, 2024.

Rents

Based on the current market conditions and HUD AMIs for Ventura County for very low- (50% of AMI) and extremely low (30% of AMI) income categories, it is estimated at present value that writing-down of tenant rents to 30% of AMI will create a deficit of approximately \$558,000 in rents collected over a term of 18 years. Table 1 below demonstrates the difference in rents received (or rent loss), estimated at present value, between market rate rents and the deed restricted rents, with the general assumptions

under HUD standards for a two-bedroom unit, household size of 4 people, and fixed 5% annual rent increases over an 18-year term and a 55-year term.

Table 1 – Comparison of Estimated Rents Received Per Apartment Unit

Rent Categories	Total Rents Received		Difference (Rent Loss)	
	18-year	55-year	18-year	55-year
Market Rate	\$894,609	\$8,672,261	-	-
50% of AMI	\$560,397	\$5,432,435	(\$334,212)	(\$3,239,826)
30% of AMI	\$336,322	\$3,260,279	(\$558,287)	(\$5,411,982)

Beyond the annual rent adjustments to keep up with inflation, development subsidy in the form of a low-interest construction loan is the available option to help gap the rent loss, maintain the balance of deeper affordability, and to allow the Developer to keep pace with its ongoing operating costs.

Successor Housing Agency (SHA) Funding

Pursuant to California Health and Safety Code Section 34176.1, the City of Simi Valley Successor Housing Agency (SHA) is obligated to meet its obligations to expend all Excess Surplus funds in its Low and Moderate Income Housing Asset Fund. The State statute defines Excess Surplus as unencumbered funds exceeding one million dollars or the aggregate amount deposited into the fund over the preceding four fiscal years, whichever is greater, the length of time that the SHA has had Excess Surplus, and the SHA's plan for eliminating the Excess Surplus within three fiscal years. Furthermore, SHA expenditures are limited to the development of affordable housing rental units, administrative costs of monitoring the SHA assets, and homeless prevention.

As of June 30, 2023, the SHA excess surplus required to be spend and/or committed by June 30, 2024 was \$1,380,160. Table 2 below details how the proposed loans for both projects being presented at this meeting will affect the outstanding surplus and/or assist with preventing the accumulation of an additional surplus at the end of FY 2023-24. It should be noted that a surplus creates time constraints on pairing rental projects with available funding that meet the requirements of the SHA. Additionally, developers rarely propose the inclusion of 30% AMI units outside of permanent supportive housing (PSH) projects, which are reserved for homeless individuals requiring case management services. To be able to secure a 30% AMI unit outside of a PSH project creates an opportunity for an individual on a fixed income without Section 8 Housing Choice Voucher to secure affordable housing.

Table 2 – Overview of Excess Surplus

FY 2020-21 Surplus (Expenditure Deadline 6/30/24)	\$2,461,945
Less: FY 2021-22 Expenditures	(\$597,057)
Less: FY 2022-23 Expenditures	(\$484,728)
FY 2020-21 Surplus Balance	\$1,380,160
Less: Proposed Churchill Loan	(\$1,000,000)
Less: Estimated FY 2023-24 Expenditures	(\$692,576)
Add: FY 2021-22 Surplus (Expenditure Deadline 6/30/25)	\$141,513

Add: FY 2022-23 Surplus (Expenditure Deadline 6/30/26)	\$204,187
Aggregate Surplus Balance	\$33,284
Less: Proposed Ridge Loan	(\$500,000)
Net Impact to FY 2023-24 Surplus (Expenditure Deadline 6/30/27) or Fund Balance	(\$466,716)

Affordable Housing Agreement (AHA) Amendment

The Churchill Apartments, under the ownership of Heywood Street Associates LLC (the "Applicant"), is a 91-unit multifamily apartment community with an approved entitlement, Planned Development Permit PD-S-2023-0003 approved on September 21, 2023, including an AHA for five (5) affordable units with specified units and bedroom mixes set aside to qualified very low-income renters in exchange for one development concession and four development waivers, pursuant to the State Density Bonus Law, to overcome site constraints. This second amendment to the AHA, if approved, would require the City to provide financial assistance to further write-down the tenant rents for one out of the five deed restricted units from the Very Low-Income level at 50% of the Area Median Income (AMI) to the Extremely Low-Income level at 30% of the AMI, and convert all five affordable units from assigned (fixed apartment number and bedroom mix) to floating with bedroom mix adjustable according to each household size. Amending the AHA and providing developers with development subsidies is a common practice for all levels of government to create housing opportunities for any mixed-income communities. Additionally, it is rare for a non-permanent supportive housing development to include any 30% AMI units. The rent loss associated with households at 30% of the AMI often prohibits these units from being built outside of permanent supportive developments that are largely subsidized with state and federal funds for individuals exiting homelessness.

City staff reviewed the Applicant's proposal and determined that the request for financial assistance is warranted in the following ways.

1. The Applicant has specified that the construction financing would be fully secured if the City approves the bridge loan.
2. As illustrated in the Project Milestone (Exhibit 2) Applicant having secured site control and the established Project's shovel readiness (planned enough to allow construction to begin) are key incentives to the City in the form of community reinvestment and economic development.
3. The rental housing market is experiencing a strong return on investment rate. The recent Ventura County Civic Alliance's State of the Region report shows the average market rents for apartments in Ventura County, experienced an increase of more than \$500 from the average rent three years earlier.

Therefore, the Applicant's Amortized Loan Repayment Schedule (Exhibit 3) proposes a condensed bridge loan repayment schedule of 18 years instead of a standard 55-year repayment plan for affordable housing developments.

Regional Housing Needs Assessment (RHNA)

The 2021-2029 RHNA begun October 15, 2021. While the City is not obligated to build housing, it must adopt land use policies and implement them in a manner that allow feasible opportunities to build housing units to meet the identified RHNA needs. The City's RHNA allocation for the current cycle is 2,793 housing units at various income levels. Table 3 below details the City's allocations by income level, projected development, the impacts of this proposed development, and the remaining unmet allocation. If the Project is approved and built, the City would satisfy 4 RHNA allocations in the Very Low-Income category, 1 allocation in the Extremely Low-Income category, and the remaining 86 units would fully satisfy the Moderate-Income allocations as the Project is located within the Low/Moderate Income Area as determined by the U.S. Census Bureau.

Table 3 – RHNA Allocation Summary

Housing Units	Extremely Low (<30% AMI)	Very Low (<50% AMI)	Low (51-80% AMI)	Moderate (81-120% AMI)	Above Moderate (>120% AMI)	Total Potential Housing Units
RHNA Allocation	374	375	493	518	1,033	2,793
Pipeline Projects & Projected ADUs	0	68	307	326	956	1,657
Santa Susana GRF2, LLC	0	14	0	0	77	91
Heywood Street Associates LLC	1	4	0	86	0	91
Remaining Unmet Allocation	373	289	186	106	0	954

To demonstrate a good faith effort in meeting the City's RHNA allocations, staff supports the applicant's proposal. Creating housing closer to jobs, services, and transit could also help mitigate regional traffic congestion. Lastly, increased availability of rental units will provide housing opportunities for those who are not yet ready to purchase a home or cannot afford to do so in the current real estate market.

The following alternatives are available to the Subcommittee:

1. Recommend that the City Council adopt a resolution approving the Second Amended and Restated Affordable Housing Agreement, AHA-2024-0001 (Attachment A, page) for the Churchill Apartments, to set aside one (1) unit for occupancy by qualified extremely low-income household at 30% of the Area Median Income (AMI), four (4) apartment units for occupancy by qualified very low-income

households at 50% of AMI, and related conditions, for the 91-unit apartment project deed restricted for 55 years in exchange for a bridge loan from the City;

2. Approve a loan agreement and accompanying documents, between the City and Heywood Street Associates LLC, where the City would provide a bridge loan in an amount not to exceed \$1,000,000 with a 3.0% annual (simple) interest for a term of 18 years;
3. Recommend that City Council approve a revised combination based on the requests stated above; or
4. Refer the matter back to staff for additional information.

Staff recommends Alternatives No. 1 and 2.

SUMMARY

The Applicant, Heywood Streets Associates LLC, submitted an application to amend the Regulatory Agreement and Declaration of Restrictive Covenants for an approved apartment project, the Churchill Apartments. The amendment would allow the Applicant to receive a \$1,000,000 bridge loan from the City for a term of 18 years and in return, the Applicant will write-down the tenant rents for one of the existing income restricted affordable units from Very Low-Income (50% AMI) to Extremely Low-Income (30% of AMI), and convert all five affordable units from assigned (fixed apartment number and bedroom mix) to floating with bedroom mix adjustable according to each household size. The bridge loan would allow the Applicant to construct and stabilize the 91-unit apartment with affordable units and ensure the fiscal viability of the Project.



 Stratis Perros, Director
 Department of Environmental Services

Prepared by: Eric Chen, Associate Planner

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REQUESTED BY AND WHEN
RECORDED MAIL TO:

CITY OF SIMI VALLEY
Attn: City Clerk
2929 Tapo Canyon Road
Simi Valley, CA 93063

SPACE ABOVE FOR RECORDER'S USE
ONLY

The Undersigned declares that this document is recorded for the benefit of the City of Simi Valley and therefore is exempt from the payment of a recording fee pursuant to Government Code Section 6103 & 27383.

APNs: 632-0-050-355 and 632-0-050-395

CITY OF SIMI VALLEY
SECOND AMENDED AND RESTATED
AFFORDABLE HOUSING AGREEMENT
THE CHURCHILL APARTMENTS
(HEYWOOD STREET ASSOCIATES LLC)

The land referred to in this Second Amended and Restated Affordable Housing Agreement (AHA-2024-0001) is situated in the City of Simi Valley, County of Ventura, State of California on a 3.11-acre portion of a parcel generally located at 1850 Heywood Street, more particularly described in **Exhibit "A"**, which is incorporated by reference.

These Restrictions provide rights to the City of Simi Valley in regulating the rental of the subject 91-unit apartment project, containing five affordable units, for a period of 55 years from the date of a final Certificate of Occupancy.

**SECOND AMENDED AND RESTATED
AFFORDABLE HOUSING AGREEMENT
THE CHURCHILL APARTMENTS
HEYWOOD STREET ASSOCIATES LLC**

THIS SECOND AMENDED AND RESTATED AFFORDABLE HOUSING AGREEMENT (AHA-2024-0001) ("Agreement") is entered into this _____ day of _____ 2024 among the City of Simi Valley, California, a general law city and municipal corporation ("City") and Heywood Street Associates LLC, a California limited liability company ("Owner"). The City and Owner are collectively referred to as the "Parties". The Parties agree as follows:

1 **RECITALS.** This Agreement is made with reference to the following facts and circumstances:

A. The Project Site consists of approximately 3.11-acre portion of a property located in the City of Simi Valley, County of Ventura, State of California, as more particularly described in **Exhibit "A"**, and incorporated by reference ("Project Site").

B. City and Owner entered into this Agreement to govern the five affordable set-aside units in the Project.

C. Owner received a Certificate of Administrative Approval for an application to the City, PD-S-2023-0003, on September 21, 2023 ("Project Approvals"), to develop a 91-unit apartment project containing five affordable units ("Project"), on the Project Site, an increase of 8 units from the initial 83 units the initial approval PD-S-2022-0001 under Resolution No. 2023-01. Owner did not sought and does not require a density bonus above the maximum allowable residential density for the development of the Project.

D. City and Owner entered into an Affordable Housing Agreement (AHA-2022-0001) on January 23, 2023, under Resolution No. 2023-02 (the "Original Agreement") and was not recorded. This Agreement among the City and Owner rescinds the Original Agreement, and the Amended and Restated Affordable Housing Agreement (the "Amended Agreement") that was not recorded. This Agreement pertains to the 5 affordable units in the Project must supersede all provisions related thereto in the Original Agreement and the Amended Agreement.

E. City provided Owner a \$1,000,000 loan from the Successor Housing Agency Fund as described below ("City Loan Documents") to provide financial assistance toward the development of the Project in exchange for the affordable set-aside units.

F. City provided Owner concessions and waivers toward the development of the Project pursuant to Government Code § 65915 (the "Density Bonus Law"). In return, Owner is restricting occupancy of five of the dwelling units comprised of four units that are affordable to Very Low-Income Households at a rent that does not exceed 30% of fifty percent of the area median income adjusted for family size appropriate for the unit, and one unit that is affordable to Extremely Low-Income Households at a rent that does not exceed 30% of thirty percent of the area median income adjusted for family size appropriate for the unit.

2 DEFINITIONS. Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Agreement:

- 2.01 "AHU" or "Affordable Housing Unit" means each of the five units within the Project, unit size (to be determined) adjusted according to family size, which are reserved for rental to Qualified Tenants in accordance with the terms of this Agreement.
- 2.02 "Affordable Rent" means: for an Extremely Low-Income Household, a monthly rent that does not exceed 1/12th of 30% of thirty percent of the Area Median Income for a household size appropriate to the Unit; OR, for a Very Low-Income Household, a monthly rent that does not exceed 1/12th of 30% of fifty percent of Area Median Income for a household size appropriate to the Unit. The maximum monthly rental amount of the Units must be adjusted annually by the formula set forth above upon the promulgation of revised Area Median Income figures. Actual rent charged may be less than such maximum rent.
- 2.03 "Area Median Income" (AMI) means the annual median income, adjusted according to household size, for the County of Ventura, as most recently published and updated by the United States Department of Housing and Urban Development ("HUD") and as set forth in 25 California Code of Regulations § 6952, or any other comparable source City deems appropriate.
- 2.04 "Director" means the Environmental Services Director of the City of Simi Valley
- 2.05 "Extremely Low-Income Household" means persons and families whose incomes do not exceed the qualifying limits for extremely low-income families, in accordance with Health and Safety Code § 50106.
- 2.06 "Gross Income" means all payments from all sources received by a person (together with the gross income of all persons of the age of 18 years or older who intend to reside with such person in one residential unit), whether in cash or in kind as calculated pursuant to HUD Regulations in effect as of the Date of this Agreement.
- 2.07 "HUD" means the U.S. Department of Housing and Urban Development or any successor agency.
- 2.08 "Income Limit Schedule" means the Schedule of Income Limits for the County of Ventura most recently published and updated by HUD and as set forth in 25 California Code of Regulations § 6952 including the Extremely Low-Income and Very Low-Income Limits for Ventura County, adjusted by household size.

- 2.09 "Initial Rent" means the amount charged to a Qualified Tenant for first occupancy of an AHU immediately after the Certificate of Occupancy or equivalent is issued for the Project.
- 2.10 "Initial Rent Date" means the first occupancy date of an AHU by a Qualified Tenant immediately following the issuance of a Certificate of Occupancy or equivalent for the Project.
- 2.11 "Initial Tenant Costs" means all deposits and fees, exclusive of the first month's rent, charged to a Qualified Tenant prior to occupying an AHU.
- 2.12 "Manager" means that person (or persons) who resides within the Project and has been hired by Owner to provide on-site management duties.
- 2.13 "Qualified Tenant" means a renter household or rental applicant household who meets the income criteria herein for eligibility as an Extremely Low-Income or a Very Low-Income Household at the time of the initial tenancy (i.e., the date of initial occupancy as evidenced by execution by the tenant household of the initial Lease or Rental Agreement with the Owner).
- 2.14 "Restricted Rental Rate" means a rental payment regulated by the terms of this Agreement.
- 2.15 "Very Low-Income Household" means persons and families whose incomes do not exceed the qualifying limits for very low-income families, in accordance with Health and Safety Code §50105.

