



City of San Leandro

Meeting Date: December 2, 2013

Staff Report

File Number: 13-569

Agenda Section: ACTION ITEMS

Agenda Number: 10.A.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: Staff Report for a Resolution Authorizing Execution of the First Amendment to the Owner Participation and Loan Agreement (OPLA) and Regulatory Agreement with Alameda Housing Associates, L.P., Amending the OPLA for the Affordable Rental Housing Located at 1400 San Leandro Boulevard

SUMMARY AND RECOMMENDATIONS

In May 2013, the nonprofit developer BRIDGE Housing Corporation (BRIDGE) presented detailed development and architectural plans for 200 units of affordable rental housing at 1400 San Leandro Boulevard (currently named the Cornerstone at San Leandro Crossings or "Cornerstone"). The key change in the plans was to develop a multi-phased residential development: 115 units of family/workforce housing in Phase 1 and 85 units of affordable senior rental housing in Phase 2. Also, the City and BRIDGE have resolved outstanding issues with the State regarding Proposition 1C grant fund requirements and former Redevelopment Agency of the City of San Leandro (RDA) Housing Set-Aside Funds approved for BRIDGE. Consequently, the original Owner Participation and Loan Agreement (OPLA) from 2009 between the City, RDA and BRIDGE requires modification. However, there is no change to the \$9.1 million loan, which the City approved for BRIDGE in the original 2009 OPLA.

Staff recommends that the City Council approve the resolution authorizing the execution of the First Amendment to the Owner Participation and Loan Agreement with Alameda Housing Associates, L.P., for the affordable rental housing located at 1400 San Leandro Boulevard.

BACKGROUND

The primary purposes for modifying the existing 2009 OPLA are to update outdated language in the original version and to have it reflect the current and final affordable rental housing development plans for the site. The key features for the 200 unit Cornerstone are:

Phase 1 (Estimated Total Development Cost: \$60 million)

- 115 workforce/family rental units: 8 studios, 49 one-bedroom, 22 two-bedroom and 36 three-bedroom. Two on-site managers' units are included in the 115 units.
- Amenities: Approximately 408 on-site parking spaces for Phases 1 and 2 to serve residents, childcare users and BART patrons, ground floor childcare center with outdoor play area, on-site laundry, management office, bicycle storage, landscaped courtyard, community room, small ground floor retail space, and BART lobby.

Phase 2

- 85 rental units for low income seniors: 77 one-bedroom and 8 two-bedroom. An on-site manager's unit is included in the 85 units.

The project will provide for BART replacement parking that is consistent with the City's Downtown Transit-Oriented Development (TOD) Strategy as well as Bay Area Rapid Transit (BART) TOD goals for its station area properties such as 1400 San Leandro Boulevard, which is presently a BART parking lot. BART is scheduled to review its long-term lease with BRIDGE in early December 2013.

The Cornerstone Project furthers the City Council goal to "work with the community and stakeholders towards completing major projects and programs for sustainable economic development."

Analysis

Below are the notable revisions under the proposed amendments to the OPLA:

- 1) The City, in its capacity as the housing successor to the former RDA, replaces the RDA as the contracting party under the amended OPLA. In January 2012, pursuant to ABx1 26, the City Council adopted a resolution agreeing to serve as the Successor Agency to the RDA and agreeing to assume the former RDA's housing assets, rights and obligations.
- 2) The location of the Cornerstone affordable rental housing development has moved from the west side of the Downtown BART Station (at 1333 Martinez Street) to the east side of San Leandro Boulevard (at 1400 San Leandro Boulevard).
- 3) BRIDGE will construct a total of 200 affordable rental units on the present 1400 San Leandro Boulevard location instead of the originally planned 100 units on the 1333 Martinez Street site. See "Background" section above for updated project details.
- 4) BRIDGE will lease the 1400 San Leandro Boulevard site from the existing property owner, BART.
- 5) BRIDGE will pursue State and federal low income housing tax credits as the primary public financing sources for both Phase 1 and 2. The original 2009 OPLA stated that BRIDGE would initially pursue State Multifamily Housing Program (MHP) funding. State MHP is no longer a viable funding source.
- 6) BRIDGE agrees to indemnify and hold the City harmless related to the use of the \$10.3

million in State TOD Grant Program funds. The project has received approximately \$22 million in State Proposition 1C grant funding for eligible infrastructure costs: \$10.3 million from TOD and \$11.7 million from Infill Infrastructure Grant Program (IIG). While the State awarded the \$11.7 million directly to BRIDGE, the \$10.3 million was jointly awarded to the City and BRIDGE. Therefore, BRIDGE and the City will need to enter into a memorandum of understanding, which will describe the rights and responsibilities of the City and BRIDGE regarding the TOD grant funds, and an indemnity agreement. The resolution under consideration tonight authorizes the City Council to direct the City Manager to negotiate and execute the MOU and indemnity agreements.

BRIDGE is preparing to apply to the California Debt Limit Allocation Committee (CDLAC) in early March 2014 for low income housing tax credits for the 115 units in Phase 1. CDLAC will announce tax credit awards in June 2014 and BRIDGE anticipates starting construction in Fall 2014. For Phase 2, BRIDGE expects to apply for tax credits in Summer 2015.

Previous Actions

- April 6, 2009 - City Council approved the OPLA for a \$9.1 million Housing Set-Aside Loan to BRIDGE Housing for a 100-unit affordable rental housing development ("The Alameda").
- July 20, 2009 - City Council approved planning entitlements and environmental clearance under CEQA for the Cornerstone at 1400 San Leandro Boulevard and BART replacement parking.
- April 9, 2012 - Staff from the City's Community Development Department, BRIDGE Housing, Westlake Development Partners, and OSISOFT presented the revised San Leandro Crossings Master Plan at a City Council Work Session.
- June 18, 2012 - City Council approved amendments to the OPLA primarily related to outstanding issues/concerns with the State at the time. However, these amendments became unnecessary once the City, BRIDGE and the State resolved all issues relating to Proposition 1C grant funding requirements. Therefore, neither the City nor BRIDGE has executed the 2012 amended OPLA, rendering it null.
- May 16, 2013 - BRIDGE and City staff presented to the City Council the development scope of work and architectural designs for the current 200 unit affordable rental housing development including a Phase 1 (115 workforce/family units) and Phase 2 (85 senior units).

Applicable General Plan Policies

- Policy 3.01: MIX OF UNIT TYPES
Encourage a mix of residential development types in the City, including single family homes on a variety of lot sizes, as well as townhomes, row houses, live-work units, planned unit developments, and multi-family housing.

- **Policy 3.02: MIX OF PRICE RANGES**

Encourage a mix of price ranges to provide housing choices for San Leandro residents of all incomes and ages. Opportunities to include affordable units and market rate units within the same development projects should be pursued.

- **Policy 3.03: AFFORDABLE HOUSING DESIGN**

Design new affordable housing to blend in with the existing fabric of the community. Affordable housing should be located in a variety of neighborhoods rather than concentrated in one particular part of the City.

- **Policy 3.04: PROMOTION OF INFILL**

Encourage infill development on vacant or underused sites within residential areas.