3 DESIGNATION OF AFFORDABLE HOUSING UNITS; REGULATORY INCENTIVES

- 3.01 Designation of AHUs. In exchange for a concession and waivers under the Density Bonus Law, Owner agrees that at all times during the term of this Agreement, the AHUs be occupied exclusively by Qualified Tenants at the restricted rents identified in Paragraphs 6 and 6.03 (the "AHUs").
- 3.02 Incentives and Waivers. Owner acknowledges receipt of at least one additional concession or incentive under the Density Bonus Law in exchange for Owner's agreement to restrict the rents of the AHUs. City also granted the following concession ("Concession") pursuant to Government Code § 65915(d)(1) and the Simi Valley Municipal Code ("SVMC"):
- To increase the allowable building height from 40.0 feet to 45.6 feet set forth by Government Code Section 65915(d)(1).
- City also granted, the following waivers ("Waivers") pursuant to Government Code Section 65915(e)(1) and the SVMC:
- To waive or reduce the 10' wide landscape area along the street-facing property line requirement set forth in SVMC 9-33.030(B).

- To increase the number of stories from three (3) stories to four (4) stories set forth by Government Code Section 65915(e)(1).
- To waive or increase allowable walking distance from the apartment entry door to the trash enclosure requirement set forth in SVMC 9-35.050(D)(1);
- To waive or increase allowable walking distance from tenant parking to the apartment entry door requirement set forth in SVMC 9-34.040(E).

3.03 City Loan. Provided that all Project Entitlements are approved by City, City loans to Developer \$1,000,000 loan pursuant to the City Loan Documents that will reflect a repayment period of 18 years at 3% (simple) annual interest rate. Interest only payments are due on the City Loan until the end of the initial three years of construction period and residential stabilization (the "Construction Period"). After the Construction Period concludes, the Owner must make monthly payments of principal and interest in an amount to cause the City Loan to be fully repaid at the end of the City Loan term. The City Loan must be subordinated to the initial construction and permanent period financing obtained by the Owner in connection with the acquisition, construction and financing of the Project.

4 TERM

4.01 Term of Agreement. Pursuant to the Density Bonus Law, the term of this Agreement begins on the date the Building Official issues a final Certificate of Occupancy, or equivalent, for the Project and remains in full force and effect for a period of 55 years afterward.

4.02 Restricted Rental Period. City and Owner agree that the Restricted Rental Period commences on the Initial Rent Date for the first unit rented under this Agreement and terminates 55 years after the Building Official issues a final Certificate of Occupancy or equivalent for the Project.

5 TIME CONSTRAINTS

5.01 Maintenance of Entitlements. Owner must maintain compliance with PD-S-2023-0003 including extensions and/or modifications. Any violation of PD-S-2023-0003 may result in the City declaring this Agreement null and void.

5.02 Inspection of AHUs. The AHUs must receive final inspection approval no later than the date that the market-rate units receive final inspection and approval. Time is of the essence in the occupancy of the AHUs.

- 5.03 Rent Up. The Owner agrees to rent at least five AHUs to Qualified Tenants within six months thereafter receiving a Certificate of Occupancy for any of the units in the Project.

6 RENTS

- 6.01 Initial Rents. The initial gross rent for each AHU in the Project (the "Initial Rents") must conform with the allowable "Affordable Rent" for Extremely Low-Income or Very Low-Income Households, as defined in Health and Safety Code § 50053. For Extremely Low-Income Households, the Initial Rent must be the product of 30% times thirty percent of the Area Median Income for Ventura County adjusted for household size appropriate for the unit, or for Very Low-Income Households, the Initial Rent must be the product of 30% times fifty percent of the Area Median Income for Ventura County adjusted for household size appropriate for the unit, or if the household is a Section 8 voucher holder, the Fair Market Rent as qualified by Section 8 program with the tenant portion of the rent not exceeding 30% of the household income. Initial Rent must be adjusted by the utility allowance established by the Area Housing Authority of the County of Ventura, except as provided in Paragraph 6.03 of this Agreement.
- 6.02 Security Deposits. Total deposits including security deposits and any other initial costs required of the Qualified Tenant occupying an AHU, other than the first month's rent, cannot exceed the tenant portion of one month's gross rent (without deduction of utility allowance) as determined under Paragraphs 6.01 or 6.03. If the security deposit exceeds \$500, upon request of the Qualified Tenant, s/he is allowed to pay the deposit in three equal monthly installments which is due, together with the monthly rent upon execution of the rental agreement, and on the rent due date of the following two months of occupancy of the AHU. Monthly installments are credited to tenant's security account. The security deposit cannot be increased as long as the tenant resides in the same unit.
- 6.03 Rent Adjustments.
- (a) "Adjustment Date" means 90 days after HCD issues updated AMI limits, but in any event, not more frequently than annually as long as this Agreement remains in effect.
 - (b) On each Adjustment Date, the annual rent increase for each of the AHUs is limited to not more than the lesser of the following:
 - i. 5%; or
 - ii. *The percentage increase in the Median Income Limit for Ventura County.*
 - (c) Notwithstanding Subparagraph (b), in no event may the tenant portion of the rent for any Extremely Low-Income Affordable Housing Unit exceed 30% of thirty percent of the Area Median Income amount, adjusted for

household size as established by the California Department Housing and Community Development, whichever is lower; and in no event may the tenant portion of the rent for any Very Low-Income Affordable Housing Unit exceed 30% of fifty percent of the Area Median Income amount, adjusted for household size as established by the California Department of Housing and Community Development, whichever is lower.

7 METHOD OF RENTAL

7.01 Classification. Any unit occupied by a Qualified Tenant as determined per Paragraph 8.01 is considered to have satisfied the occupancy requirements set forth above; therefore, must be subject to the Affordable Rent restrictions provided in this Agreement and must continue to satisfy such requirements if the tenant is recertified as a Qualified Tenant in accordance with Paragraph 8.02.

8 DETERMINATION OF TENANT ELIGIBILITY

8.01 Qualification. Owner is responsible for determining, in accordance with the provisions of 25 California Code of Regulations § 6910, et seq., as those sections may be amended, the income eligibility of a potential AHU renter household. On the date an AHU is leased, the gross annual income of a Qualified Tenant occupying said unit cannot exceed the limit for Extremely Low-Income or Very Low-Income or Lower-Income Household for Ventura County, as adjusted for the tenant's household size. Gross income calculations for prospective (and continuing) tenants are determined in accordance with 25 Cal. Code of Regs. § 6914. Owner must determine income qualification of an applicant tenant household by obtaining and reviewing required income records from each member of such tenant household. Such records should include, without limitation, the most recent federal income tax return of each member of said tenant household, bank records, Social Security Administration statements, pay stubs or other documentation, which verified the household's annual income (the "Supporting Documentation"). Additionally, Owner must obtain written certification of the anticipated income of all non-minor members of the tenant household for the 12-month period following the date of determination of income. Also, Owner must complete and provide to the City an Affordable Housing Program Tenant Certification, Exhibit "B," before use and City reasonably approves such use. Each AHU rented to a Qualified Tenant must be occupied by that household. Further, any AHU cannot be occupied by the Manager, and the Manager's unit cannot be designated as an AHU.

8.02 Tenant Recertification. Tenant Recertification means the Owner's annual verification of a Qualified Tenant's income conducted in accordance with Paragraph 8.01. At least 60 days before each Adjustment Date, Owner must provide written notice to AHU occupants to complete an Affordable Housing Program Tenant Recertification, Exhibit "C," and to provide supporting income verification documentation to the Owner before the Adjustment

Date. In the event that the tenant fails to provide proof of income to Owner on or before the Adjustment Date, such tenant is deemed to have committed a material breach of the Lease Agreement and the Lease Agreement must provide that such breach is cause for termination of tenancy. Owner cannot renew the tenant's lease without such proof of income. Subject to the limitations of State and Federal law, no tenant residing in an AHU can be denied continued occupancy, solely because their household income has increased such that it exceeds the limits for an Extremely Low-Income or a Very Low-Income Household for Ventura County, adjusted for household size pursuant to Section Paragraph 2.07. Owner must keep copies of all AHU Tenant Recertification forms on file and make them available to City upon request.

- 8.03 Change In Household Composition/Income. Owner is responsible for, in accordance with the provisions of the HUD Multifamily Occupancy Handbook 4350.3 Chapter 7, annual recertification, interim recertification (change in household composition), unit transfers, and gross rent changes.

9 OUTREACH PROGRAM

- 9.01 Outreach and Affordable/Affirmative Marketing Program. Owner must submit for approval a detailed Outreach and Affordable/Affirmative Marketing Program (the "marketing program"), which includes, without limitation, advertising, publicity and promotion, to the Director not less than 120 days before the projected completion of the Project. Owner may not commence marketing efforts of the AHUs as part of its overall Marketing Program for the Project, before the Director approves the Outreach and Affordable/Affirmative Marketing Program by the City, which approval should not be unreasonably withheld or delayed. The purpose of the Outreach and Affordable/Affirmative Marketing Program is to solicit and obtain Qualified Tenants for occupancy of all AHUs, to establish a waiting list for units that may become available and to affirmatively further fair housing goals by designing a program that attracts prospective Qualifying Tenants of all majority and minority groups in the housing market area regardless of race, creed, color, religion, sex, national origin, marital status, status with regard to receipt of public assistance, or disability. The Affirmative Marketing Program should assure that any persons normally not likely to apply for the AHUs without special outreach efforts, know about the availability of the AHUs, feel welcome to apply and have the opportunity to rent an AHU. The marketing program must begin before the occupancy of any apartment units within the Project and must include the following:

- (a) A print media schedule as shown on attached **Exhibit "D,"** which is incorporated by reference, to be published in a newspaper of City-wide or regional circulation;
- (b) Noticing and listing the Project throughout the life of this Agreement with the Area Housing Authority of Ventura County, the Senior Center, City Hall, Simi Valley Public Library, and, as appropriate for

market conditions, the Simi Valley-Moorpark Association of Realtors, Simi Valley faith community, and such other similar agencies as the Director may designate;

- (c) Notifying all persons on the Owner's waiting list for affordable rental housing;
- (d) Establishment of a telephone number for the Project with message capabilities to receive inquiries on vacant units, including the AHUs throughout the life of this Agreement;
- (e) Continuous display of the fair housing logo in the rental office and in advertising;
- (f) Budget to adequately fund the reasonably necessary expenses of the foregoing.

The Parties agree that, with the exception of Subparagraphs 9.01 (c) (d), and (e) above, the other items listed above must be implemented only when vacant units are or will soon be available for rental and when there is no one on the Owner's waiting list for the AHUs.

9.02 Waiting List.

- (a) From the commencement of the Outreach and Marketing Program and through the Restricted Rental Period, Owner must establish and maintain a waiting list regarding the applicants for the AHUs and select the prospective Qualifying Tenants on a first-come, first served basis. The waiting list must include the information requested in **Exhibit "E."** In no event may the waiting list be closed during the Restricted Rental Period by Owner.
- (b) Owner will not be obliged to rent an AHU to a potential renter on a waiting list unless such potential renter agrees to and does enter into a Lease Agreement which provides that the potential renter agrees to occupy the AHU no later than: (a) forty-five days after Owner notifies such potential renter that the AHU is available for occupancy, or (b) thirty days after such AHU is vacated by the prior tenant, whichever is later.

9.03 Initial Marketing Plan. The Outreach and Affordable/Affirmative Marketing Program must be no less intensive in the City of Simi Valley as compared to any other region.

9.04 Awareness of the AHU Availability. Owner must design the Outreach and Affordable/Affirmative Marketing Program to include provisions that create and build audience awareness of the availability of AHUs and equal housing opportunities.

- 9.05 Failure to Implement an Outreach Program. If Owner fails to submit for approval and implement an Outreach and Affordable/Affirmative Marketing Program, City has the right to implement a marketing program, at Owner expense, for the purpose of soliciting Qualified Tenants for Owner's AHUs.

10 NOTICES, DISCLOSURES, AND RECORDS

- 10.01 Notices. During the Restricted Rental Period, Owner must provide the following notices to tenants at the inception of each AHU tenancy:

- (a) Housing Information. Owner must provide tenants and prospective tenants with information on fair housing regulations and the State and Federal agencies responsible for enforcing them.
- (b) Adjustment Date. Owner must inform each tenant, in writing at the time of occupancy of an AHU, the next Adjustment Date for that unit.

Owner is responsible for obtaining proof that these items were received by the tenants and must keep such proof in the tenant files for inspection by City, if requested. This may be accomplished by having the tenants initial the lease that they have received the above information.

- 10.02 Expiration. Owner must comply with the requirements of Government Code § 65863.10 and any other then-applicable federal, state or local laws related to the expiration of the affordability period.

- 10.03 Right of First Refusal/Preservation Notices. During the term of this Agreement, Owner must be in compliance with Government Code § 65863.11 and any other then-applicable sections of California law.

- 10.04 Subleasing Restricted. As part of every rental agreement, Owner must provide a clause which, by its terms, prohibits to the fullest extent allowed by law, the subject AHU tenant from assigning, subleasing or transferring any interest in the unit to another without obtaining the City's prior written approval. No such approval will be granted for any sublease which provides for rent or tenant income in excess of that authorized herein. This provision does not prohibit Owner and the AHU tenant from entering into a new rental agreement to add additional household members provided that the new tenant household is determined to be eligible in accordance with Paragraph 8.01.

- 10.05 City Notification. Owner must make available to City, copies of all notices and housing information delivered under Paragraphs 10.01 through 10.03 within three business days of demand by City. All notices required by Paragraphs 10.01 through 10.03 must be set forth in bold-faced or capitalized letter, in a type face of at least 12 points, and must be separately initialed by the tenants.

- 10.06 Notice of Non-Compliance. Upon City determination of a material breach by Owner of the terms of this Agreement, City must within 10 working days after becoming aware of such material breach, provide written notice of the same to Owner, describing the nature of said breach, and Owner must have a reasonable period of time to cure such material breach before Owner being in default hereunder.
- 10.07 Records. Owner must maintain complete, accurate, and current records pertaining to the Project, and must permit any duly authorized representative of the City to inspect records, including records pertaining to income, age, and household size of residents. All Resident lists, applications, and waiting lists relating to the Project must at all times be kept separate and identifiable from any other business of the Owner and must be maintained as required by the City, using record-keeping forms provided by the City (Exhibits "B" through "F"), or on forms acceptable to the City, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the City. The Owner must retain copies of all materials obtained or produced with respect to occupancy of the AHUs from application to move-out and for a period of 5 years thereof.

11 CONDITION AND MAINTENANCE OF UNITS/PROJECT

- 11.03 Project Architecture. All units in the Project must have the same architectural, exterior, and interior treatments, with the exception of the units to be occupied by the Managers.
- 11.04 Project Maintenance. Owner must ensure that sufficient revenues are reserved and expended for maintenance of the Project as required by all applicable laws, and so as to maintain all areas of the Project in a well-kept condition order and repair safe, attractive and continuously functional in accordance with all state and local codes and regulations. Owner further agrees that such maintenance must be performed in a workmanlike manner on a regular basis and/or as needed and at times which will minimize inconvenience to tenants.

12 REPORTING AND AUDIT REQUIREMENTS

- 12.01 Status Reports. Status Reports. Beginning on the first anniversary of the Initial Rent Date for the first AHU rented in the Project, and continuing on each such annual anniversary thereafter during the Restricted Rental Period, Owner must submit the following written reports to the Director:
- (a) a copy of the waiting list (**Exhibit "E"**);
 - (b) a Unit Summary Report of all Affordable Housing Units (**Exhibit "F"**).
- 12.02 Audit. Owner must permit the City, with reasonable notice and during normal business hours, to inspect the Project Site to verify Owner's compliance with this Agreement. Owner must make available to the City,

during normal business hours such records as the City may reasonably request to verify such compliance. Should Owner fail to submit timely reports as required by Paragraph 12.01 above, City may cause an audit to be conducted at the sole expense of Owner, in addition to any other available legal remedies. Owner must cooperate with any such audit and further agrees to make available to the City all documents relative to rental of the AHUs to verify compliance with the terms of this Agreement.

13 ENFORCEMENT PROVISION

13.01 Enforcement. City has the authority to enforce all the provisions of this Agreement, including the Covenants and conditions contained herein. City may take any enforcement action permitted by law, including but not limited to, a civil action for specific performance of the restrictions and terms of this Agreement, damages for breach of contract, restitution and injunctive relief. The remedies provided herein are cumulative and not exclusive and does not preclude City from seeking any other remedy to which it otherwise would be entitled under law or equity.

14 SUCCESSORS AND ASSIGNS

14.01 Successors and Assigns. The parties hereto each agree that the obligations and duties contained herein are binding upon the City and Owner, and their respective successors and assigns. Owner and its successors cannot assign its rights or delegate its duties or obligations, or sell, transfer, convey, encumber, assign or lease any of the AHUs (other than for individual tenant use as contemplated hereunder). City and its successors and assigns are deemed the beneficiary of the covenants contained herein, without regard to technical classification and designation. The covenants run in favor of City, its successors and assigns without regard to whether City has been, remains, or is an owner of any land or interest thereon. Owner must provide at least fifteen (15) day notice to City before any proposed transfer to a successor or assign. The assignee or successor must agree in writing to assume on behalf of itself and its successors and assigns, all the duties and obligations of the Owner under this Agreement, and any purported assignment will not be valid without such a written agreement.

14.02 Rights of Mortgage Holders. The provisions of this Agreement do not limit the right of the holder of any mortgage, deed of trust or other lien or encumbrance (collectively "Mortgage Holders") to exercise any of its remedies for the enforcement of any pledge or lien upon the Property, provided however, that the obligations under this Agreement survive the exercise of such right through the remainder of the term of this Agreement pursuant to Paragraph 4.01.

15 RECORDATION OF AGREEMENT

- 15.01 Recording Agreement. This Agreement must be recorded before issuance of building permits. Owner must also record, separate from this Agreement the Declaration of Conditions and Restrictions on the Transfer of Title or Interest in Real Property document in the form of Exhibit "G," stating that the conditions and obligations to which the subject Project is bound run with the land.

16 GENERAL PROVISIONS

- 16.01 Indemnity and Hold Harmless. Owner must defend and provide legal defense with attorney(s) acceptable to the City, indemnify, and hold harmless the City, their agents, officials, officers, representatives and employees, from and against all claims, lawsuits, liabilities or damages of whatever nature arising out of or in connection with, or relating in any manner to any act or omission of Owner, its agents, employees, and subcontractors, and employees thereof, pursuant to the performance or non-performance of this Agreement. Owner must thoroughly investigate any and all claims and indemnify the City and do whatever is commercially necessary to protect the City, its agents, officials, officers, representatives and employees as to any such claims, lawsuits, liabilities, expenses, or damages arising out of this Agreement. Further, Owner cannot bring any claims, cross-claims, actions or cross-complaints against the City, its agents, employees or representatives, arising out of any disputes between Owner and third parties as to the City approvals or the issuance of building permits for this Project.
- 16.02 Time is of the Essence. The Parties hereto agree that time is of the essence in the performance of this Agreement. No waiver by any of the Parties to this Agreement or the non-performance or any breach of any term, provision or condition of this Agreement or any default hereunder is considered to be or operate as a waiver of any subsequent non-performance, breach or default.
- 16.03 Extension of Time Good Cause. The City may, in its sole discretion, extend one or more time deadlines for performance as referenced in this Agreement for good cause. "Good cause" includes, but is not limited to, acts of God, labor strikes, war, riots, pandemics, etc., as determined the City in its sole discretion.
- 16.04 Modifications. The Parties hereto each agree that no addition to or modification or waiver of any term or provision of this Agreement is effective unless set forth in writing, in the same manner and form as originally adopted and signed by both the City and Owner except that the City reserves the right to make minor amendments to this Agreement, which may become necessary due to changes in governmental regulations or other requirements affecting the parties involved in the arrangement of project financing so long as such amendments do not materially or

substantially modify the terms contained in this Agreement and do not add to the costs incurred by the City. The parties hereto further agree that oral agreements or understandings are of no force or effect whatsoever.

- 16.05 Not for the Benefit of Third Parties. This Agreement does not create any enforceable right, cause of action, or claim in any third party. The Owner, the City or their successors in interest are the sole parties who have standing to enforce the terms or obligations or to bring suit for damages arising out of a breach of this Agreement.
- 16.06 Not a Partnership or Joint Venture. This Agreement does not create a partnership or joint venture.
- 16.07 Subordination. Owner acknowledges that the City must not subordinate this Agreement or any of its terms or the separately recorded declaration of conditions and restrictions to any lien, encumbrance or mortgage for the Project. In the event that this Section 16.07 Agreement conflicts with any contract, agreement or order to which Developer or any parties affiliated with Developer is a party or by which it is bound, this Section 16.07 shall prevail.
- 16.08 Non-Discrimination. All of the Units must be available for occupancy on a continuous basis to members of the general public. Owner cannot give preference to any particular class or group of persons in renting the Units, except to the extent that one unit is required to be leased to Extremely Low-Income Households, and four units are required to be leased to Very Low-Income Households.

Owner covenants by and for itself and any successors in interest that there will be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use occupancy tenure or enjoyment of the Project nor can 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 in the Project. The foregoing covenants run with the land.

Owner must accept as tenants on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, or its successor. Owner must not apply selection criteria to Section 8 certificate holders that are more burdensome than criteria applied to any other prospective tenants.

All leases or contracts made relative to the Project, the improvements thereon or any part thereof, must contain or be subject to substantially the following nondiscrimination clause:

“There must be no discrimination against or segregation of any person or group of persons on account of race, color, creed religion, sex, sexual orientation, source of income, marital status, physical or mental handicap, medical condition, national origin or ancestry in the sale, lease, sublease transfer, use occupancy, tenure or enjoyment of the Project nor must lessee [or the contractor] or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the election location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Project.”

- 16.09 Violation of Conditions of Approval. Any violation of the conditions of any of the Project Approvals will also constitute a violation of this Agreement and must be enforceable as a breach hereof, as well as any other remedies.
- 16.10 Default. If Owner defaults in the performance or observation of any covenant, agreement or obligation set forth in this Agreement, and if such default remains uncured for a period of sixty (60) days after written notice must have been given by the City to Owner, then the City may declare an “Event of Default” to have occurred hereunder, and, at its option, may take any one or more of the following steps:
- (a) By mandamus or other suit, action or proceeding at law or in equity, require the Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the City hereunder;
 - (b) Have access to and inspect, examine and make copies of all of the books and records of the Owner pertaining to the 5 AHUs;
 - (c) Take such other action at law or in equity a may appear necessary or desirable to enforce the obligations, covenants and agreements of the Owner.
- 16.11 Severability. The Parties hereto each agree that should any portion of this Agreement be held invalid or unenforceable for any reason, such determination does not affect the validity of the remaining portions of this Agreement.
- 16.12 Covenants to Run with the Land. Owner subjects the Project (including the Project Site) to the covenants, reservations and restrictions set forth in this Agreement. The City and Owner declare their express intent that the covenants, reservations and restrictions set forth herein are deemed

covenants running with the land and must pass to and be binding upon Owner's successors in title to the Project; provided, however, that on the termination of this Agreement, said covenants, reservations and restrictions must expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof must conclusively be held to have been executed delivered and accepted subject to such covenants, reservations and restrictions regardless of whether such covenants, reservations and restrictions are set forth in such contract deed or other instrument. Owner, by and for itself and each successor to any interest in the Project, hereby specifically acknowledges and agrees to be bound by the covenants contained herein.

- 16.13 Notices. The parties hereto each agree that all notices or other communications required or permitted hereunder must be in writing, must be either personally delivered or sent by United States certified mail or registered mail, return receipt requested, and must be deemed received seventy-two (72) hours after deposited in the mail in the Counties of Ventura, Orange or Los Angeles, postage pre-paid, addressed to the persons to receive such notice, at the following address:

To City: City of Simi Valley
 Attn: Environmental Services Director
 2929 Tapo Canyon Road
 Simi Valley, CA 93063

To Owner: Heywood Street Associates LLC
 Attn: Adrian Stern
 17404 Ventura Blvd., Second Floor
 Encino, CA 91316

Or to the owner of record or successor in title to the subject Project.

Notice of change of address is required and must be given by written notice in the manner detailed in this Paragraph. Notices required under this Agreement to a Qualified Tenant of an AHU must be deemed adequately given if transmitted in like fashion to the street address and apartment number of such a Qualified Tenant.

- 16.14 Headings. The Parties hereto each agree that the paragraph headings herein are used only for the purpose of convenience and must not be deemed to modify, explain or limit the subject of the paragraphs of this Agreement to be considered in their construction.
- 16.15 Incorporation of Recitals and Exhibits. Recitals A through E are incorporated herein by this reference and **Exhibits "A" through "G"** are attached and incorporated herein by this reference.
- 16.16 Compliance with Applicable Laws. Owner and City must obey all Federal, State, local and special district laws, ordinances and regulations.

- 16.17 Entire Agreement. This Agreement, together with its attachments and writings expressly incorporated herein, constitutes the full and total understanding between the Parties hereto, construed according to the laws of the State of California, and supersedes all prior agreements between the Parties hereto.
- 16.18 Execution In Counterparts. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered to City, is deemed to be an original and all of which, taken together, are deemed to be one and the same instrument.

IN WITNESS THEREOF, the Parties hereto have executed this instrument as of the date first above written.

Attest:

City of Simi Valley, a municipal corporation

Lucy Blanco, City Clerk

Fred D. Thomas, Mayor of the City of Simi Valley, California

Approved as to Form:

Heywood Street Associates LLC, A California limited liability company

Algeria R. Ford, City Attorney

By: Chris Itule
Its: Managing Member

Approved as to Content:

Brian Paul Gabler, City Manager

Stratis Perros,
Environmental Services Director

Exhibits List

- Exhibit A: Legal Description
- Exhibit B: Affordable Housing Program Tenant Certification
- Exhibit C: Affordable Housing Program Tenant Recertification
- Exhibit D: Affordable Housing Program Outreach Plan / Print Media Schedule
- Exhibit E: Affordable Housing Agreement Waiting List
- Exhibit F: Affordable Housing Program Unit Summary Report
- Exhibit G: Declaration of Conditions and Restrictions

EXHIBIT "A"**LEGAL DESCRIPTION**

APNs: 632-0-050-355 AND 632-0-050-395

PARCEL 2 AS SHOWN ON THE MAP ENTITLED PARCEL MAP NO. LD-S-667 FILED APRIL 15, 2015 IN BOOK 70 OF PARCEL MAPS, AT PAGES 67 TO 70 INCLUSIVE, IN THE CITY OF SIMI VALLEY, COUNTY OF VENTURA, STATE OF CALIFORNIA.

EXCEPT THEREFROM ONE-TENTH PART OF THE TOTAL (GROSS) OIL, GAS OR OTHER KINDRED SUBSTANCES OR OTHER MINERALS EXTRACTED FROM SAID LAND AS RESERVED BY VENTURA LAND AND WATER COMPANY, A CORPORATION, RECORDED FEBRUARY 7, 1929 IN BOOK 239 PAGE 493, OF OFFICIAL RECORDS.

ALSO EXCEPT THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN AND TO A NINE-TENTHS PART OF THE TOTAL (GROSS) OIL, GAS OR OTHER KINDRED SUBSTANCES OR OTHER MINERALS IN, UPON OR UNDERLYING SAID LAND OR HEREAFTER EXTRACTED THEREFROM AS RESERVED BY PACIFIC STATES SAVINGS AND LOAN COMPANY IN DEED RECORDED JULY 10, 1947 IN BOOK 789 PAGE 376, OF OFFICIAL RECORDS.

EXHIBIT "B"

**CITY OF SIMI VALLEY
AFFORDABLE HOUSING PROGRAM TENANT CERTIFICATION**

THE CHURCHILL APARTMENTS, SIMI VALLEY

Manager: _____

Name: _____

Date: _____

Address: _____

Phone: _____

Number of persons in household: _____

List all persons who reside in unit:

Name	Social Security Number	Age*

*Information on age only required for age restricted projects.

Total Household Income:

1) Previous Year Annual Gross Income (Attach Verification)

Name	Source	Amount
Total Gross Monthly Income:		

2) Current Monthly Gross Income (Attach Verification)

Name	Source	Amount
Total Gross Monthly Income:		

The information on this form is provided solely for the purpose of determining eligibility for the City of Simi Valley Affordable Housing Program. This information is confidential and, except as may be required by the City of Simi Valley or Owner, any use of this information is strictly prohibited without written consent of the applicant. Acknowledgment of this paragraph does not constitute written permission.

I/We certify that the foregoing is complete, true, and accurate to the best of my/our knowledge and is verifiable by the most recent federal tax return and other income documentation provided herewith. I/We are aware that any misrepresentation in this application will constitute a material breach of my/our agreement with the Owner to rent or lease the unit, and will entitle the Owner to prevent or terminate my/our occupancy of the unit.

Signed: _____ Date: _____

Signed: _____ Date: _____

FOR CITY OFFICE USE ONLY

Anticipated Income

Next 12 Months: _____ Household Size: _____

Income Level: _____ Very Low (50%) Comments: _____

Income Level: _____ Extremely Low (30%)

____ Approved for Affordable Unit Reviewed by: _____

____ Not Approved Date: _____

EXHIBIT "C"
CITY OF SIMI VALLEY
AFFORDABLE HOUSING PROGRAM TENANT RECERTIFICATION
THE CHURCHILL APARTMENTS, SIMI VALLEY

Manager: _____

Name: _____ Date: _____

Address: _____ Phone: _____

Number of persons in household: _____

List all persons who reside in unit:

Name	Social Security Number	Age*

*Information on age only required for senior-oriented projects.

Total Household Income:

1) Current Monthly Gross Income (Attach Verification)

Name	Source	Amount
Total Gross Monthly Income:		

The information on this form is provided solely for the purpose of determining eligibility for the City of Simi Valley Affordable Housing Program. This information is confidential and, except as may be required by the City of Simi Valley or Owner, any use of this information is strictly prohibited without written consent of the applicant. Acknowledgment of this paragraph does not constitute written permission.

I/We certify that the foregoing is complete, true, and accurate to the best of my/our knowledge and is verifiable by the most recent federal tax return and other income documentation provided herewith. I/We are aware that any misrepresentation in this application will constitute a material breach of my/our agreement with the Owner to rent or lease the unit, and will entitle the Owner to prevent or terminate my/our occupancy of the unit.