- **Policy 3.05: MIXED USE ON TRANSIT CORRIDORS**

Encourage mixed use projects containing ground floor retail and upper floor residential uses along major transit corridors. Such development should be pedestrian-oriented, respect the scale and character of the surrounding neighborhood, and incorporate architectural themes that enhance the identity of adjacent commercial districts.

- **Policy 3.06: HOUSING BY NON-PROFIT DEVELOPERS**

Promote the participation of non-profit housing organizations in the construction of new affordable housing in San Leandro, with particular emphasis on housing for seniors and working families.

- **Policy 3.07: AMENITIES AND SOCIAL SERVICES WITHIN NEW HOUSING**

Encourage new affordable housing development to provide amenities for future residents, such as on-site recreational facilities and community meeting space. Where feasible, consider the integration of social services such as child care within such projects.

- **Policy 3.10: CONVERSION OF NON-RESIDENTIAL LAND TO HOUSING AND PUBLIC USES**

Encourage the development of new housing on underutilized commercial and industrial sites which meet key criteria including:

- Sites on the edges of commercial or industrial areas, adjacent to established residential areas.
- Sites with adequate infrastructure, access, and road capacity.
- Sites which are not constrained by external environmental factors, including freeway, railroad, and airport noise.
- Sites where conflicts with surrounding uses would not be created in the event of re-use.

- **Policy 53.04: INCLUSIONARY HOUSING**

Require the inclusion of affordable housing in new housing developments - both inside and outside of the redevelopment project areas.

- **Policy 53.06: NEW RENTAL HOUSING**

Strongly encourage the development of additional rental housing in the City, including both market rate units and affordable units.

Environmental Review

The City, acting as the lead agency, reviewed and approved a mitigated negative declaration for the project on July 20, 2009. Prior to taking action on the Original Agreement, the Agency considered the approved mitigated negative declaration for the project as required by Section 15096 of Title 14 of the California Code of Regulations. In addition, the project was considered in connection with the Final Environmental Impact Report for the Downtown San Leandro Transit-Oriented Development Strategy certified by the City Council pursuant to Resolution 2007-111 adopted on September 4, 2007.

Board/Commission Review and Actions

- July 9, 2009 - Planning Commission approved planning entitlements and environmental clearance under CEQA for the Cornerstone located at 1400 San Leandro Boulevard and BART replacement parking.

Legal Analysis

The staff report, resolution and the amended Owner Participation Loan Agreement and related documents have been reviewed and approved as to form by the City Attorney's Office .

Fiscal Impacts

The amended OPLA does not change the \$9.1 million loan amount which the City approved in 2009 under the original OPLA. The remaining balance of the loan to BRIDGE will be funded by the City through a combination of funds on hand in the RDA Housing Set-Aside (or Low-and Moderate-Income Housing) Fund and property tax revenue allocated by the County Auditor-Controller from the Redevelopment Property Tax Trust Fund established to pay obligations on the Recognized Obligation Payment Schedule (ROPS), which the City must submit to the State Department of Finance every six months as required under State legislation related to the dissolution of redevelopment.

Budget Authority

The outstanding loan obligation to BRIDGE is listed on the Recognized Obligation Payment Schedule (ROPS) that the City prepares in its capacity as Successor Agency to the RDA. The ROPS has been reviewed by the Successor Agency Oversight Board and the State Department of Finance.

ATTACHMENTS

None

PREPARED BY: Tom Liao, Planning and Housing Manager, Community Development Department



City of San Leandro

Meeting Date: December 2, 2013

Resolution - Council

File Number: 13-570

Agenda Section: ACTION ITEMS

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION Authorizing the Execution of the First Amendment to the Owner Participation and Loan Agreement (OPLA) and Regulatory Agreement with Alameda Housing Associates, L.P. Amending the OPLA for Affordable Rental Housing Located at 1400 San Leandro Boulevard

WHEREAS, pursuant to Resolution No. 2012-001 adopted by the City Council on January 9, 2012, the City of San Leandro ("City"): (i) agreed to serve as the Successor Agency to the Redevelopment Agency of the City of San Leandro (the "Agency") commencing upon the dissolution of the Agency on February 1, 2012 pursuant to Assembly Bill x1 26, and (ii) agreed, pursuant to Health and Safety Code Section 34176(a), to assume the housing rights, duties, powers, assets and obligations associated with the housing activities of the Agency by operation of law upon dissolution of the Agency; and

WHEREAS, pursuant to the foregoing Resolution No. 2012-001, as of February 1, 2012, the City, by operation of law, assumed all rights and obligations of the Agency pertaining to the Agency's housing assets, including without limitation, the rights of the Agency set forth in that certain Owner Participation and Loan Agreement (the "OPLA") dated as of April 6, 2009 and executed by and between the Agency and Alameda Housing Associates, L.P., a California limited partnership ("Developer") pursuant to which Developer agreed to develop an affordable multi-family rental development (the "Project"); and

WHEREAS, pursuant to the OPLA, the Agency agreed to provide a loan to Developer in the amount of Nine Million, One Hundred Thousand Dollars (\$9,100,000) (the "Loan"), of which approximately Two Million, Two Hundred Thousand Dollars (\$2,200,000) has been disbursed for predevelopment activities associated with the development of the Project; and

WHEREAS, the remaining balance of the Loan is listed on the Recognized Obligation Payment Schedule ("ROPS") prepared by the Successor Agency to the Agency and approved by the Oversight Board for the Successor Agency; and

WHEREAS, the remaining balance of the Loan will be funded with a combination of

funds on hand in the Agency's Low- and Moderate-Income Housing Fund and property tax revenue allocated by the County Auditor-Controller from the Redevelopment Property Tax Trust Fund established to pay obligations on the ROPS; and

WHEREAS, the Developer has proposed to expand the scope of the Project, which requires certain modifications to the OPLA to reflect changed circumstances, including but not limited to the site for the Project; and

WHEREAS, City staff and the Developer have negotiated a First Amendment to Owner Participation and Loan Agreement (the "Amendment") substantially in the form on file with the City Clerk; and

WHEREAS, the Project and related improvements will be partially financed with the proceeds of a Transit Oriented Development grant ("TOD Grant") and an Infill Infrastructure Grant ("IIG Grant") provided by the California Department of Housing and Community Development ("HCD"); and

WHEREAS, in connection with the TOD Grant and the IIG Grant, HCD will require the City, Developer or BRIDGE Housing Corporation, a California nonprofit public benefit corporation affiliated with Developer ("BRIDGE") to execute one or more documents, including but not limited to HCD standard agreements, disbursement agreements, and related documents (collectively, the "HCD Documents").

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

1. The above recitals are true and correct and incorporated into this Resolution.
2. The City Council acknowledges, ratifies, and accepts the assumption of the Agency's certain rights under the OPLA, as transferred from the Agency to the City by operation of law, effective as of February 1, 2012 and as set forth in the Amendment.
3. The City Council approves the Amendment, and authorizes the City Manager to execute the Amendment substantially in the form on file with the City Clerk and provided to the City Council with such modifications as may be approved by the City Manager in consultation with the City Attorney.
4. The City Council directs the City Manager to negotiate a Memorandum of Understanding ("Memorandum") that will describe the respective rights and responsibilities of City, BRIDGE and Developer pursuant to the HCD Documents, and authorizes the City Manager to execute such Memorandum in form approved by the City Manager in consultation with the City Attorney.
5. The City Council directs the City Manager to negotiate an Indemnity Agreement pursuant to which BRIDGE will indemnify the City against liability arising in connection with any default by BRIDGE or Developer in connection with the Memorandum or the HCD Documents, and authorizes the City Manager to execute such Indemnity Agreement in form approved by the City Manager in consultation with the City Attorney.