Signed: _____ Date: _____

Signed: _____ Date: _____

FOR CITY OFFICE USE ONLY

Anticipated Income
Next 12 Months: _____ Household Size: _____

Income Level:
_____ Very Low (50%) Comments: _____
_____ Extremely Low (30%)

_____ Approved for Affordable Unit Reviewed by: _____
_____ Not Approved Date: _____

EXHIBIT "D"

**CITY OF SIMI VALLEY
AFFORDABLE HOUSING AGREEMENT OUTREACH PLAN / PRINT MEDIA SCHEDULE**

THE CHURCHILL APARTMENTS, SIMI VALLEY

PUBLICATION NAME AND CITY	DATES APPEARING		SIZE OF ADVERTISEMENT
	FROM	TO	

OFFICE USE ONLY

ATTACHMENTS: _____ Certification of Publication
 _____ Sample Copy of Text

EXHIBIT "E"

**CITY OF SIMI VALLEY
AFFORDABLE HOUSING AGREEMENT WAITING LIST
THE CHURCHILL APARTMENTS, SIMI VALLEY**

PROJECT: _____
MANAGER: _____

DATE SUBMITTED: _____

DATE	NAME	ADDRESS	PHONE	# OF BEDROOMS PREFER	HOUSE-HOLD SIZE	INCOME LEVEL (EL/VL)	DATE PLACED IN UNIT

EXHIBIT "F"

**CITY OF SIMI VALLEY
AFFORDABLE HOUSING AGREEMENT
UNIT SUMMARY REPORT OF ALL AFFORDABLE HOUSING UNITS**

THE CHURCHILL APARTMENTS, SIMI VALLEY

PROJECT: _____ DATE SUBMITTED: _____
MANAGER: _____

UNIT #	RESIDENT NAME	DATE MOVED INTO UNIT	MOVE IN RENT	RENT ADJUST. DATE	RENT ADJUST. AMOUNT	CURRENT RENT	TOTAL HOUSEHOLD INCOME	# IN HOUSEHOLD	# BDRMS	INCOME LEVEL (EL/VL)

EXHIBIT "G"

DECLARATION OF CONDITIONS AND RESTRICTIONS

REQUESTED BY AND
WHEN RECORDED MAIL TO:

CITY OF SIMI VALLEY
Attn: City Clerk
2929 Tapo Canyon Road
Simi Valley, CA 93063

SPACE ABOVE FOR RECORDER'S USE ONLY

The Undersigned declares that this document is recorded for the benefit of the City of Simi Valley and therefore is exempt from the payment of a recording fee pursuant to Government Code Section 6103 and 27383.

APNs: 632-0-050-355 AND 632-0-050-395

**DECLARATION OF CONDITIONS AND RESTRICTIONS
ON THE TRANSFER OF TITLE OR INTEREST IN REAL PROPERTY
THE CHURCHILL
(HEYWOOD STREET ASSOCIATES LLC)**

The land referred to is situated in the City of Simi Valley, County of Ventura, State of California, and more particularly described in Exhibit A attached hereto and incorporated herein.

Notice is hereby given that the Project and Project Site described herein is conditioned and the transfer of title and/or interest restricted by the City of Simi Valley (City) as set forth in that document entitled Second Amended and Restated Affordable Housing Agreement (AHA-2024-000) (the "Agreement"), recorded in the Official Records of the Office of the County Recorder, County of Ventura, State of California, which is hereby incorporated by reference herein.

Said restrictions expressly prohibit the transfer of title, assignment of rights, or delegation of duties without the express written consent of the City. Said consent must be conditioned upon the City's receipt of written evidence from the Buyer/Transferee at least 30 days prior to said consent that he/she has been fully informed of the terms of the Agreement and the benefits/burdens conferred therein and agrees to assume all of the duties and obligations, as well as the rights and benefits that the existing Owner/Seller enjoys under the terms of the Agreement.

Said restrictions further require the following:

1. The Owner/Seller must give at least fifteen (15) days' notice to City before any proposed transfer to a successor or assign. The assignee or successor must agree in writing to assume on behalf of itself and its successors and assigns, all the duties and obligations of the Owner under this Agreement, and any purported assignment will not be valid without such a written agreement. Said notice must be personally delivered or sent by certified mail, return receipt requested, to:

City of Simi Valley
 Attn: Environmental Services Director
 2929 Tapo Canyon Road
 Simi Valley, CA 93063

2. The title company must immediately notify the City of any attempt to sell or transfer the herein described Project. The Notice must be personally delivered or sent by certified mail, return receipt requested to the address noted above.
3. The escrow company must immediately notify the City of any attempt to sell or transfer the herein described Project. The notice must be personally delivered or sent by certified mail, return receipt requested to the address noted above.

As a condition precedent to the opening of escrow, the Owner, designated agent(s) of the Owner, and the escrow officer each have an affirmative duty to fully disclose the terms of the Agreement to each Buyer. Escrow may open only upon receipt of the Buyer's signed and dated statement acknowledging receipt of a copy of the Agreement.

ANY ATTEMPT TO TRANSFER TITLE OR ANY INTEREST IN THE PROJECT DURING THE TERM OF THE AGREEMENT IN VIOLATION OF SAID AGREEMENT AND THIS DECLARATION, MUST CAUSE SAID TRANSFER TO BE VOIDABLE AT THE ELECTION OF THE CITY.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the day and year first above written. This AGREEMENT may be executed in counterparts, each of which must be an original and all of which together constitute one and the same AGREEMENT.

City of Simi Valley
A Municipal Corporation
Company

HEYWOOD STREET ASSOCIATES LLC,
A California Limited Liability Company

 Brian Paul Gabler, City Manager

 By: Chris Itule
 Its: Managing Member

Dated: _____

Dated: _____

LOAN AGREEMENT

THIS LOAN AGREEMENT (the "Agreement") is entered into as of _____, 2024 by and between the CITY OF SIMI VALLEY, a municipal corporation ("City"), and Heywood Street Associates LLC, a California limited liability company ("Developer"), each a "Party," and collectively, "Parties."

RECITALS

The following recitals are a substantive part of this Agreement:

A. The City and the Developer will enter into a City of Simi Valley Affordable Housing Agreement, and a Declaration of Conditions and Restrictions on the Transfer of Title or Interest in Real Property, each dated of even date herewith to be recorded in the official records of Ventura County (collectively, the "Regulatory Agreement"). The Regulatory Agreement requires the Developer to construct and operate a 91-unit multifamily apartment project on an approximately 3.11-acre parcel of land within the City located at 1850 Heywood Street (the "Project"), and to restrict the rental of 4 apartment units to very low-income households, and 1 apartment unit to extremely low-income household at an affordable rent, with 1 manager's unit. The Regulatory Agreement is hereby incorporated herein by reference.

B. Pursuant to this Agreement, the City has agreed to provide a loan in the amount of One Million Dollars (\$1,000,000) (the "City Loan") from the Successor Housing Agency's Low and Moderate Income Housing Asset Fund to the Developer. The term of the City Loan shall be eighteen (18) years from December 1, 2024. The City Loan will be solely used to provide financial assistance toward the development and stabilization of the Project. The Parties intend that this Agreement will satisfy the obligations of the City pursuant to Section 2.03 of the Regulatory Agreement.

C. The City's making of the City Loan to the Developer is in the vital and best interest of the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws.

NOW, THEREFORE, the City and the Developer hereby agree as follows:

1. City Loan. Subject to Developer's performance of all of the terms, covenants and conditions, which are set forth herein, the City hereby agrees to a three percent (3%) simple-interest loan to the Developer in the amount of One Million Dollars (\$1,000,000).

1.1. Repayment of City Loan. The Developer's obligation to repay the City Loan shall be set forth in the Promissory Note in the form of Exhibit "A" attached hereto, which is incorporated herein. The Promissory Note shall be for a term of eighteen (18) years from the date of the Promissory Note for the Project, and shall bear three percent (3%) annual (simple) interest for the term of the Promissory Note. The

Promissory Note principal, and outstanding interest shall be paid in full at the end of the 18 year term.

1.2. Security for City Loan. The Promissory Note shall be secured by a Deed of Trust to be recorded as an encumbrance to the Project, in the form of Exhibit "B" attached hereto, which is incorporated herein, and the recordation of a UCC1 Financing Statement with respect to the Project. In the event of any default under the terms of the Promissory Note or the Deed of Trust, the sole recourse of the City for any and all such defaults shall be by judicial foreclosure or by the exercise of the trustee's power of sale and neither the Developer or any partner thereof shall be personally liable for the payment of the Promissory Note or for the payment of any deficiency established after judicial foreclosure or trustee's sale. Notwithstanding the foregoing, however, the foregoing shall not in any way affect any rights the City may have (as a secured party or otherwise) hereunder or under the Promissory Note or the Deed of Trust to recover directly from the Developer any amounts secured by the Deed of Trust, or any funds, damages or costs (including, without limitation, reasonable attorneys' fees and costs) incurred by the City as a result of fraud, misrepresentation or waste, and any costs and expenses incurred by the City in connection thereof (including, without limitation, reasonable attorneys' fees and costs).

1.3. Disbursement of City Loan. The City shall disburse the entire One Million Dollars (\$1,000,000) of the City Loan to provide financial assistance toward development and stabilization of the Project subject to the fulfillment or waiver by City of conditions (a) through (f) below. Conditions (a) through (f) below (the "Conditions Precedent") are solely for the benefit of the City, and may be waived by the City Manager in his or her sole discretion.

a. Execution of Documents. Developer shall have executed and delivered to the City the Promissory Note, the Regulatory Agreement and the Deed of Trust and any other documents required hereunder, such documents shall have been executed by the City, and the Regulatory Agreement and the Deed of Trust shall have been recorded as encumbrances to the Project.

b. Developer Submissions. Developer shall have submitted to the City the following: a copy of the owner's policy of title insurance issued to the Developer, with endorsements showing no mechanic's liens encumbering the Project (or expiration of statutory time limits for filing of mechanic's liens),. All of the foregoing submissions shall be certified by the Developer to be true and complete copies thereof.

c. Title Policy. A title insurance company reasonably acceptable to the City shall have unconditionally committed to issue a lender's policy of title insurance insuring the lien of the Deed of Trust in the amount of the City Loan, subject to the liens and associated regulatory agreements, if any, for all Senior Loan described in Section 1.4 and such exceptions as are reasonably acceptable to the City, together with any endorsements reasonably requested by the City. The Developer shall be responsible for the cost of such title policy and endorsements.

d. Proof of Insurance. Developer shall have provided to the City a certificate of insurance which satisfies the requirements of Section 2.3 hereof.

e. Environmental Condition. City shall not have disapproved the environmental condition of the Project.

f. No Default, Representations and Warranties. Developer shall not be in default in any of its obligations under the terms of this Agreement or the Regulatory Agreement. All representations and warranties of Developer contained herein and in the Regulatory Agreement shall be true and correct in all material respects on and as of the date of the disbursement of the City Loan, as though made at that time, and all covenants of Developer which are required to be performed prior to the disbursement of the City Loan shall have been performed by such date.

1.4 Subordination. City acknowledges that the Loan Agreement, Promissory Note, Deed of Trust, and any other document relating to the City Loan (the "City Loan Documents") shall be junior and subordinate to the loan documents for the construction loan made by ___TBD___, in an amount not to exceed Dollars (\$,000,000) (" TBD ") and after project construction is complete and the permanent loans have been recorded, the City Loan will be junior and subordinate only to the ___TBD___ Loan (" TBD "). IT IS AGREED THAT THE CITY SHALL NOT SUBORDINATE THE REGULATORY AGREEMENT OR ANY OF ITS TERMS OR THE SEPARATELY RECORDED DECLARATION OF CONDITIONS AND RESTRICTIONS UNLESS AUTHORIZED BY THE CITY COUNCIL. The City Deed of Trust may be made subordinate to future deed of trusts, or mortgages, where such subordination is required in order to (i) obtain the financing needed for the Project, for the construction and/or permanent loan or loans for the Project or (ii) refinance an existing loan on the Property, provided that:

a. City shall receive any notices of default under any such deed of trust in accordance with state law

b. City shall have the right to cure any default by the Developer as a junior lienholder in accordance with state law

The City shall execute and permit the recordation of a subordination agreement, in a form which is reasonably acceptable to the City, with respect to any lien, encumbrance or mortgage which satisfies the above-listed requirements. The City's approval of a proposed subordination agreement which meets these terms shall not be unreasonably withheld, conditioned or delayed.

1.5 Assumption. The Promissory Note shall not be assumable by successors and assigns of Developer without the prior written consent of the City, which consent shall not unreasonably be withheld.

2. Development and Operation Requirements.

2.1 Development and Operation of Project in Compliance with Regulatory Agreement. The Developer shall develop and operate the Project in compliance with the requirements of the Regulatory Agreement, including without limitation, the obligations regarding occupancy requirements, allowable rent and rent adjustments, resident selection and waiting list, and management and maintenance of the Project.

2.2 Maintenance. The Developer shall maintain the Project in accordance with Section 10 of the Regulatory Agreement and in compliance with all applicable provisions of the Simi Valley Municipal Code. The Project shall not be demolished or converted to another use without the prior written approval of the City. The Project shall be maintained in accordance with this Section until the City Loan is repaid in full. If the Project is not so maintained, and such condition is not corrected as soon as reasonably possible after notice thereof from the City, then the City may perform the necessary maintenance and Developer shall pay such costs as are reasonably incurred for such maintenance.

2.3. Insurance. Developer shall furnish the City with proper evidence of the following forms of insurance coverage:

a. General Conditions. Without limiting the Developer's indemnification of the City, Developer shall provide and maintain at its sole expense the insurance listed under subparagraph (b) hereof (Evidence of Coverages) covering its operations, subject to the following conditions:

(i) The City, its boards, officers, agents and employees, shall be included as additional insureds in all liability insurance policies, except for workers' compensation. The City shall be named as loss payees as their interests may appear in all property insurance.

(ii) With respect to the interests of the City, the Developer's insurance shall not be canceled nor reduced in coverage or limits until after thirty (30) days written notice shall have been sent by certified mail (return receipt requested) to the City, Department of Environmental Services, 2929 Tapo Canyon Road, Simi Valley, California 93063, and shall contain an unequivocal clause so stating.

(iii) A City approved endorsement or certified copy of insurance policy providing coverage shall be submitted to and approved by the City's Risk Manager prior to commencement of any work or tenancy.

(iv) Aggregate Limits/Blanket Coverage - If any of the required insurance coverages contain aggregate limits, or apply to other operations or tenancy of the Developer outside these specifications, Developer shall give City prompt, written notice of any incident, occurrence, claim, settlement, or judgment against that insurance which may diminish the protection that such insurance affords the City. Developer shall further take immediate steps restoring such aggregate limits or shall provide the insurance protection for such aggregate limits.

(v) Failure to Procure Insurance - Developer's failure to procure or maintain required insurance shall constitute a material breach of this Agreement under which the City may immediately terminate this Agreement or, at its discretion, procure or renew such insurance to protect the City's interests and pay any and all premiums in connection therewith, and recover all monies so paid from Developer, or deduct all monies so paid from payments due Developer.

(vi) Underlying Insurance - Developer shall be responsible for requiring indemnification and insurance from his/her employees receiving mileage allowance, consultants, agents, and subcontractors, if any, to protect the Developer's and the City's interests, and for ensuring that such persons comply with any applicable insurance statutes. Developer is encouraged to seek professional advice in this regard.

b. Evidence of Coverages. Evidence of coverages, as checked below, having as a minimum the limits shown, must be submitted and approved prior to the release of City funds. Amounts shown are Combined Single Limit (CSL). Split limits may be substituted if the total per occurrence equals or exceeds the CSL amount.