6. The City Council authorizes the City Manager to take all actions and execute and deliver such other documents with such modifications as may be approved by the City Manager in consultation with the City Attorney, and to take such other actions as necessary to carry out the intent of this Resolution.

**FIRST AMENDMENT TO
OWNER PARTICIPATION AND LOAN AGREEMENT**

THIS FIRST AMENDMENT TO OWNER PARTICIPATION AND LOAN AGREEMENT (this "Amendment") is entered as of _____, 2013 by and between the City of San Leandro, as housing successor to the Redevelopment Agency of the City of San Leandro ("City") and Alameda Housing Associates, L.P., a California limited partnership ("Developer"). City and Developer are hereinafter collectively referred to as the "Parties."

RECITALS

A. The Redevelopment Agency of the City of San Leandro ("Agency") executed an Owner Participation and Loan Agreement with Developer, dated as of April 6, 2009 (the "Agreement");

B. Pursuant to Resolution 2012-001 adopted by the City Council on January 9, 2012, the City agreed to act as the housing successor to the Agency and by law assumed the rights of the Agency under the Agreement all in accordance with Health and Safety Code Section 34176(a);

C. The Parties have agreed to execute this Amendment to reflect: that the City will administer the Agreement and related requirements in accordance with Health and Safety Code Section 34176(a); that the Borrower and the City have reached certain agreements with respect to the California Department of Housing and Community Development Transit Oriented Development Housing Grant; that the Borrower has met certain milestones with respect to the Project; and that certain updates have been made to the Project, including, among others, the addition of fifteen (15) more residential units.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. The second and third sentences of Section 2.2 of the Agreement are hereby deleted in their entirety.

2. Section 3.1 of the Agreement shall be amended and restated to read as follows:

"Developer represents and warrants that as of the date of this Amendment: (i) Developer is a party to an agreement with Bay Area Rapid Transit District ("BART") pursuant to which Developer has the exclusive right to negotiate regarding acquisition of the Property, and (ii) the Property is subject to no covenant, condition, restriction or agreement that would prevent the development of the Project in accordance with this Agreement. If at any time the foregoing statements become untrue, the City shall have the right to terminate this Agreement upon written notice to Developer. In the event that Developer does not acquire a leasehold interest in the Property within forty-eight (48) months following the date of this Amendment, the Agency may terminate the Agreement as amended by this Amendment, and with the exception of those provisions that survive termination, this Agreement shall be of no further force or effect."

3. Section 3.1.1 of the Agreement shall be amended and restated to read as follows:

"Prior to Developer's execution of the ground lease for the Property (the "Ground Lease"), Developer shall submit the proposed Ground Lease to the City for its review and approval, which approval shall not be unreasonably withheld or delayed."

4. The second paragraph of Section 3.2 of the Agreement shall be amended and restated to read as follows:

"The "Project" will consist of Developer's leasehold interest in that certain real property more particularly described in Exhibit A (the "Property") and a 115-unit multi-family residential development that will include four (4) dwelling units that will be accessible to persons with disabilities, common areas including a lobby, a multi-purpose room with kitchen, a landscaped outdoor courtyard, podium and underground parking consisting of approximately 408 spaces (of which approximately 115 are for the Project residents), approximately 5000 square feet of retail (including a potential child care center) bicycle storage; laundry facilities; a management office; and landscaping (collectively, the "Improvements"). The Developer also intends to create separate legal parcels for (i) the approximately 5000 square feet of retail space ("Retail Space") and (ii) non-resident parking (which includes parking for BART Patrons) ("Non-Resident Parking"). In the event the Retail Space and Non-Resident Parking are created as separate legal parcels, such parcels shall not be subject to any post-construction obligations under this Agreement or the terms and conditions of the Regulatory Agreement or the Deed of Trust, which shall also not be recorded against title to such parcels. All references in the Agreement to Project, Property and Improvements shall have the meaning set forth in this Section 3.2."

5. Section 3.3 of the Agreement shall be amended and restated to read as follows:

"Developer covenants and agrees for itself, and its successors and assigns, that upon Developer's leasehold acquisition of the Property, the Developer's leasehold interest in Property will be subjected to recorded covenants that will restrict use of the Developer's leasehold interest in the Property to development of a residential project that includes affordable housing, and that for a term of not less than fifty-five (55) years commencing upon the issuance of a final certificate of occupancy for the Project, not less than fifty-five (55) of the residential units in the Project shall be rented at an affordable cost to households who qualify as Very Low -Income (as defined in the Regulatory Agreement), and not less than an additional fifty-eight (58) of the residential units in the Project shall be rented at an affordable cost to households whose income is less than or equal to ninety percent (90%) of Area Median Income (as defined in the Regulatory Agreement) in accordance with the terms hereof and the Regulatory Agreement which the Parties shall execute substantially in the form attached hereto as Exhibit D, and which shall be recorded in the Official Records upon Developer's acquisition of the Property. Two units in the Project may be reserved as managers' units, and will not be subject to income-eligibility requirements or rent restrictions."

6. The second, third and fourth paragraph of Section 3.7 of the Agreement are hereby deleted and replaced with the following:

"Consistent with the Financing Plan, Developer agrees to apply for an allocation of 9% federal low-income housing tax credits. As an alternative to the foregoing, Developer may submit applications to the California Debt Limit Allocation Committee ("CDLAC") for an allocation that will permit the issuance of tax-exempt bonds to finance the Project and to the California Tax Credit Allocation Committee ("TCAC") for 4% federal and State low-income housing tax credits and/or for other sources of financing provided by the California Department of Housing and Community Development if the use of such alternate financing sources would not materially reduce the total financing sources for the Project, impair Developer's ability to repay the Loan, or delay the development schedule contemplated by this Agreement.

Developer shall submit to the City copies of Developer's applications for tax credits and tax-exempt financing for the Project concurrently with Developer's submittal of such applications to TCAC and CDLAC, and as applicable, shall provide to City updates to the Financing Plan including updated schedules of sources and uses and updated development and operating pro formas, accompanied by evidence that all Project financing has been firmly committed by Developer, or lending institutions, subject only to commercially reasonable conditions."

7. Section 3.7.1 is hereby added to the Agreement:

"Prop. 1C Transit Oriented Development Grant Funds. Pursuant to the Transit Oriented Development Housing Grant Program, established pursuant to Part 13 of Division 31 of the Health & Safety Code, commencing with Section 53560 (the "TOD Grant Program"), the State Department of Housing and Community Development ("HCD") has agreed to provide a grant in the amount of up to \$10,320,000 (the "TOD Grant") jointly to BRIDGE Housing Corporation, a California nonprofit public benefit corporation ("BRIDGE") and City to finance the cost of certain capital improvements required for the Project. Developer pledges to comply with all requirements associated with the receipt and use of the TOD Grant and applicable to Developer or the Project, including without limitation, all applicable terms and conditions set forth in that certain Standard Agreement executed by and between HCD and City, the Disbursement Agreement to be executed by and among HCD, BRIDGE and City, and all other documents that HCD requires in connection therewith (collectively, the "HCD Documents"). If requested by Developer, City agrees to loan the TOD Grant funds to Developer pursuant to loan documents approved by HCD if required. Developer agrees to indemnify, defend (with counsel approved by City) and hold the Indemnitees harmless from and against any and all Claims arising in connection with any breach of any term or condition of the HCD Documents by Developer or any affiliate of Developer or any contractor, subcontractor, agent or employee of Developer or any affiliate of Developer. Developer's indemnification obligations under this Section 3.7.1 shall not extend to Claims resulting solely from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 3.7.1 shall survive the issuance of a Certificate of Completion for the Project and the expiration or earlier termination of this Agreement and/or the HCD Documents. It is further agreed that City does not and shall not waive any rights against Developer that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

The Parties acknowledge and agree that Developer may use the State of California Proposition 1C funds to pay the cost of certain City, utility, and other fees and to pay for other eligible expenses related to the acquisition and construction of the Project."

8. The second and third sentences in Section 3.8 of the Agreement shall be amended and restated to read as follows:

"Subject to force majeure, the availability of financing, and the City's issuance of permits and approvals, Developer shall commence construction of the Project not later than thirty (30) months following the date of this Amendment. Developer shall commence construction work on the Project following issuance of building permits within the time periods allowable under such permits, and Developer shall diligently prosecute to completion the construction of the Project in order to allow City to issue a final certificate of occupancy within twenty-four (24) months following commencement of construction work and in no event later than fifty-four (54) months following the date of this Amendment."

9. Notwithstanding anything to the contrary in Article 6 or Article 7 of the Agreement, the City hereby consents to those transfers, including mortgages or encumbrance, made by the ground lessor in accordance with the Ground Lease (as such Ground Lease is approved by Landlord pursuant to Section 2 of this Amendment) and Developer shall not be considered in default hereunder in the event of a default by the fee owner of the Property under any mortgage or encumbrance made by fee owner. In addition, City consent shall not be required for Transfers described in clauses (i), (ii), (iii) and (vi) of Section 6.3 of the Agreement or for foreclosures described in clause (iv) of Section 6.3 of the Agreement. The City shall not withhold consent to Transfers described in clauses (iv), (v), (vii) or (viii) of Section 6.3 of the Agreement provided that the conditions described in such clauses are satisfied, as applicable.

10. Section 8.1 is hereby amended and restated to read as follows:

"City shall not be responsible for the cost of any soil, groundwater or other environmental remediation or other response activities for any Hazardous Materials existing or occurring in, on, under or about the Improvements, the Developer's interest in the Property or any portion thereof. From and after Developer's leasehold acquisition of the Property, upon receipt of any notice regarding the presence, release or discharge of Hazardous Materials in, on or under the Improvements, the Developer's interest in the Property, or any portion thereof, Developer agrees to timely initiate and diligently pursue and complete all appropriate response, remediation and removal actions for the presence, release or discharge of such Hazardous Materials within such deadlines as specified by applicable Environmental Laws. Developer hereby covenants and agrees that commencing upon Developer's leasehold acquisition of the Property:

(i) Developer shall not knowingly permit the Project or the Developer's interest in the Property or any portion of either to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials or otherwise knowingly permit the presence or release of Hazardous Materials in, on, under, about or from the Project or the Developer's interest in Property with the exception of cleaning supplies and other materials customarily used in construction, operation or maintenance of residential property and any retail

or commercial uses developed as part of the Project, and used, stored and disposed of in compliance with Hazardous Materials Laws, and

(ii) Developer shall keep and maintain the Project and the Developer's interest in Property and each portion thereof in compliance with, and shall not cause or permit the Project or the Developer's interest in the Property or any portion of either to be in violation of, any Hazardous Materials Laws."

11. All references to the Agency in Article II, III, V, VI, VII, VIII, IX, X, and XI of the Agreement shall be deemed to be to the City. All references to the Executive Director in Article II, III, V, VI, VII, VIII, IX, X, and XI of the Agreement shall be deemed to be to the City Manager. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

12. Except as expressly modified by this Amendment, all other provisions of the Agreement are unmodified and continue in full force and effect. Nothing in this Amendment shall modify Article 4 of the Agreement or the obligation of the Successor Agency to the Agency to make the Loan to Developer pursuant to Article 4 of the Agreement.

13. This Amendment may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the date first written above.

CITY

CITY OF SAN LEANDRO,
a municipal corporation

By: _____
Chris Zapata, City Manager

ATTEST:

By: _____
Marian Handa, City Clerk

APPROVED AS TO FORM:

By: _____
Jayne Williams, City Attorney

DEVELOPER

ALAMEDA HOUSING ASSOCIATES, L.P.,
a California limited partnership

By: BRIDGE Norcal, LLC, a California limited liability company

Its: General Partner

By: MCB Family Housing, Inc., a California nonprofit public benefit corporation

Its: Sole Member

By: _____

Name: _____

Title: _____

Exhibit A
LEGAL DESCRIPTION OF PROPERTY

EXHIBIT A

The land referred to is situated in the County of Alameda, City of San Leandro, State of California, and is described as follows:

PARCEL ONE:

Lots A through N, Block 30, as said lot and block are shown on the "Map of the Town of San Leandro", filed February 27, 1855, and recorded June 14, 1870, in Book 1 of Maps, Page 19, and Book 2 of Maps, Page 43, in the Office of the County Recorder of Alameda County.

EXCEPTING THEREFROM:

The interest conveyed to the City of San Leandro by deed recorded June 21, 1971, Book 2879, Page 973, Official Records.

PARCEL TWO:

A portion of West Joaquin Avenue, formerly Hepburn Street, as shown on the "Map of the Town of San Leandro", filed February 27, 1855, and recorded June 14, 1870, in Book 1 of Maps, Page 19, and Book 2 of Maps, Page 43, in the Office of the County Recorder of Alameda County, as vacated by the City of San Leandro, Ordinance 71-2, recorded January 14, 1971, Book 2768, Page 595 and also recorded March 14, 1973, Book 3363, Page 828, Official Records, described as follows:

Beginning at the intersection of the southwestern line of Carpentier Street with the southeastern line of said West Joaquin Avenue, as shown on said map; thence along said southeastern line of West Joaquin Avenue, southwesterly to a line parallel with the northeastern line of San Leandro Boulevard and 25.40 feet, measured at right angles, northeasterly therefrom; thence along said parallel line, northwesterly to the northwestern line of said West Joaquin Avenue; thence along said northwestern line of San Joaquin Avenue, northeasterly to the said southwestern line of Carpentier Street; thence along the said southwestern line of Carpentier Street, southeasterly to the point of beginning.

EXCEPTING THEREFROM:

The interest conveyed to the City of San Leandro by deed recorded June 21, 1971, Book 2879, Page 973, Official Records.