	<u>Description</u>	<u>Limits</u>
a.	Workers' Compensation with Waiver of Subrogation	Statutory
	(X) Employer's Liability	\$500,000
b.	General Liability (must be written on an Occurrence Form)	\$2 million
	(X) Premises and Operations	
	(X) Contractual Liability	
	(X) Independent Contractor	
	(X) Products/Completed Operations	
	(X) Broad Form Property Damage	
	(X) Broad Form liability Endorsement	
	(X) Explosion Hazard	
	(X) Collapse/Underground Hazard	
c.	Automobile Liability (must be written on an Occurrence Form)	\$2 million
	(X) Owned Automobiles	
	(X) Non-owned/Hired Automobiles	
d.	Property Insurance	100% of Replacement
	(X) All Risk Coverage	
	(X) Fire & Extended Coverage	
	(X) Fire Legal Liability	

c. Workers' Compensation. Developer shall comply with, and shall cause its contractors to comply with, all of the provisions of the Worker's Compensation Insurance and Safety Acts of the State of California.

d. Liability Insurance. In accordance with the provisions of Section 2.3(a) and (b) above, Developer shall furnish to City and maintain in force during the period the Project is maintained on the Project a policy of comprehensive general liability insurance from a good and solvent insurer qualified and licensed to do business in California in which the City and its officers, employees, agents and representatives are named as additional insureds. The certificate and endorsement by the insurance carrier shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination. Coverage provided hereunder by Developer shall be primary insurance and not be contributing with any insurance maintained by City, and the policy shall contain such an endorsement. A certificate of all such insurance policies required by this Agreement shall be delivered to the City Manager prior to the disbursement of the City Loan. No such insurance shall be canceled or modified without thirty (30) days prior written notice to the City.

2.4. Indemnification and Hold Harmless. Developer shall indemnify, hold harmless and defend, with attorney(s) reasonably acceptable to the City and its officers, elected and appointed boards and officials, employees, representatives and agents, from and against any and all liability, damages, costs, losses, claims and expenses, suits, actions, proceedings and judgments, including attorney fees, however caused, resulting directly or indirectly from or connected with the ownership, operation, management and maintenance of the Project, and/or the performance of this Agreement by Developer or its contractors, subcontractors, agents, employees or other persons acting on Developer's behalf other than resulting from the gross negligence or willful misconduct of any Indemnified Party.

2.5. Compliance with Laws. The Developer shall develop, maintain and operate the Project and the Project in conformity with all applicable laws, including all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, all applicable environmental laws, and all applicable disabled and handicapped access requirements, including without limitation all applicable provisions of the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

2.6. Nondiscrimination. Developer for itself and its successors and assigns, agrees that there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the leasing, subleasing, rental, transferring, use, occupancy, tenure, or enjoyment of the Project nor shall the Developer or any person claiming under or through the Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or

occupancy, of tenants, leases, sublessees, subtenants, contractors or vendees in the Project.

2.7. Condition of the Project.

a. Developer Precautions. Developer shall take all necessary precautions to prevent the release into the environment of any Hazardous Materials, which may be located in, on or under the Project. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with commercially reasonable standards as respects the disclosure, storage, use, removal and disposal of Hazardous Materials.

b. Environmental Indemnity. Developer shall indemnify, defend and hold City harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorneys' fees), resulting from, arising out of, or based upon (i) the release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Project, no matter when such claim, action, suit or proceeding is first asserted or begun and no matter how the Hazardous Materials came to be released, used, generated, discharged, stored or disposed of on, under, in or about, to or from the Project, or by whom or how they are discovered, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials on, under, in or about, to or from, the Project. This indemnity shall include, without limitation, any damage, liability, fine, penalty, parallel indemnity after closing, cost or expense arising from or out of any claim, action, suit or proceeding, including injunctive, mandamus, equity or action at law, for personal injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, contamination, leak, spill, release or other adverse effect on the environment.

c. Definitions. For purposes of this Agreement, "Hazardous Materials" means any substance, material, or waste which is or becomes regulated by any local governmental authority, Ventura County, the State of California, regional governmental authority, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25130 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum,

(vi) friable asbestos, (vii) polychlorinated byphenyls, (viii) methyl tertiary butyl ether, (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Code of Regulations, Division 4, Chapter 20, (x) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901, *et seq.* (42 U.S.C. §6903) or (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, *et seq.*

2.8 Liens and Stop Notices. Developer shall not allow to be placed on the Project or any part thereof any lien or stop notice. If a claim of a lien or stop notice is given or recorded affecting the Project the Developer shall within sixty (60) days of such recording or service:

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

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

3.1. Authority. Developer has full right, power and lawful authority to own the Project and undertake all obligations as provided herein, and the execution, performance and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of the Developer. The parties who have executed this Agreement on behalf of Developer are authorized to bind Developer by their signatures hereto.

3.2. Litigation. To the best of Developer's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Developer or any parties affiliated with Developer, at law or in equity before any court or governmental agency, domestic or foreign, which if adversely determined, would materially impair the right or ability of Developer to execute or perform its obligations under this Agreement or any documents required hereby to be executed by Developer, or which would materially adversely affect the financial condition of Developer or any parties affiliated with Developer.

3.3. No Conflict. To the best of Developer's knowledge, Developer's execution, delivery, and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Developer or any parties affiliated with Developer is a party or by which it is bound.

3.4. No Developer Bankruptcy. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, receivership or other proceedings are pending or threatened against the Developer or any parties affiliated with Developer, nor are any of such proceedings contemplated by Developer or any parties affiliated with Developer.

3.5 Notice of Changed Conditions. Until the disbursement of the City Loan, Developer shall, upon learning of any fact or condition, which would cause any of the warranties and representations in this Section 3 not to be true, immediately give written notice of such fact or condition to City. Such exception(s) to a representation shall not be deemed a breach by Developer hereunder, but shall constitute an exception which City shall have a right to approve or disapprove if such exception would have an effect on the development and/or operation of the Project. If City elects to disburse the City Loan to the Developer following disclosure of such information, Developer's representations and warranties contained herein shall be deemed to have been made as of the date of the disbursement of the City Loan, subject to such exception(s). Following the disclosure of such information, City may elect to terminate this Agreement by written notice to the Developer.

4. Remedies for Default. A failure by either party to perform any action or covenant required by this Agreement, the Regulatory Agreement, the Promissory Note, the Deed of Trust, or the occurrence of any event of default under any loan or deed of trust for the Project which is senior to the City Loan, within the time periods provided herein following notice and failure to cure as described hereafter, constitutes a "Default" under this Agreement. A party claiming a Default shall give written notice of Default to the other party specifying the Default complained of. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against any other party, and the other party shall not be in Default if such party cures such default within five (5) days if the claimed Default is a failure to pay amounts due pursuant to the Promissory Note, or thirty (30) days from receipt of such notice for all other claimed Defaults hereunder. However, in the event that such Default is other than a failure to pay money and is of such a nature that it cannot reasonably be cured within thirty (30) days from receipt of such notice, the claimant shall not institute any proceeding against the other party, and the other party shall not be in Default if such party immediately upon receipt of such notice, with due diligence, commences to cure, correct or remedy such failure or delay and completes such cure, correction or remedy with diligence as soon as reasonably possible thereafter. In the event of default on any loan or deed of trust senior to the City Loan, the Developer shall immediately deliver to the City a copy of such notice of default. Even if the holder of such loan or deed of trust has not exercised its rights or remedies with respect to such event of default, the City shall have the right (but not be obligated to) cure such default. In such event, the City shall be entitled to reimbursement from the Developer of all costs and expenses actually incurred by the City in curing such default. The City shall be entitled to add such amount to the amounts owing pursuant to the Promissory Note, and secured by the Deed of Trust.

4.1. Institution of Legal Actions. In addition to any other rights or remedies and subject to the restrictions otherwise set forth in this Agreement, either party may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any Default, to recover damages for any

Default, or to obtain any other remedy consistent with the purpose of this Agreement. The City may also cause all indebtedness of the Developer under this Agreement and the Promissory Note to become immediately due and payable, and may institute an action for judicial or non-judicial foreclosure pursuant to the Deed of Trust. Legal actions must be instituted in the Superior Court of the County of Ventura, State of California, or in the United States District Court for the Central District of California.

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

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

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

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

4.6. Attorneys' Fees. In any action between the parties to interpret, enforce, reform, modify, rescind, or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing party in the action shall be entitled, in addition to any other relief to which it might be entitled, reasonable costs and expenses including, without limitation, litigation costs and reasonable attorneys' fees.

5. General Provisions.

5.1. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice ("Notice") which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by reputable overnight document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (iii) mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below, or at any other address as that party may later designate by Notice.

To City: City of Simi Valley
2929 Tapo Canyon Road
Simi Valley, CA 93063
Attn: Environmental Services Director

To Developer: Heywood Street Associates LLC
Attn: Adrian Stern
17404 Ventura Blvd., Second Floor
Encino, CA 91316

Any written notice, demand or communication which is (i) sent by personal service shall be deemed received immediately upon receipt, (ii) sent by reputable document delivery service shall be deemed delivered on the next business day following the date sent, and (iii) sent by United States mail shall be deemed delivered within three days following the date sent; provided, however, that refusal to accept delivery after reasonable attempts thereto shall constitute receipt. Any notices attempted to be delivered to an address from which the receiving party has moved without notice shall be effective on the third day from the date of the attempted delivery or deposit in the United States mail.

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

5.3. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. This Agreement may be executed in three (3) originals, each of which is deemed to be an original.

5.4. Integration. This Agreement, together with all attachments hereto and the Regulatory Agreement, contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each party is entering this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material. This Agreement includes Exhibits A and B, which constitute the entire understanding and agreement of the parties, notwithstanding any previous negotiations or agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

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

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

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

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

5.9. 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 Agreement.

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

5.11 Definitions. Any terms used in this Agreement but not separately defined herein shall have the meaning given to such terms in the Regulatory Agreement.

IN WITNESS WHEREOF, City and the Developer have executed this Agreement as of the day and year first above written.

Attest:

City of Simi Valley, a municipal corporation

Lucy Blanco, City Clerk

Fred D. Thomas, Mayor of the City of
Simi Valley, California

Approved as to Form:

Heywood Street Associates LLC, A California
Limited Liability Company

Algeria R. Ford, City Attorney

By: Adrian Stern
Its. Managing Member

Approved as to Content:

Brian Paul Gabler, City Manager

Stratis Perros
Environmental Services Director

PROMISSORY NOTE

Entered into as of _____, 2024

Simi Valley, California

FOR VALUE RECEIVED, Heywood Street Associates LLC, a California limited liability company ("Borrower"), promises to pay to the CITY OF SIMI VALLEY, a municipal corporation (the "City"), or order, at the City's office at 2929 Tapo Canyon Road, Simi Valley, California 93063, or such other place as the City may designate in writing, the sum of One Million Dollars (\$1,000,000) (the "Note Amount"), or so much of the Note Amount as has been disbursed by the City hereunder, in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

1. Agreement. This Promissory Note (the "Note") is given in accordance with that certain Loan Agreement executed by the City and Borrower, entered into as of _____, 2024 (the "Loan Agreement"). The rights and obligations of the Borrower and the City under this Note shall be governed by the Loan Agreement and by the additional terms set forth in this Note. In the event of any inconsistencies between the terms of this Note and the terms of the Loan Agreement or any other document related to the Note Amount, the terms of this Note shall prevail.

2. Interest. The Note Amount (or such lesser amount as is then outstanding) shall bear three percent (3%) annual (simple) interest, accruing from year of disbursement through repayment of Note.

3. Repayment of Note Amount. The Note Amount and all accrued interest that has not been paid earlier in accordance with the Loan Documents shall be paid by the Borrower at the end of year eighteen (18) from the issuance of this Note for the Project. Notwithstanding the foregoing, however, the full Note Amount may be accelerated as set forth in Section 12 hereof. Borrower shall make the City Loan repayments as follows:

- i. Interest only payments shall be due on the Note, monthly, until the end of the initial three (3) years of construction period and residential stabilization (the "Construction Period"); and
- ii. Subsequent to the end of the Construction Period, the Borrower shall make monthly payments of principal and interest in an amount to cause the City Loan to be fully repaid at the end of the City Loan term, based on a full amortization schedule approved by the City.

4. Security. This Note is secured by a Deed of Trust With Assignment of Leases and Rents, Security Agreement, Financing Statement, and Fixture Filing (the "Deed of Trust") dated as of the same date as this Note, and a UCC1 Financing Statement. In the event of any default under the terms of this Note or the Deed of Trust, the sole recourse of the City for any and all such defaults shall be by judicial foreclosure or by the exercise of the trustee's power of sale and the Borrower shall not be personally liable for the payment of the Note Amount and accrued interest or for the payment of any

deficiency established after judicial foreclosure or trustee's sale. Notwithstanding the foregoing, however, the foregoing shall not in any way affect any rights the City may have (as a secured party or otherwise) hereunder or under the Agreement or the Deed of Trust to recover directly from Borrower any amounts secured by the Deed of Trust, or any funds, damages or costs (including without limitation reasonable attorneys' fees and costs) incurred by the City as a result of fraud, misrepresentation or waste, and any costs and expenses incurred by the City in connection thereof (including without limitation reasonable attorneys' fees and costs).

5. Waivers

a. Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time at the City's sole discretion and that the City may accept security in consideration for any such extension or release of any security for this Note at its sole discretion all without in any way affecting the liability of Borrower.

b. No extension of time for payment of this Note made by agreement by the City with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part.

c. The obligations of Borrower under this Note shall be absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reasons whatsoever.

d. Borrower waives presentment, demand, notice of protest and nonpayment, notice of default or delinquency, notice of acceleration, notice of costs, expenses or leases or interest thereon, notice of dishonor, diligence in collection or in proceeding against any of the rights of interests in or to properties securing of this Note, and the benefit of any exemption under any homestead exemption laws, if applicable.

e. No previous waiver and no failure or delay by City in acting with respect to the terms of this Note or the Deed of Trust shall constitute a waiver of any breach, default, or failure or condition under this Note, the Deed of Trust or the obligations secured thereby. A waiver of any term of this Note, the Deed of Trust or of any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver.

6. Attorneys' Fees and Costs. Borrower agrees that if any amounts due under this Note are not paid when due, to pay in addition, all costs and expenses of collection and reasonable attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

7. Joint and Several Obligation. This Note is the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their heirs, successors and assigns.

8. Amendments and Modifications. This Note may not be changed orally, but only by an amendment in writing signed by Borrower and by the City.

9. City May Assign. City may, at its option, assign its right to receive payment under this Note without necessity of obtaining the consent of the Borrower.

10. Borrower Assignment Prohibited. In no event shall Borrower assign or transfer any portion of this Note without the prior express written consent of the City, which consent shall not unreasonably be withheld.

11. Terms. Any terms not separately defined herein shall have the same meanings as set forth in the Agreement.

12. Acceleration and Other Remedies. Upon: (a) the occurrence of an event of Default as defined in the Agreement, or (b) Borrower selling, contracting to sell, giving an option to purchase, conveying, leasing, further encumbering, mortgaging, assigning or alienating the Project whether directly or indirectly, whether voluntarily or involuntarily, or by operation of law, or any interest in the Project, or suffering its title, or any interest in the Project to be divested, whether voluntarily or involuntarily, without the consent of the City, City may, at City's option, declare the outstanding principal amount of this Note, together with the then accrued and unpaid interest thereon and other charges hereunder, and all other sums secured by the Deed of Trust, to be due and payable immediately, and upon such declaration, such principal and interest and other sums shall immediately become and be due and payable without demand or notice, all as further set forth in the Deed of Trust. All costs of collection, including, but not limited to, reasonable attorneys' fees and all expenses incurred in connection with protection of, or realization on, the security for this Note, may be added to the principal hereunder, and shall accrue interest as provided herein. City shall at all times have the right to proceed against any portion of the security for this Note in such order and in such manner as such City may consider appropriate, without waiving any rights with respect to any of the security. Any delay or omission on the part of the City in exercising any right hereunder, under the Agreement or under the Deed of Trust shall not operate as a waiver of such right, or of any other right. No single or partial exercise of any right or remedy hereunder or under the Agreement or any other document or agreement shall preclude other or further exercises thereof, or the exercise of any other right or remedy. The acceptance of payment of any sum payable hereunder, or part thereof, after the due date of such payment shall not be a waiver of City's right to either require prompt payment when due of all other sums payable hereunder or to declare an Event of Default for failure to make prompt or complete payment.

13. Consents. Borrower hereby consents to: (a) any renewal or extension (whether one or more) of the terms of the Agreement or the terms or time of payment under this Note, (b) the release or surrender or exchange or substitution of all or any part of the security, whether real or personal, or direct or indirect, for the payment hereof, (c) the granting of any other indulgences to Borrower, and (d) the taking or releasing of other or additional parties primarily or contingently liable hereunder. Any such renewal, extension, modification, release, surrender, exchange or substitution may be made without notice to Borrower or to any endorser, guarantor or surety hereof, and without affecting the liability of said parties hereunder.

14. Successors and Assigns. Whenever "City" is referred to in this Note, such reference shall be deemed to include the City of Simi Valley and its successors and assigns, including, without limitation, any subsequent assignee or holder of this Note.

All covenants, provisions and agreements by or on behalf of Borrower, and on behalf of any makers, endorsers, guarantors and sureties hereof which are contained herein shall inure to the benefit of the City and City's successors and assigns.

15. Usury. It is the intention of Borrower and City to conform strictly to the Interest Law, as defined below, applicable to this loan transaction. Accordingly, it is agreed that notwithstanding any provision to the contrary in this Note, or in any of the documents securing payment hereof or otherwise relating hereto, the aggregate of all interest and any other charges or consideration constituting interest under the applicable Interest Law that is taken, reserved, contracted for, charged or received under this Note, or under any of the other aforesaid agreements or otherwise in connection with this loan transaction, shall under no circumstances exceed the maximum amount of interest allowed by the Interest Law applicable to this loan transaction. If any excess of interest in such respect is provided for in this Note, or in any of the documents securing payment hereof or otherwise relating hereto, then, in such event:

a. the provisions of this paragraph shall govern and control;

b. neither Borrower nor Borrower's heirs, legal representatives, successors or assigns shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest allowed by the Interest Law applicable to this loan transaction;

c. any excess shall be deemed canceled automatically and, if theretofore paid, shall be credited on this Note by City or, if this Note shall have been paid in full, refunded to Borrower; and

d. the effective rate of interest shall be automatically subject to reduction to the Maximum Legal Rate of Interest (as defined below), allowed under such Interest Law, as now or hereafter construed by courts of appropriate jurisdiction. To the extent permitted by the Interest Law applicable to this loan transaction, all sums paid or agreed to be paid to City for the use, forbearance or detention of the indebtedness evidenced hereby shall be amortized, prorated, allocated and spread throughout the full term of this Note. For purposes of this Note, "Interest Law" shall mean any present or future law of the State of California, the United States of America, or any other jurisdiction, which has application to the interest and other charges under this Note. The "Maximum Legal Rate of Interest" shall mean the maximum rate of interest that City may from time to time charge Borrower, and under which Borrower would have no claim or defense of usury under the Interest Law.

16. Miscellaneous. Time is of the essence hereof. This Note shall be governed by and construed under the laws of the State of California except to the extent Federal laws preempt the laws of the State of California. Developer irrevocably and unconditionally submits to the jurisdiction of the Superior Court of the State of California for the County of Ventura or the United States District Court of the Central District of California, as City hereof may deem appropriate, or, if required, the Municipal Court of the State of California for the County of Ventura, in connection with any legal action or proceeding arising out of or relating to this Note. Borrower also waives any objection regarding personal or in rem jurisdiction or venue.

17. No Personal Liability. In the event of any default under the terms of this Note or the Deed of Trust, the sole recourse of the City for any and all such defaults shall be by judicial foreclosure or by the exercise of the trustee's power of sale, and neither Borrower or any partner of Borrower shall be personally liable for the payment of this Note or for the payment of any deficiency established after judicial foreclosure or trustee's sale; provided, however, that the foregoing shall not in any way affect any rights the City may have (as a secured party or otherwise) hereunder or under the Agreement or Deed of Trust to recover directly from Borrower any amounts secured by the Deed of Trust, or any funds, damages or costs (including without limitation reasonable attorneys' fees and costs) incurred by City as a result of fraud, misrepresentation or waste, and any costs and expenses incurred by the City in connection thereof (including without limitation reasonable attorneys' fees and costs).

BORROWER:

Heywood Street Associates LLC, a California limited Liability Company

By: Adrian Stern
Its: Managing Member

RECORDING REQUESTED BY)
 AND WHEN RECORDED RETURN TO:)
)
 City of Simi Valley)
 2929 Tapo Canyon Road)
 Simi Valley, California 93063)
 Attention: City Clerk's Office)
)

The Undersigned declares that this document is recorded for the benefit of the City of Simi Valley and therefore is exempt from the payment of a recording fee pursuant to Government Code Section 6103 and 27383.

DEED OF TRUST
With Assignment of Leases and Rents, Security Agreement,
Financing Statement, and Fixture Filing

THIS DEED OF TRUST WITH ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, FINANCING STATEMENT, AND FIXTURE FILING ("Deed of Trust"), entered into as of _____, 2024, is made by and among Heywood Street Associates LLC, a California limited liability company ("Trustor"), TITLE COMPANY ("Trustee"), and the CITY OF SIMI VALLEY, a municipal corporation, organized and existing under laws of the State of California ("Beneficiary"). The addresses of the parties are set forth in Section 7.11 of this Deed of Trust.

ARTICLE I. GRANT IN TRUST

1.1 Grant. For the purposes of and upon the terms and conditions in this Deed of Trust, Trustor irrevocably grants, conveys and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all that real property located in the City of Simi Valley, County of Ventura, State of California, described on Exhibit A attached hereto, together with all development rights or credits, air rights, water, water rights and water stock related to the real property, and all minerals, oil and gas, and other hydrocarbon substances in, on or under the real property, and tax reimbursements, appurtenances, easements, rights and rights of way appurtenant or related thereto, all buildings, other improvements and fixtures now or hereafter located on the real property, including, but not limited to, Trustor's interest in all apparatus, equipment, and appliances used in the operation or occupancy of the real property, it being intended by the parties that all such items shall be conclusively considered to be a part of the real property, whether or not attached or affixed to the real property (the "Improvements"); and all interest or estate which Trustor may hereafter acquire in the property described above, and all additions and accretions thereto, and the proceeds of any of the foregoing (all of the foregoing being collectively referred to as the "Subject Property"). The listing of specific rights or property shall not be interpreted as a limit of general terms.

1.2 Address. The address of the Subject Property is [1850 Heywood Street,] Simi Valley, California. However, neither the failure to designate an address nor any inaccuracy in the address designated shall affect the validity or priority of the lien of this Deed of Trust on the Subject Property as described on Exhibit A.

ARTICLE II. OBLIGATIONS SECURED

2.1 Obligations Secured. Trustor makes this grant and assignment pursuant to a Loan Agreement between Trustor and Beneficiary entered into as of _____, 2024 (the "Loan Agreement"), for the purpose of securing the following obligations ("Secured Obligations"):

(a) Payment to Beneficiary of all sums at any time owing under that certain Promissory Note ("Note") in the amount of One Million Dollars, (\$1,000,000) of even date herewith, executed by Trustor, as maker, and payable to the order of Beneficiary, as holder; and

(b) Payment and performance of all covenants and obligations of Trustor under this Deed of Trust; and

(c) Payment and performance of all future advances and other obligations that the then record owner of all or part of the Subject Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when such future advance or obligation is evidenced by a writing which recites that it is secured by this Deed of Trust; and

(d) All modifications, extensions and renewals of any of the obligations secured hereby, however evidenced, including, without limitation: (i) modifications of the required principal payment dates or interest payment dates or both, as the case may be, deferring or accelerating payment dates wholly or partly; and (ii) modifications, extensions or renewals at a different rate of interest whether or not in the case of a note, the modification, extension or renewal is evidenced by a new or additional promissory note or notes.

2.2 Obligations. The term "obligations" is used herein in its broadest and most comprehensive sense and shall be deemed to include, without limitation, all interest and charges, prepayment charges, if any, late charges and loan fees at any time accruing or assessed on any of the Secured Obligations.

2.3 Incorporation. All terms of the Secured Obligations and the document evidencing such obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Subject Property shall be deemed to have notice of the terms of the Secured Obligations and to have notice, if applicable and provided therein, that: (a) the Note may permit borrowing, repayment and re-borrowing so that repayments shall not reduce the amounts of the Secured Obligations; and (b) the rate of interest on one or more Secured Obligations may vary from time to time.

ARTICLE III. ASSIGNMENT OF LEASES AND RENTS

3.1 Assignment. Trustor hereby irrevocably, absolutely, unconditionally, and presently assigns, transfers, conveys, sets over, and delivers to Beneficiary, subject to the rights of any senior lienholders, all of Trustor's right, title and interest in, to and under: (a) all leases of the Subject Property or any portion thereof, all licenses and agreements relating to the management, leasing or operation of the Subject Property or any portion thereof, and all other agreements of any kind relating to the use, enjoyment or occupancy of the Subject Property or any portion thereof, whether now existing or entered into after the date hereof ("Leases"); and (b) the rents, issues, deposits, income, revenues, royalties, earnings and profits of the Subject Property, including, without limitation, all amounts payable and all rights and benefits accruing to Trustor under the Leases, all oil, gas and other mineral royalties, and all rents, issues, deposits, income, revenues, royalties, earnings and profits arising from the use or operation of coin operated laundry machines, vending machines, and all other coin operated machines ("Payments"). The term "Leases" shall also include all guarantees of and security for the lessees' performance thereunder, and all amendments, extensions, renewals or modifications thereto which are permitted hereunder. This is a present, absolute, perfected, choate and unconditional assignment, not an assignment for security purposes only, and Beneficiary's right to the Leases and Payments is not contingent upon, and may be exercised without possession of, the Subject Property.

3.2 Grant of License. Beneficiary confers upon Trustor a license ("License") to collect and retain the Payments as they become due and payable, until the occurrence of a Default (as hereinafter defined). Upon a Default, the License shall be automatically revoked and, subject to the rights of any senior lienholders, Beneficiary may collect and apply the Payments pursuant to Section 6.4 without further notice other than as required in Article VI hereof, without taking possession of the Subject Property, without having a receiver appointed, and without taking any other action. Trustor hereby irrevocably authorizes and directs the lessees under the Leases to rely upon and comply with any notice or demand by Beneficiary for the payment by such lessees directly to Beneficiary of any rental or other sums which may at any time become due under the Leases, or for the performance of any of the lessees' undertakings under the Leases, and the lessees shall have no right or duty to inquire as to whether any Default has actually occurred or is then existing hereunder. Trustor hereby relieves the lessees from any liability to Trustor by reason of relying upon and complying with any such notice or demand by Beneficiary.

3.3 Effect of Assignment. The foregoing irrevocable Assignment shall not cause Beneficiary to be: (a) a mortgagee in possession; (b) responsible or liable for the control, care, management or repair of the Subject Property or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; or (c) responsible or liable for any waste committed on the Subject Property by the lessees under any of the Leases or any other parties; for any dangerous or defective condition of the Subject Property; or for any negligence in the management, upkeep, repair or control of the Subject Property resulting in loss or injury or death to any lessee, licensee, employee, invitee or other person. Beneficiary shall not directly or indirectly be liable to Trustor or any other person as a consequence of: (i) the exercise or failure to exercise any of the rights, remedies or powers granted to Beneficiary

hereunder; (ii) the failure or refusal of Beneficiary to perform or discharge any obligation, duty or liability of Trustor arising under the Leases.

3.4 [Reserved]

3.5 Covenants. Trustor covenants and agrees at Trustor's sole cost and expense to: (a) perform the obligations of lessor contained in the Leases and enforce by all available remedies performance by the lessees of the obligations of the lessees contained in the Leases; (b) give Beneficiary prompt written notice of any default which occurs with respect to any of the Leases, whether the default be that of the lessee or of the lessor; (c) exercise Trustor's best efforts to keep all portions of the Subject Property that are currently subject to Leases leased at all times at rentals not less than the maximum rent permitted under the regulatory agreements and other restrictions encumbering the Subject Property; (d) deliver to Beneficiary fully executed, counterpart original(s) of each and every Lease if requested to do so; and (e) execute and record such additional assignments of any Lease or specific subordinations of any Lease to this Deed of Trust, in form and substance acceptable to Beneficiary, as Beneficiary may request. Trustor shall not, without Beneficiary's prior written consent: (i) enter into any Leases after the date of this Assignment other than for occupancy of portions of the Subject Property; (ii) execute any other assignment relating to any of the Leases except to construction loans and permanent loans and refinancings of those loans which have been approved by Beneficiary or are permitted pursuant to the Agreement; (iii) discount any rent or other sums due under the Leases or collect the same in advance, other than to collect rent one (1) month in advance of the time when it becomes due; (iv) terminate, modify or amend any of the terms of the Leases or in any manner release or discharge the lessees from any obligations thereunder, except in the ordinary course of business; or (v) subordinate or agree to subordinate any of the Leases to any other deed of trust or encumbrance except to construction loans and permanent loans which have been approved by Beneficiary or are permitted pursuant to the Agreement. Any such attempted action in violation of the provisions of this Section 3.5 shall be null and void. Without in any way limiting the requirement of Beneficiary's consent hereunder, any sums received by Trustor in consideration of any termination (or the release or discharge of any lessee), modification or amendment of any Lease shall be applied to reduce the outstanding Secured Obligations and any such sums received by Trustor shall be held in trust by Trustor for such purpose.

3.6 Estoppel Certificates. Within thirty (30) days after request by Beneficiary, Trustor shall deliver to Beneficiary and to any party designated by Beneficiary estoppel certificates executed by Trustor and by each of the lessees, in recordable form, certifying (if such be the case): (i) that the foregoing assignment and the Leases are in full force and effect; (ii) the date of each lessee's most recent payment of rent; (iii) that there are no defenses or offsets outstanding, or stating those claimed by Trustor or lessees under the foregoing assignment or the Leases, as the case may be; and (iv) any other information reasonably requested by Beneficiary.