APN: 075-0039-007-05

Exhibit D
REGULATORY AGREEMENT

**RECORDING REQUESTED BY
AND WHEN RECORDED, RETURN TO:**

City of San Leandro
835 East 14th Street
San Leandro, CA 94577
Attention: Executive Director

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

**AFFORDABLE HOUSING REGULATORY AGREEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS**

by and between

CITY OF SAN LEANDRO

and

**ALAMEDA HOUSING ASSOCIATES, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP**

This Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (this "**Agreement**") is entered into effective as of _____, 20__ ("Effective Date") by and between the City of San Leandro, a municipal corporation, ("**City**") and Alameda Housing Associates, L.P., a California limited partnership ("**Owner**"). City and Owner are hereinafter collectively referred to as the "**Parties**."

RECITALS

A. Owner has acquired a leasehold interest in that certain real property in the City of San Leandro ("**City**") more particularly described in Exhibit A attached hereto (the "**Property**").

B. Owner intends to construct, own and operate a 115-unit multi-family residential project (the "**Project**") on the Owner's interest in the Property in accordance with that certain Amended and Restated Owner Participation and Loan Agreement (the "**OPA**") dated as of _____, 2013 and executed by and between Owner and City.

C. The OPA provides that for a period of not less than fifty-five (55) years not less than 55 of the residential units in the Project shall be rented at an affordable cost to households who qualify as Very Low-Income, and not less than an additional 58 of the residential units in the Project shall be rented at an affordable cost to households whose income is less than or equal to ninety percent (90%) of Area Median Income.

D. Subject to the conditions set forth in the OPA, City has agreed to provide to Owner a loan in the amount of Nine Million One Hundred Thousand Dollars (\$9,100,000) (the "**Loan**") in order to provide financing for the development of the Project. The Loan is evidenced by a Secured Promissory Note (the "**Note**") executed by Owner and dated as of the date hereof, and is secured by a Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing ("**Deed of Trust**") dated as of the date hereof and executed by Owner for the benefit of City. The Deed of Trust will be recorded in the Official Records substantially concurrently herewith.

E. As a condition to its agreement to provide the Loan to Owner, City requires the Owner's interest in the Property to be subject to the terms, conditions and restrictions set forth herein to satisfy, to the extent applicable, the requirements of Community Redevelopment Law (California Health and Safety Code Section 33000, *et seq.*) regarding restrictions on affordability of residential rental units assisted with funds from the low- and moderate-income housing fund established by the former Redevelopment Agency of the City of San Leandro and the housing production obligation under Health and Safety Code Section 33413(b)(2).

F. The Parties have agreed to enter into and record this Agreement in order to satisfy the conditions described in the foregoing Recitals. The purpose of this Agreement is to regulate and restrict the occupancy and rents of the Project's

Restricted Units for the benefit of the Project occupants. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding upon Owner and Owner's successors and assigns for the full term of this Agreement.

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

1. Definitions. The following terms have the meanings set forth in this Section wherever used in this Agreement or the attached exhibits.

"Actual Household Size" means the actual number of persons in the applicable household.

"Adjusted for Family Size Appropriate for the Unit" shall be determined consistent with Section 50052.5(h) of the California Health and Safety Code and applicable federal rules (if any).

"Affordable Rent" means the following amounts, less a utility allowance and such other adjustments as required pursuant to Section 6918 of the Regulations: (i) for units that are restricted for rental to households with incomes of not more than Very Low-Income ("**Very Low-Income Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of fifty percent (50%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit, and (ii) for units that are restricted for rental to households with incomes of not more than ninety percent (90%) of AMI ("**90% Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of ninety percent (90%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit.

"Area Median Income" or "AMI" means the median income for Alameda County, California, adjusted for Actual Household Size, as determined by the U.S. Department of Housing and Urban Development ("**HUD**") pursuant to Section 8 of the United States Housing Act of 1937 and as published from time to time by the State of California Department of Housing and Community Development ("**HCD**") in Section 6932 of Title 25 of the California Code of Regulations or successor provision published pursuant to California Health and Safety Code Section 50093(c).

"Claims" is defined in Section 10.

"Eligible Household" means a household for which gross household income upon initial occupancy does not exceed the maximum income level for a Restricted Unit as specified in Section 2.1 and Exhibit B.

"Indemnitees" is defined in Section 10.

"Regulations" means Title 25 of the California Code of Regulations.

"Restricted Unit" means a dwelling unit which is reserved for occupancy at an

Affordable Rent by a household of not more than a specified household income in accordance with and as set forth in Sections 2.1 and 2.2 and Exhibit B.

"**Very Low-Income**" means an annual gross household income that is less than or equal to the qualifying limits for households of Very Low-Income, adjusted for actual household size, as determined periodically by HUD on the basis of gross annual household income, and published by HCD in the Regulations for Alameda County. If HUD ceases to make such determination, "Very Low-Income" shall be defined as not greater than fifty percent (50%) of Area Median Income adjusted for household size, as published by HCD in the Regulations. If both HCD and HUD cease to make such determinations, City in its reasonable discretion may designate another definition of "Very Low-Income" used by any other federal or state agency so long as such definition is no more restrictive than that set forth herein.

2. Use and Affordability Restrictions. Owner hereby covenants and agrees, for itself and its successors and assigns, that the Owner's interest in the Property shall be used solely for the operation of a multifamily rental housing development that may include commercial and retail space, in compliance with the OPA and the requirements set forth herein. Owner represents and warrants that it has not entered into any agreement that would restrict or compromise its ability to comply with the occupancy and affordability restrictions set forth in this Agreement, and Owner covenants that it shall not enter into any agreement that is inconsistent with such restrictions without the express written consent of City.

2.1 Affordability Requirements. For a term of fifty-five (55) years commencing upon the date of issuance of a final certificate of occupancy for the Project not less than fifty-five (55) of the residential units in the Project shall be both Rent Restricted (as defined below) and occupied (or if vacant, available for occupancy) by Eligible Households who qualify as Very Low-Income, and not less than an additional fifty-eight (58) of the residential units in the Project shall be both Rent Restricted and occupied (or if vacant, available for occupancy) by Eligible Households whose income is less than or equal to ninety percent (90%) of Area Median Income.

In the event that recertification of tenant incomes indicates that the number of Restricted Units actually occupied by Eligible Households falls below the number reserved for each income group as specified in this Section, Owner shall rectify the condition by renting the next available dwelling unit(s) in the Project to Eligible Household(s) until the required income mix is achieved. A dwelling unit shall qualify as "**Rent Restricted**" if the gross rent charged for such unit does not exceed the Affordable Rent for the applicable household income category as set forth in Exhibit B, subject to Section 2.2.1.

Notwithstanding anything to the contrary contained in this Agreement, if other lenders, investors or regulatory agencies restrict a greater number of units than restricted by this Agreement or require stricter household eligibility or affordability requirements than those imposed hereby, the requirements of such other lenders, investors or regulatory agencies shall prevail.

2.2 Rents for Restricted Units. Rents for Restricted Units shall be limited to Affordable Rents for households of the applicable income limit in accordance with Section 2.1 and Exhibit B. A household which at initial occupancy qualifies as Very Low-Income or whose household income is less than or equal to 90% of AMI, shall be treated as continuing to be of such income category so long as the household's gross income does not exceed 140% of the applicable income limit. In the event the gross household income of a household that qualified as Very Low-Income or whose household income is less than or equal to 90% of AMI at initial occupancy exceeds the applicable income limit for a unit, that unit will continue to be considered as satisfying the applicable income limit if the unit remains Rent-Restricted, subject to Section 2.2.1.