ARTICLE IV. SECURITY AGREEMENT, FINANCING STATEMENT, AND FIXTURE FILING

4.1 Security Interest. Trustor hereby grants and assigns to Beneficiary as of the recording date of this Deed Of Trust a second priority interest, junior and subordinate

only to the _____ TBD _____ construction loan, in an amount not to exceed Dollars (\$,000,000) (the " TBD "), (collectively, the "Senior Loan"). After project construction is complete and the permanent loans have been recorded, the City Loan will be junior and subordinate only to the _____ TBD _____ Loan "Senior Loan"), to secure payment and performance of all of the Secured Obligations, in all of Trustor's interest in the following described personal property in which Trustor now or at any time hereafter has any interest ("Collateral"):

All goods, building and other materials, supplies, work in process, equipment, machinery, fixtures, furniture, furnishings, signs and other personal property, wherever situated, which are or are to be incorporated into, used in connection with, or appropriated for use on all or any part of the Subject Property (to the extent the same are not effectively made a part of the Subject Property pursuant to Section 1.1 above); together with all rents, issues, deposits and profits of the Subject Property (to the extent, if any, they are not subject to Article III); all inventory, accounts, cash receipts, deposit accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes, drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, any other rights to the payment of money, trade names, trademarks and service marks arising from or related to the Subject Property or any business now or hereafter conducted thereon by Trustor; all permits, consents, approvals, licenses, authorizations and other rights granted by, given by or obtained from, any governmental entity with respect to the Subject Property; all deposits or other security now or hereafter made with or given to utility companies by Trustor with respect to the Subject Property; all advance payments of insurance premiums made by Trustor with respect to the Subject Property; all plans, drawings and specifications relating to the Subject Property; all loan funds held by Beneficiary, whether or not disbursed; all funds deposited with Beneficiary pursuant to any loan agreement; all reserves, deferred payments, deposits, accounts, refunds, cost savings and payments of any kind related to the Subject Property or any portion thereof; together with all replacements and proceeds of, and additions and accessions to, any of the foregoing; together with all books, records and files relating to any of the foregoing. As to all of the above described personal property which is or which hereafter becomes a "fixture" under applicable law, this Deed of Trust constitutes a fixture filing under Section 9313, Section 9302(6), and all other applicable sections of the California Uniform Commercial Code, as amended or re-codified from time to time, and is acknowledged and agreed to be a "construction mortgage" under such Sections.

4.2 Representations and Warranties. Trustor represents and warrants that: (a) Trustor has, or will have, good title to the Collateral; (b) Trustor has not previously assigned or encumbered the Collateral, except pursuant to any deeds of trust securing the Senior Loan, and no financing statement covering any of the Collateral has been delivered to any other person or entity except as required under the Senior Loan; and (c) Trustor's principal place of business is located at the address shown in Section 7.11.

4.3 Rights of Beneficiary. In addition to Beneficiary's rights as a "Secured Party" under the California Uniform Commercial Code, as amended or recodified from time to time ("UCC"), Beneficiary may, but shall not be obligated to, at any time without notice and at the expense of Trustor: (a) give notice to any person of Beneficiary's rights hereunder and enforce such rights at law or in equity; (b) insure, protect, defend and preserve the Collateral or any rights or interests of Beneficiary therein; (c) inspect the Collateral; and (d) endorse, collect and receive any right to payment of money owing to Trustor under or from the Collateral. Notwithstanding the above, in no event shall Beneficiary be deemed to have accepted any property other than cash in satisfaction of any obligation of Trustor to Beneficiary unless Beneficiary shall make an express written election of said remedy under UCC §9505, or other applicable law.

4.4 Rights of Beneficiary on Default. Upon the occurrence of a Default under this Deed of Trust, then in addition to all of Beneficiary's rights as a "Secured Party" under the UCC or otherwise at law:

(a) Beneficiary may (i) upon written notice, require Trustor to assemble any or all of the Collateral and make it available to Beneficiary at a place designated by Beneficiary; (ii) without prior notice, enter upon the Subject Property or other place where any of the Collateral may be located and take possession of, collect, sell, and dispose of any or all of the Collateral, and store the same at locations acceptable to Beneficiary at Trustor's expense; (iii) sell, assign and deliver at any place or in any lawful manner all or any part of the Collateral and bid and become purchaser at any such sales; and

(b) Beneficiary may, for the account of Trustor and at Trustor's expense: (i) operate, use, consume, sell or dispose of the Collateral as Beneficiary deems appropriate for the purpose of performing any or all of the Secured Obligations; (ii) enter into any agreement, compromise, or settlement, including insurance claims, which Beneficiary may deem desirable or proper with respect to any of the Collateral; and (iii) endorse and deliver evidences of title for, and receive, enforce and collect by legal action or otherwise, all indebtedness and obligations now or hereafter owing to Trustor in connection with or on account of any or all of the Collateral.

Notwithstanding any other provision hereof, Beneficiary shall not be deemed to have accepted any property other than cash in satisfaction of any obligation of Trustor to Beneficiary unless Trustor shall make an express written election of said remedy under UCC §9505, or other applicable law.

4.5 [Reserved]

4.6 Possession and Use of Collateral. Except as otherwise provided in this Section or the other Loan Documents (as defined in Section 6.2(h), below), so long as no Default exists under this Deed of Trust or any of the Loan Documents, Trustor may possess, use, move, transfer or dispose of any of the Collateral in the ordinary course of Trustor's business and in accordance with the Loan Documents.

4.7 Subordination. Beneficiary hereby subjects and subordinates the lien of this Deed of Trust to the deeds of trust securing the Senior Loan, and any other financing or refinancing permitted or approved pursuant to the Agreement and/or the Regulatory Agreement and Declaration of Restrictive Covenants executed by Trustor and Beneficiary in connection with the loan secured by this Deed of Trust.

ARTICLE V. RIGHTS AND DUTIES OF THE PARTIES

5.1 Title. Trustor represents and warrants that, except as disclosed to Beneficiary in writing which refers to this warranty, Trustor lawfully holds and possesses fee simple title to the Subject Property without limitation on the right to encumber, and that this Deed of Trust is a third lien on the Subject Property and on the Collateral, subject and subordinate only to the liens of the deeds of trust securing, and any regulatory agreements related to, the Senior Loan.

5.2 Taxes and Assessments. Subject to Trustor's rights to contest payment of taxes, Trustor shall pay prior to delinquency all taxes, assessments, levies and charges imposed by any public or quasi-public authority or utility company which are or which may become a lien upon or cause a loss in value of the Subject Property or any interest therein. Trustor shall also pay prior to delinquency all taxes, assessments, levies and charges imposed by any public authority upon Beneficiary by reason of its interest in any Secured Obligation or in the Subject Property, or by reason of any payment made to Beneficiary pursuant to any Secured Obligation; provided, however, Trustor shall have no obligation

to pay taxes which may be imposed from time to time upon Beneficiary and which are measured by and imposed upon Beneficiary's net income.

5.3 Performance of Secured Obligations. Trustor shall promptly pay and perform each Secured Obligation when due.

5.4 [Reserved]

5.5 Liens, Encumbrances and Charges. Trustor shall immediately discharge any lien not approved by Beneficiary in writing that has or may attain priority over this Deed of Trust. Trustor shall pay when due all obligations secured by or reducible to liens and encumbrances which shall now or hereafter encumber or appear to encumber all or any part of the Subject Property or any interest therein, whether senior or subordinate hereto.

5.6 Damages; Insurance and Condemnation Proceeds.

(a) The following (whether now existing or hereafter arising) are all absolutely and irrevocably assigned by Trustor to Beneficiary and, at the request of Beneficiary, subject to any senior assignment to the holder(s) of the deeds of trust securing the Senior Loan and the refinancing thereof as permitted hereunder, shall be paid directly to Beneficiary: (i) all awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation for public or private use affecting all or any part of, or any interest in, the Subject Property; (ii) all other claims and awards for damages to, or decrease in value of, all or any part of, or any interest in, the Subject Property; (iii) all proceeds of any insurance policies payable by reason of loss sustained to all or any part of the Subject Property; and (iv) all interest which may accrue on any of the foregoing. Subject to applicable law, and without regard to any requirement contained in Section 5.7(d), Beneficiary may at its discretion apply all or any of the proceeds it receives to its expenses in settling, prosecuting or defending any claim and may apply the balance to the Secured Obligations in any order, and/or Beneficiary may release all or any part of the proceeds to Trustor upon any conditions Beneficiary may impose. Beneficiary may commence, appear in, defend or prosecute any assigned claim or action and may adjust, compromise, settle and collect all claims and awards assigned to Beneficiary; provided, however, that if Beneficiary fails to pursue any such claim, Beneficiary shall assign or permit Trustor to pursue such claim upon Trustor's request, and in no event shall Beneficiary be responsible for any failure to collect any claim or award, regardless of the cause of the failure.

(b) Subject to the rights of holders of the Senior Loan, Beneficiary shall permit insurance or condemnation proceeds held by Beneficiary to be used for repair or restoration but may condition such application upon reasonable conditions, including, without limitation: (i) the deposit with Beneficiary of such additional funds which Beneficiary reasonably determines are needed to pay all cost of the repair or restoration, (including, without limitation, taxes, financing charges, insurance and rent during the repair period); (ii) the establishment of an arrangement for lien releases and disbursement of funds acceptable to Beneficiary; (iii) the delivery to Beneficiary of plans and specifications for the work, a contract for the work signed by a contractor reasonably acceptable to Beneficiary, a cost breakdown for the work and a payment and performance bond for the work, all of which shall be acceptable to reasonably Beneficiary; and (iv) the delivery to Beneficiary of evidence acceptable to Beneficiary (aa) that after completion of the work the income from the Subject Property will be sufficient to pay all expenses and debt service for the Subject Property; (bb) that upon completion of the work, the size, capacity and total value of the Subject Property will be at least as great as it was before the damage or condemnation occurred, subject to City laws, ordinances, regulations and standards then in effect; (cc) that there has been no material adverse change in the financial condition or credit of Trustor since the date of this Deed of Trust which would

have material adverse impact on the ability of Trustor to perform its obligations hereunder; and (ee) the satisfaction of any additional conditions that Beneficiary may reasonably establish to protect its security. Trustor hereby acknowledges that the conditions described above are reasonable.

5.7 Maintenance and Preservation of the Subject Property. Trustor covenants: (a) to insure the Subject Property against such risks as Beneficiary may require and, at Beneficiary's request, to provide evidence of such insurance to Beneficiaries, and to comply with the requirements of any insurance companies insuring the Subject Property; (b) to keep the Subject Property in good condition and repair; (c) except with Beneficiary's prior written consent, not to remove or demolish the Subject Property or any part thereof; (d) to complete or restore promptly and in good and workmanlike manner the Subject Property, or any part thereof which may be damaged or destroyed, without regard to whether Beneficiary elects to require that insurance proceeds be used to reduce the Secured Obligations as provided in Section 5.6, except to the extent that the damage or destruction is due to a casualty which Trustor is not required to insure against and in fact does not insure against, or to the extent that insurance proceeds are not made available to Trustor; (e) to comply with all laws, ordinances, regulations and standards, and all covenants, conditions, restrictions and equitable servitudes, whether public or private, of every kind and character which affect the Subject Property and pertain to acts committed or conditions existing thereon, including, without limitation, any work, alteration, improvement or demolition mandated by such laws, covenants or requirements; (f) not to commit or permit waste of the Subject Property; and (g) to do all other acts which from the character or use of the Subject Property may be reasonably necessary to maintain and preserve its value.

5.8 Defense and Notice of Losses, Claims and Actions. At Trustor's sole expense, Trustor shall protect, preserve and defend the Subject Property and title to and right of possession of the Subject Property, the security hereof and the rights and powers of Beneficiary and Trustee hereunder against all adverse claims. Trustor shall give Beneficiary and Trustee prompt notice in writing of the assertion of any claim of the filing of any action or proceeding, of the occurrence of any damage to the Subject Property and of any condemnation offer or action.

5.9 Acceptance of Trust; Powers and Duties of Trustee. Trustee accepts this trust when this Deed of Trust is recorded. From time to time upon written request of Beneficiary and presentation of this Deed of Trust or a certified copy thereof for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of any obligations secured hereby, Trustee may, without liability therefor and without notice reconvey all or any part of the Subject Property. Except as may be required by applicable law, Trustee or Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trust hereunder and the enforcement of the rights and remedies available hereunder, and may obtain orders or decrees directing or confirming or approving acts in the execution of said trust and the enforcement of said remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding, including, without limitation, actions in which Trustor, Beneficiary or Trustee shall be a party unless held or commenced and maintained by Trustee under this Deed of Trust. Trustee shall not be obligated to perform any act required of it hereunder unless the performance of the act is requested in writing and Trustee is reasonably indemnified and held harmless against loss, cost, liability or expense.

5.10 Compensation; Exculpation; Indemnification.

(a) Trustor shall pay Trustee's reasonable fees and reimburse Trustee for reasonable expenses in the administration of this trust, including reasonable attorneys' fees. Trustor shall pay to Beneficiary reasonable compensation for services rendered

concerning this Deed of Trust, including without limit any statement of amounts owing under any Secured Obligation. Beneficiary shall not directly or indirectly be liable to Trustor or any other person as a consequence of (i) the exercise of the rights, remedies or powers granted to Beneficiary in this Deed of Trust; (ii) the failure or refusal of Beneficiary to perform or discharge any obligation or liability of Trustor under any agreement related to the Subject Property or under this Deed of Trust; or (iii) any loss sustained by Trustor or any third party resulting from Beneficiary's failure to lease the Subject Property after a Default or from any other act or omission of Beneficiary in managing the Subject Property after a Default unless the loss is caused by the gross negligence or willful misconduct of Beneficiary and no such liability shall be asserted against or imposed upon Beneficiary, and all such liability is hereby expressly waived and released by Trustor.

(b) Trustor indemnifies Trustee and Beneficiary against, and holds Trustee and Beneficiary harmless from, all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other expenses which either may suffer or incur: (i) by reason of this Deed of Trust; (ii) by reason of the execution of this trust or in performance of any act required or permitted hereunder or by law; or (iii) as a result of any failure of Trustor to perform Trustor's obligations, except to the extent such matters which are caused as a result of the gross negligence or willful misconduct of Beneficiary or Trustee. The above obligation of Trustor to indemnify and hold harmless Trustee and Beneficiary shall survive the release and cancellation of the Secured Obligations and the release and reconveyance or partial release and reconveyance of this Deed of Trust.

(c) Trustor shall pay all amounts and indebtedness arising under this Section 5.10 immediately upon demand by Trustee or Beneficiary together with interest thereon from the date the indebtedness arises at the rate of interest applicable to the principal balance of the Note as specified therein.

5.11 Substitution of Trustees. From time to time, by writing, signed and acknowledged by Beneficiary and recorded in the Office of the Recorder of the County in which the Subject Property is situated, Beneficiary may appoint another trustee to act in the place and stead of Trustee or any successor. Such writing shall set forth any information required by law. The recordation of such instrument of substitution shall discharge Trustee herein named and shall appoint the new trustee as the trustee hereunder with the same effect as if originally named Trustee herein. A writing recorded pursuant to the provisions of this Section 5.11 shall be conclusive proof of the proper substitution of such new Trustee.

5.12 Due on Sale or Encumbrance. Absent consent required pursuant to the terms of the Loan Documents, if the Subject Property or any interest therein shall be sold, transferred (including, without limitation, through sale or transfer of a majority or controlling interest of the general partner interests of Trustor), mortgaged, assigned, further encumbered or leased, whether directly or indirectly, whether voluntarily, involuntarily or by operation of law, without the prior written consent of Beneficiary, or as otherwise permitted pursuant to the Regulatory Agreement, then Beneficiary, in its sole discretion, may declare all Secured Obligations immediately due and payable.

5.13 Releases, Extensions, Modifications and Additional Security. Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Subject Property or in any manner obligated under the Secured Obligations ("Interested Parties"), Beneficiary may, from time to time, release any person or entity from liability for the payment or performance of any Secured Obligation, take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any Secured Obligation, or accept additional security or release all or a portion of the Subject Property and other security for the Secured Obligations.

None of the foregoing actions shall release or reduce the personal liability of any of said Interested Parties, or release or impair the priority of the lien of this Deed of Trust upon the Subject Property.