2.2.1 If upon recertification of tenant incomes, Owner determines that a Very Low Income tenant's household income has increased and exceeds the qualifying income for a Very Low Income Unit but does not exceed the maximum qualifying income for a 90% Unit, then, upon expiration of the tenant's lease:

- (i) Such tenant's unit shall be considered a 90% Unit;
- (ii) Upon sixty (60) days' written notice to the tenant, such tenant's rent may be increased to the lesser of (a) an Affordable Rent for a 90% Unit, (b) the maximum rent permitted pursuant to Health and Safety Code Section 50053(b), and (c) the fair market rent for the unit; and
- (iii) Owner shall rent the next available unit at an Affordable Rent to a household whose gross household income does not exceed Very Low Income.

If upon recertification of tenant incomes, Owner determines that a Very Low Income or a 90% AMI tenant's household income has increased and exceeds the qualifying income for a 90% Unit, then, upon expiration of the tenant's lease:

- (i) Such tenant's unit shall be considered a 90% Unit;
- (ii) Upon sixty (60) days' written notice to the tenant, such tenant's rent may be increased to the lesser of: (a) thirty percent (30%) of the tenant's actual household income; and (b) the fair market rent for the unit; and
- (iii) Owner shall rent the next available unit at an Affordable Rent to a household whose gross household income does not exceed Very Low Income or 90% of AMI, as necessary to comply with Section 2.1.

2.2.2 Notice of Affordability Restrictions on Transfer of Property. Owner and City shall execute a Notice of Affordability Restrictions on Transfer of Property substantially in the form attached hereto as Exhibit D, and shall cause such notice to be

recorded substantially concurrently with the recordation of this Agreement.

2.3 Unit Sizes, Design and Location. The Restricted Units shall be of comparable design quality as unrestricted units in the Project, but may have reduced interior amenities. Tenants of Restricted Units shall have access to all common facilities of the Project equal to that of tenants of Project Units that are not Restricted Units. The Restricted Units shall be allocated among affordability categories as set forth in Exhibit B.

2.4 Manager's Unit. Two (2) dwelling units in the Project may be used as resident managers' units, and shall be exempt from the occupancy and rent restrictions set forth in this Agreement.

2.5 No Condominium Conversion. Owner shall not convert the Project to condominium or cooperative ownership or sell condominium or cooperative rights to the Project or any part thereof during the term of this Agreement.

2.6 Non-Discrimination; Compliance with Fair Housing Laws.

2.6.1 Preferences. In order to ensure that there is an adequate supply of affordable housing within the City of San Leandro for residents and employees of businesses within the City, to the extent permitted by law and consistent with the program regulations for funding sources used for development of the Project, at initial lease up, Owner shall give a preference in the rental of the residential units in the Project to eligible households that include at least one member who lives or works in the City of San Leandro. Owner agrees to use targeted marketing to local residents and employees to increase awareness of the availability of units in the Project, including without limitation, advertising in local media such as the *San Leandro Times* and local-serving bilingual media and undertaking outreach to the San Leandro Unified School District, City employees and the San Leandro Chamber of Commerce.

2.6.2 Fair Housing. Owner shall comply with state and federal fair housing laws in the marketing and rental of the units in the Project. Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing Section 8 program or any successor thereto.

2.6.3 Non-Discrimination. Owner shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Owner's interest in the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Owner covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in

the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Owner's interest in the Property or part thereof, nor shall Owner or any person claiming under or through Owner 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, of, or for the Owner's interest in the Property or part thereof. Owner shall include such provision in all deeds, leases, contracts and other instruments executed by Owner, and shall enforce the same diligently and in good faith.

All deeds, leases or contracts made or entered into by Owner, its successors or assigns, as to any portion of the Owner's interest in the Property or the Improvements shall contain the following language:

(a) (1) In Deeds, the following language shall appear:

"Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of a person or of a 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 property herein conveyed nor shall the grantee or any person claiming under or through the grantee 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 property herein conveyed. The foregoing covenant shall run with the land."

2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(b) (1) In Leases, the following language shall appear:

"The lessee herein covenants by and for the lessee and lessee's heirs, personal representatives and assigns, and all persons claiming under the lessee or through the lessee, that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or

disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination of segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein leased.”

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(c) In Contracts

“There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sublessees or vendees of the land.”

2.7 Reserved.

3. Reporting Requirements.

3.1 Tenant Certification. Owner or Owner’s authorized agent shall obtain from each household prior to initial occupancy of each Restricted Unit, and on every anniversary thereafter, a written certificate containing all of the following in such format and with such supporting documentation as City may reasonably require:

- (a) The identity of each household member;
- (b) The total gross household income;

Owner shall retain such certificates for not less than three (3) years, and upon City’s request, shall provide copies of such certificates to City and make the originals available for City inspection.

3.2 Annual Report; Inspections. By not later than April 30 of each year during the term of this Agreement, Owner shall submit an annual report ("**Annual Report**") to the City in form satisfactory to City, together with a certification that the Project is in compliance with the requirements of this Agreement. The Annual Report shall, at a minimum, include the following information for each dwelling unit in the Project: (i) unit number; (ii) number of bedrooms; (iii) current rent and other charges; (iv) number of people residing in the unit; (v) total gross household income of residents; and (vi) the information required by Section 3.1.

Owner shall include with the Annual Report, an income recertification for each household, documentation verifying tenant eligibility, and such additional information as City may reasonably request from time to time in order to demonstrate compliance with this Agreement. The Annual Report shall conform to the format requested by City; provided however, during such time that the Project is subject to a regulatory agreement restricting occupancy and/or rents pursuant to requirements imposed in connection with the use of state or federal low-income housing tax credits or tax-exempt financing, Owner may satisfy the requirements of this Section by providing City with a copy of compliance reports required in connection with such financing.

Owner shall permit representatives of City to enter and inspect the Owner's interest in the Property and the Project during reasonable business hours in order to monitor compliance with this Agreement upon 48-hours advance notice of such visit to Owner or to Owner's management agent.

3.3 Intentionally omitted.

4. Term of Agreement.

4.1 Term of Restrictions. This Agreement shall remain in effect through the 55th anniversary of the issuance of the final certificate of occupancy for the Project, unless the term is extended by mutual agreement of the Parties.

4.2 Effectiveness Succeeds Conveyance of Property and Repayment of Loan. This Agreement shall remain effective and fully binding for the full term hereof, as such may be extended pursuant to Section 4.1, regardless of (i) any sale, assignment, transfer, or conveyance of the Owner's interest in the Property or the Project or any part thereof or interest therein, (ii) any payment, prepayment or extinguishment of the Loan or Note, or (iii) any reconveyance of the Deed of Trust.

4.3 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement upon the expiration of the term as such may be extended pursuant to Section 4.1.

5. Binding Upon Successors; Covenants to Run with the Land. Owner hereby subjects the Owner's interest in the Property and the Project to the covenants and

restrictions set forth in this Agreement. The City and Owner hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Owner and City, regardless of any sale, assignment, conveyance or transfer of the Owner's interest in the Property, the Project or any part thereof or interest therein. Any successor-in-interest to Owner, including without limitation any purchaser, transferee or lessee of the Owner's interest in the Property or the Project (other than the tenants of the individual dwelling units within the Project) shall be subject to all of the duties and obligations imposed hereby for the full term of this Agreement. Each and every contract, deed, ground lease or other instrument affecting or conveying the Owner's interest in the Property or the Project or any part thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, restrictions, duties and obligations set forth herein, regardless of whether such covenants, restrictions, duties and obligations are set forth in such contract, deed, ground lease or other instrument. If any such contract, deed, ground lease or other instrument has been executed prior to the date hereof, Owner hereby covenants to obtain and deliver to City an instrument in recordable form signed by the parties to such contract, deed, ground lease or other instrument pursuant to which such parties acknowledge and accept this Agreement and agree to be bound hereby. Owner agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Owner's interest in the Property and the Project in favor of City.

6. Property Management; Repair and Maintenance; Marketing.

6.1 Management Responsibilities. Owner shall be responsible for all management functions with respect to the Owner's interest in the Property and the Project, including without limitation the selection of tenants, certification and recertification of household income and eligibility, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. City shall have no responsibility for management or maintenance of the Owner's interest in the Property or the Project.

6.2 Management Entity. City shall have the right to review and approve the qualifications of the management entity proposed by Owner for the Project. The contracting of management services to a management entity shall not relieve Owner of its primary responsibility for proper performance of management duties. The City hereby approves BRIDGE Property Management Company, a California nonprofit public benefit corporation as the initial management entity for the Project.

6.3 Repair, Maintenance and Security. Throughout the term of this Agreement, Owner shall at its own expense, maintain the Owner's interest in the Property and the Project in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the

foregoing, Owner agrees to maintain the Project and the Owner's interest in the Property (including without limitation, the residential units, common areas, meeting rooms, landscaping, driveways, parking areas and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Owner's interest in the Property or at the Project. Owner shall prevent and/or rectify any physical deterioration of the Owner's interest in the Property and the Project and shall make all repairs, renewals and replacements necessary to keep the Owner's interest in the Property and the improvements located thereon in good condition and repair. Owner shall provide adequate security for occupants of the Project.

6.3.1 City's Right to Perform Maintenance. In the event that Owner breaches any of the covenants contained in Section 6.3, and such default continues for a period of ten (10) days after written notice from City (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from City (with respect to landscaping, building improvements and general maintenance), then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, with prior notice to Owner, to enter upon the Owner's interest in the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and the landscaped areas on the Owner's interest in the Property. All costs expended by City in connection with the foregoing, shall constitute an indebtedness secured by the Deed of Trust, and shall be paid by Owner to City upon demand. All such sums remaining unpaid thirty (30) days following delivery of City's invoice therefor shall bear interest at the lesser of 10% per annum or the highest rate permitted by applicable law. Notwithstanding anything to the contrary set forth in this Section, City agrees that it will provide Owner with not less than thirty (30) days' written notice prior to undertaking any work for which Owner will incur a financial obligation.

6.4 Marketing and Management Plan. Not later than one hundred eighty (180) days prior to completion of Project construction, Owner shall submit for City review and approval, a plan for marketing and managing the Owner's interest in the Property ("**Marketing and Management Plan**" or "**Plan**"). The Marketing and Management Plan shall address in detail how Owner plans to market the Restricted Units to prospective Eligible Households in accordance with fair housing laws and this Agreement, Owner's tenant selection criteria, and how Owner plans to certify the eligibility of Eligible Households. The Plan shall also describe the management team and shall address how the Owner and the management entity plan to manage and maintain the Owner's interest in the Property and the Project. The Plan shall include the proposed management agreement and the form of rental agreement that Owner proposes to enter into with Project tenants. Owner shall abide by the terms of the Marketing and Management Plan in marketing, managing, and maintaining the Owner's interest in the Property and the Project, and throughout the term of this Agreement, shall submit proposed modifications to City for review and approval.

6.5 Approval of Amendments. If City has not responded to any submission of the Management and Marketing Plan, the proposed management entity, or a proposed amendment or change to any of the foregoing within thirty (30) days following City's receipt of such plan, proposal or amendment, the plan, proposal or amendment shall be deemed approved by City.

6.6 Fees, Taxes, and Other Levies. Owner shall be responsible for payment of all fees, assessments, taxes, charges, liens and levies applicable to the Owner's interest in the Property or the Project, including without limitation possessory interest taxes, if applicable, imposed by any public entity, and shall pay such charges prior to delinquency. However, Owner shall not be required to pay any such charge so long as (a) Owner is contesting such charge in good faith and by appropriate proceedings, (b) Owner maintains reserves adequate to pay any contested liabilities, and (c) on final determination of the proceeding or contest, Owner immediately pays or discharges any decision or judgment rendered against it, together with all costs, charges and interest.

6.7 Insurance Coverage. Throughout the term of this Agreement Owner shall comply with the insurance requirements set forth in Exhibit C, and shall, at Owner's expense, maintain in full force and effect insurance coverage as specified in Exhibit C.

6.8 Property Damage or Destruction. If any part of the Project is damaged or destroyed, Owner shall repair or restore the same, consistent with the occupancy and rent restriction requirements set forth in this Agreement. Such work shall be commenced as soon as reasonably practicable after the damage or loss occurs and shall be completed within one (1) year thereafter or as soon as reasonably practicable, provided that insurance proceeds are available to be applied to such repairs or restoration within such period and the repair or restoration is financially feasible. During such time that lenders or low-income housing tax credit investors providing financing for the Project impose requirements that differ from the requirements of this Section the requirements of such lenders and investors shall prevail.

7. Recordation; Subordination. This Agreement shall be recorded in the Official Records of Alameda County. The City agrees that pursuant to Health and Safety Code Section 33334.14(a)(4), it will not withhold consent to reasonable requests for subordination of this Agreement to deeds of trust provided for the benefit of lenders identified in the financing plan approved in connection with the OPA, provided that the subordination agreement includes reasonable protections to the City in the event of default consistent with the requirements of Health and Safety Code Section 33334.14(a)(4).

8. Transfer and Encumbrance.

8.1 Restrictions on Transfer and Encumbrance. During the term of this Agreement, except as permitted pursuant to the OPA or this Agreement, Owner shall not directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, "**Transfer**") of the whole or any part of the Owner's interest in the Property, the Project,

or the improvements located on the Owner's interest in the Property, without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the term of this Agreement, except as expressly permitted by this Agreement or the OPA, Owner shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a "significant change of ownership" shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the present ownership and /or control of Owner, taking all transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner, nor the transfer by the investor limited partner to subsequent limited partners shall be restricted by this provision.