5.14 Reconveyance. Upon Beneficiary's written request, and upon surrender to Trustee for cancellation of this Deed of Trust or a certified copy thereof and any note, instrument, or instruments setting forth all obligations secured hereby, Trustee shall reconvey, without warranty, the Subject Property or that portion thereof then held hereunder. To the extent permitted by law, the reconveyance may describe the grantee as "the person or persons legally entitled thereto" and the recitals of any matters or facts in any reconveyance executed hereunder shall be conclusive proof of the truthfulness thereof. Neither Beneficiary nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the Subject Property has been fully reconveyed, the last such reconveyance shall operate as a reassignment of all future rents, issues and profits of the Subject Property to the person or persons legally entitled thereto.

5.15 Subrogation. Beneficiary shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Beneficiary pursuant to this Deed of Trust or by the proceeds of any loan secured by this Deed of Trust.

5.16 Right of Inspection. Beneficiary, its agents and employees, may enter the Subject Property at any reasonable time, upon reasonable advance notice except in cases of emergency, for the purpose of inspecting the Subject Property and ascertaining Trustor's compliance with the terms hereof.

ARTICLE VI. DEFAULT PROVISIONS

6.1 Default. For all purposes hereof, the term "Default" shall mean (a) at Beneficiary's option, the failure of Trustor to make any payment of principal or interest on the Note or to pay any other amount due hereunder or under the Note when the same is due and payable, whether at maturity, by acceleration or otherwise which is not cured within five (5) days after notice thereof; (b) the failure of Trustor to perform any non-monetary obligation hereunder, or the failure to be true of any representation or warranty of Trustor contained herein and the continuance of such failure for thirty (30) days after notice, or within any longer grace period, if any, allowed in the Agreement for such failure, or (c) the existence of any Default or Event of Default as defined in the Agreement.

6.2 Rights and Remedies. At any time after Default, Beneficiary and Trustee shall each have all the following rights and remedies:

(a) With or without notice, to declare all Secured Obligations immediately due and payable;

(b) With or without notice, and without releasing Trustor from any Secured Obligation, and without becoming a mortgagee in possession, to cure any breach or Default of Trustor and, in connection therewith, to enter upon the Subject Property and do such acts and things as Beneficiary or Trustee deem necessary or desirable to protect the security hereof, including, without limitation: (i) to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee under this Deed of Trust; (ii) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the sole judgment of either Beneficiary or Trustee, is or may be senior in priority to this Deed of Trust, the judgment of Beneficiary or Trustee being conclusive as between the parties hereto; (iii) to obtain insurance, (iv) to pay any premiums or charges with respect to insurance

required to be carried under this Deed of Trust; or (v) to employ counsel, accountants, contractors and other appropriate persons.

(c) To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of Trustor hereunder, and Trustor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Trustor waives the defense of laches and any applicable statute of limitations;

(d) To apply to a court of competent jurisdiction for and obtain appointment of a receiver of the Subject Property as a matter of strict right and without regard to the adequacy of the security for the repayment of the Secured Obligations, the existence of a declaration that the Secured Obligations are immediately due and payable, or the filing of a notice of default, and Trustor hereby consents to such appointment;

(e) To enter upon, possess, manage and operate the Subject Property or any part thereof, to take and possess all documents, books, records, papers and accounts of Trustor or the then owner of the Subject Property, to make, terminate, enforce or modify the Leases of the Subject Property upon such terms and conditions as Beneficiary deems proper, to make repairs, alterations and improvements to the Subject Property as necessary, in Trustee's or Beneficiary's sole judgment, to protect or enhance the security hereof;

(f) To execute a written notice of such Default and of its election to cause the Subject Property to be sold to satisfy the Secured Obligations. As a condition precedent to any such sale, Trustee shall give and record such notice as the law then requires. When the minimum period of time required by law after such notice has elapsed, Trustee, without notice to or demand upon Trustor except as required by law, shall sell the Subject Property at the time and place of sale fixed by it in the notice of sale, at one or several sales, either as a whole or in separate parcels and in such manner and order, all as Beneficiary in its sole discretion may determine, at public auction to the highest bidder for cash, in lawful money of the United States, payable at time of sale. Neither Trustor nor any other person or entity other than Beneficiary shall have the right to direct the order in which the Subject Property is sold. Subject to requirements and limits imposed by law, Trustee may from time to time postpone sale of all or any portion of the Subject Property by public announcement at such time and place of sale. Trustee shall deliver to the purchaser at such sale a deed conveying the Subject Property or portion thereof so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustee, Trustor or Beneficiary may purchase at the sale;

(g) To resort to and realize upon the security hereunder and any other security now or later held by Beneficiary concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both, and to apply the proceeds received upon the Secured Obligations all in such order and manner as Trustee and Beneficiary, or either of them, determine in their sole discretion.

(h) To pursue any other rights and remedies available to Beneficiary or Trustee at law, in equity, or under this Deed of Trust, the Note, or any other agreement, document, or instrument executed in connection therewith (collectively, the "Loan Documents").

(i) Upon sale of the Subject Property at any judicial or non-judicial foreclosure, Beneficiary may credit bid (as determined by Beneficiary in its sole and absolute discretion) all or any portion of the Secured Obligations. In determining such credit bid, Beneficiary may, but is not obligated to, take into account all or any of the following: (i)

appraisals of the Subject Property as such appraisals may be discounted or adjusted by Beneficiary in its sole and absolute underwriting discretion; (ii) expenses and costs incurred by Beneficiary with respect to the Subject Property prior to foreclosure; (iii) expenses and costs which Beneficiary anticipates will be incurred with respect to the Subject Property after foreclosure, but prior to resale, including, without limitation, costs of structural reports and other due diligence, costs to carry the Subject Property prior to resale, costs of resale (e.g. commissions, attorneys' fees, and taxes), costs of any hazardous materials clean-up and monitoring, costs of deferred maintenance, repair, refurbishment and retrofit, costs of defending or settling litigation affecting the Subject Property, and lost opportunity costs (if any), including the time value of money during any anticipated holding period by Beneficiary; (iv) declining trends in real property values generally and with respect to properties similar to the Subject Property; (v) anticipated discounts upon resale of the Subject Property as a distressed or foreclosed property; (vi) the fact of additional collateral (if any), for the Secured Obligations; and (vii) such other factors or matters that Beneficiary (in its sole and absolute discretion) deems appropriate. In regard to the above, Trustor acknowledges and agrees that: (w) Beneficiary is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (x) this Section does not impose upon Beneficiary any additional obligations that are not imposed by law at the time the credit bid is made; (y) the amount of Beneficiary's credit bid need not have any relation to any loan-to-value ratios specified in the Loan Documents or previously discussed between Trustor and Beneficiary; and (z) Beneficiary's credit bid may be (at Beneficiary's sole and absolute discretion) higher or lower than any appraised value of the Subject Property. Nothing herein shall diminish or affect Trustor's right to a fair value determination in accordance with the provisions of Code of Civil Procedure Section 5802.

6.3 Application of Foreclosure Sale Proceeds. After deducting all costs, fees and expenses of Trustee, and of this trust, including, without limitation, cost of evidence of title and attorneys' fees in connection with sale and costs and expenses of sale and of any judicial proceeding wherein such sale may be made, Trustee shall apply all proceeds of any foreclosure sale: (i) to payment of all sums expended by Beneficiary under the terms hereof and not then repaid, with accrued interest at the rate of interest specified in the Note to be applicable on or after maturity or acceleration of the Note; (ii) to payment of all other Secured Obligations; and (iii) the remainder, if any, to the person or persons legally entitled thereto.

6.4 Application of Other Sums. All sums received by Beneficiary under Section 6.2 or Section 3.2, less all costs and expenses incurred by Beneficiary or any receiver under Section 6.2 or Section 3.2, including, without limitation, attorneys' fees, shall be applied in payment of the Secured Obligations in such order as Beneficiary shall determine in its sole discretion; provided, however, Beneficiary shall have no liability for funds not actually received by Beneficiary.

6.5 No Cure or Waiver. Neither Beneficiary's nor Trustee's nor any receiver's entry upon and taking possession of all or any part of the Subject Property, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise or failure to exercise of any other right or remedy by Beneficiary or Trustee or any receiver shall cure or waive any breach, Default or notice of default under this Deed of Trust, or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed and Trustor has cured all other defaults), or impair the status of the security, or prejudice Beneficiary or Trustee in the exercise of any right or remedy, or be construed as an affirmation by Beneficiary of any tenancy, lease or option or a subordination of the lien of this Deed of Trust.

6.6 Payment of Costs, Expenses and Attorney's Fees. Trustor agrees to pay to Beneficiary immediately and without demand all costs and expenses incurred by Trustee and Beneficiary pursuant to subparagraphs (a) through (i) inclusive of Section 6.2 (including, without limitation, court costs and attorneys' fees, whether incurred in litigation or not) with interest from the date of expenditure until said sums have been paid at the rate of interest then applicable to the principal balance of the Note as specified therein. In addition, Trustor shall pay to Trustee all Trustee's fees hereunder and shall reimburse Trustee for all expenses incurred in the administration of this trust, including, without limitation, any attorneys' fees.

ARTICLE VII. MISCELLANEOUS PROVISIONS

7.1 Additional Provisions. The Loan Documents contain or incorporate by reference the entire agreement of the parties with respect to matters contemplated herein and supersede all prior negotiations. The Loan Documents grant further rights to Beneficiary and contain further agreements and affirmative and negative covenants by Trustor which apply to this Deed of Trust and to the Subject Property and such further rights and agreements are incorporated herein by this reference.

7.2 Merger. No merger shall occur as a result of Beneficiary's acquiring any other estate in, or any other lien on, the Subject Property unless Beneficiary consents to a merger in writing.

7.3 Obligations of Trustor, Joint and Several. If more than one person has executed this Deed of Trust as "Trustor," the obligations of all such persons hereunder shall be joint and several.

7.4 Non-Recourse Obligation. In the event of any default under the terms of the Note or this Deed of Trust, the sole recourse of Beneficiary for any and all such defaults shall be by judicial foreclosure or by the exercise of the trustee's power of sale, and neither Trustor nor any Partner thereof shall be personally liable for the payment of the Note or for the payment of any deficiency established after judicial foreclosure or trustee's sale; provided, however, that the foregoing shall not in any way affect any rights Beneficiary may have (as a secured party or otherwise) hereunder or under the Agreement or this Deed of Trust to recover directly from Trustor any amounts secured by this Deed of Trust, or any funds, damages or costs (including without limitation reasonable attorneys' fees and costs) incurred by Beneficiary as a result of fraud, misrepresentation or waste, and any costs and expenses incurred by Beneficiary in connection thereof (including without limitation reasonable attorneys' fees and costs).

7.5 Waiver of Marshalling Rights. Trustor, for itself and for all parties claiming through or under Trustor, and for all parties who may acquire a lien on or interest in the Subject Property, hereby waives all rights to have the Subject Property and/or any other property, including, without limitation, the Collateral, which is now or later may be security for any Secured Obligation ("Other Property") marshalled upon any foreclosure of this Deed of Trust or on a foreclosure of any other security for any of the Secured Obligations. Beneficiary shall have the right to sell, and any court in which foreclosure proceedings may be brought shall have the right to order a sale of, the Subject Property and any or all of the Collateral or Other Property as a whole or in separate parcels, in any order that Beneficiary may designate.

7.6 Rules of Construction. When the identity of the parties or other circumstances make it appropriate the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. The term "Subject Property" means all and any part of the Subject Property and any interest in the Subject Property.

7.7 Successors in Interest. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto; provided, however, that this Section does not waive or modify the provisions of Section 5.12.

7.8 Execution in Counterparts. This Deed of Trust may be executed in any number of counterparts, each of which, when executed and delivered to Beneficiary, will be deemed to be an original and all of which, taken together, will be deemed to be one and the same instrument.

7.9 California Law. This Deed of Trust shall be construed in accordance with the laws of the State of California, except to the extent that Federal laws preempt the laws of the State of California.

7.10 Incorporation. Exhibit A is incorporated into this Deed of Trust by this reference.

7.11 Notices. All notices or other communications required or permitted to be given pursuant to the provisions of this Deed of Trust shall be in writing and shall be considered as properly given if delivered personally or sent by first class U.S. mail, postage prepaid, except that notice of a Default may be sent by certified mail, return receipt requested, or by overnight express mail or by commercial courier service, charges prepaid. Notices so sent shall be effective three (3) days after mailing, if mailed by first class mail, and otherwise upon receipt at the addresses set forth below. For purposes of notice, the addresses of the parties shall be:

To Beneficiary: City of Simi Valley
Attn: Environmental Services Director
2929 Tapo Canyon Road
Simi Valley, CA 93063

To Trustor: Heywood Street Associates LLC
Attn: Adrian Stern
920 Hampshire Road, Suite A4
Westlake Village, CA 91361

To Trustee: Title Insurance Company

Any party hereto may change its address for notice hereunder to any other location within the continental United States by the giving of a thirty (30) day notice to the other parties in the manner set forth hereinabove. Trustor shall forward to Beneficiary, without delay, any notices, letters or other communications delivered to the Subject Property or to Trustor naming Beneficiary, "Lender" or the "Construction Lender" or any similar designation as addressee, or which could reasonably be deemed to affect the ability of Trustor to perform its obligations to Beneficiary under the Note.

7.12 Waiver of Set Off Rights. Trustor hereby waives all rights to set off, against any amount owed by Trustor under the Loan Documents, any claims Trustor may have against Beneficiary, including, without limitation, the rights afforded by California Code of Civil Procedure Section 431.70.

7.13 Trustor's Request for Notice of Default and Notice of Sale. Trustor hereby requests that a copy of any notice of default or notice of sale under this deed of trust be mailed to trustor at the address set forth in section 7.11 of this Deed of Trust.

7.14 Section 42 Provisions. Beneficiary agrees that the lien of this Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the "Extended Use Agreement") recorded against the Property, provided that such Extended Use

Agreement, by its terms, must terminate upon foreclosure under this Deed of Trust or upon transfer of the Property by instrument in lieu of foreclosure, in accordance with Section 42(h)(6)(e) of the internal Revenue Code.

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

TRUSTOR:

Heywood Street Associates LLC, A California limited liability company

By: Adrian Stern
Its: Managing Member

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO IN THIS COMMITMENT IS SITUATED IN THE CITY OF SIMI VALLEY, COUNTY OF VENTURA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

APNs: 632-0-050-355 AND 632-0-050-395

PARCEL 2 AS SHOWN ON THE MAP ENTITLED PARCEL MAP NO. LD-S-667 FILED APRIL 15, 2015 IN BOOK 70 OF PARCEL MAPS, AT PAGES 67 TO 70 INCLUSIVE, IN THE CITY OF SIMI VALLEY, COUNTY OF VENTURA, STATE OF CALIFORNIA.

EXCEPT THEREFROM ONE-TENTH PART OF THE TOTAL (GROSS) OIL, GAS OR OTHER KINDRED SUBSTANCES OR OTHER MINERALS EXTRACTED FROM SAID LAND AS RESERVED BY VENTURA LAND AND WATER COMPANY, A CORPORATION, RECORDED FEBRUARY 7, 1929 IN BOOK 239 PAGE 493, OF OFFICIAL RECORDS.

ALSO EXCEPT THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN AND TO A NINE-TENTHS PART OF THE TOTAL (GROSS) OIL, GAS OR OTHER KINDRED SUBSTANCES OR OTHER MINERALS IN, UPON OR UNDERLYING SAID LAND OR HEREAFTER EXTRACTED THEREFROM AS RESERVED BY PACIFIC STATES SAVINGS AND LOAN COMPANY IN DEED RECORDED JULY 10, 1947 IN BOOK 789 PAGE 376, OF OFFICIAL RECORDS.