8.2 Permitted Transfers. Notwithstanding any contrary provision hereof, the prohibitions on Transfer set forth herein shall not be deemed to prevent: (i) the granting of easements or permits to facilitate development of the Owner's interest in the Property; (ii) the dedication of any property required pursuant to the OPA; (iii) the lease of individual dwelling units to tenants for occupancy as their principal residence in accordance with this Agreement or the lease of any commercial or retail space to commercial tenants; (iv) assignments creating security interests for the purpose of financing the acquisition, construction, or permanent financing of the Project or the Owner's interest in the Property in accordance with the OPA, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; (v) a Transfer to an entity which is under the direct control of BRIDGE Housing corporation, a California nonprofit public benefit corporation ("**Controlled Affiliate**"); (vi) the admission of limited partners and any transfer of limited partnership interests in accordance with Owner's agreement of limited partnership (the "**Partnership Agreement**"), provided that the Partnership Agreement and/or the instrument of Transfer provides for development and operation of the Owner's interest in the Property and Project in a manner consistent with the OPA and this Agreement; (vii) the removal of the general partner by the investor limited partner for a default under the Partnership Agreement, provided the replacement general partner is reasonably satisfactory to City; or (viii) the transfer of the General Partner's interest to a nonprofit entity that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended, provided such replacement general partner is reasonably satisfactory to City.

In addition, City shall not withhold its consent to the sale, transfer or other disposition of the Project, in whole or in part, provided that (1) the Project is and shall continue to be operated in compliance with this Agreement; (2) the transferee expressly assumes all obligations of Owner imposed by this Agreement; (3) the transferee executes all documents reasonably requested by the City with respect to the assumption of the Owner's obligations under this Agreement, and upon City's request, delivers to the City an opinion of its counsel to the effect that such document and this Agreement are valid, binding and enforceable obligations of such transferee; and (4) either (A) the transferee has at least three (3) years' experience in the ownership, operation and management of low-income multifamily rental housing projects of similar

size to that of the Project, without any record of material violations of nondiscrimination provisions or other state or federal laws or regulations applicable to such projects, or (B) the transferee agrees to retain a property management firm with the experience and record described in subclause (A).

City consent shall not be required for Transfers described in clauses (i), (ii), (iii) and (vi) of Section 8.2 or for foreclosures described in clause (iv) of Section 8.2. The City shall not withhold consent to Transfers described in clauses (iv), (v), (vii) or (viii) of Section 8.2 provided that the conditions described in such clauses are satisfied, as applicable. Consent to any proposed Transfer may be given by the City's City Manager unless the City Manager, in his or her discretion, refers the matter of approval to the City's governing board. If a proposed Transfer has not been approved by City in writing within thirty (30) days following City's receipt of written request by Owner, it shall be deemed rejected.

Owner shall reimburse City for all City costs, including but not limited to reasonable attorneys' fees, incurred in reviewing instruments and other legal documents proposed to effect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten (10) days following City's delivery of an invoice detailing such costs.

8.3 Encumbrances. Owner agrees to use best efforts to ensure that all deeds of trust or other security instruments recorded against the Owner's interest in the Property, the Project or part thereof for the benefit of a lender other than City ("**Third-Party Lender**") (or the related subordination agreements) shall contain each of the following provisions: (i) Third-Party Lender shall use its best efforts to provide to City a copy of any notice of default issued to Owner concurrently with provision of such notice to Owner; (ii) City shall have the reasonable right, but not the obligation, to cure any default by Owner within the same period of time provided to Owner for such cure extended by an additional sixty (60) days; (iii) provided that City has cured any default under Third-Party Lender's deed of trust and other loan documents, City shall have the right to foreclose City's Deed of Trust and take title to the Project without acceleration of Third-Party Lender's debt; and (iv) City shall have the right to transfer the Project without acceleration of Third-Party Lender's debt to a nonprofit corporation or other entity which shall own and operate the Project as an affordable rental housing Project, subject to the prior written consent of the Third-Party Lender. Owner agrees to provide to City a copy of any notice of default Owner receives from any Third-Party Lender within three (3) business days following Owner's receipt thereof.

8.4 Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Project or the Owner's interest in the Property, and the purchaser at any trustee's sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Such purchaser shall be bound by and subject to this Agreement from and after such trustee's sale or foreclosure sale. Promptly upon determining that a violation of this Agreement has occurred, City shall give written notice to the holders of record of

any mortgages or deeds of trust encumbering the Project or the Owner's interest in the Property that such violation has occurred.

9. Default and Remedies.

9.1 Events of Default. The occurrence of any one or more of the following events shall constitute an event of default hereunder ("**Event of Developer Default**"):

- (a) The occurrence of a Transfer in violation of Section 8 hereof;
- (b) Owner's failure to maintain insurance on the Owner's interest in the Property and the Project as required hereunder, and the failure of Owner to cure such default within ten (10) days;
- (c) Subject to Owner's right to contest the following charges, Owner's failure to pay taxes or assessments due on the Owner's interest in the Property or the Project or failure to pay any other charge that may result in a lien on the Owner's interest in the Property or the Project, and Owner's failure to cure such default within thirty (30) days of delinquency;
- (d) A default arises under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Owner's interest in the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerate repayment of such loan;
- (e) An Event of Developer Default has been declared under the OPA, the Note or the Deed of Trust;
- (f) Owner's default in the performance of any term, provision or covenant under this Agreement (other than an obligation enumerated in this Subsection 9.1), and unless such provision specifies a shorter cure period for such default, the continuation of such default for ten (10) days in the event of a monetary default or sixty (60) days in the event of a non-monetary default following the date upon which City shall have given written notice of the default to Owner, or if the nature of any such non-monetary default is such that it cannot be cured within sixty (60) days, Owner's failure to commence to cure the default within sixty (60) days and thereafter prosecute the curing of such default with due diligence and in good faith, but in no event longer than 120 days from receipt of the notice of default.

The limited partners of Owner and Project lenders shall have the right to cure any default of Owner hereunder upon the same terms and conditions afforded to Owner, subject to any additional rights set forth in the OPA. Provided that City has been given written notice of the address for delivery of notices to the limited partners and the Project lenders City shall provide any notice of default hereunder to such parties concurrently with the provision of such notice to Owner, and as to the limited partners and Project lenders, the cure periods specified herein shall commence upon the date of delivery of such notice in accordance with Subsection 11.3.

9.2 Remedies. Upon the occurrence of an Event of Developer Default and its continuation beyond any applicable cure period, City may proceed with any of the following remedies:

(a) Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;

(b) Accelerate and declare the balance of the Note and interest accrued thereon immediately due and payable and proceed with foreclosure under the Deed of Trust;

(c) For violations of obligations with respect to rents for Restricted Units, impose as liquidated damages a charge in an amount equal to the actual amount collected in excess of the Affordable Rent;

(d) Pursue any other remedy allowed at law or in equity.

Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

10. Indemnity. Owner shall indemnify, defend (with counsel approved by City) and hold the City and its elected and appointed officers, officials, employees, agents, and representatives (collectively, the "**Indemnitees**") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") arising directly or indirectly, in whole or in part, as a result of or in connection with Owner's construction, management, or operation of the Owner's interest in the Property and the Project or any failure to perform any obligation as and when required by this Agreement. Owner's indemnification obligations under this Section 10 shall not extend to Claims resulting from the gross negligence or willful misconduct of one or more Indemnitees. The provisions of this Section 10 shall survive the expiration or earlier termination of this Agreement. It is further agreed that City does not and shall not waive any rights against Owner that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Owner, of any of the insurance policies described in this Agreement or the OPA.

11. Miscellaneous.

11.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties.

11.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take

action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Owner of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

11.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

(i) personal delivery, in which case notice is effective upon delivery;

(ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt; or

(iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

City: City of San Leandro
835 East 14th Street
San Leandro, CA 94577
Attention: City Manager
Facsimile: (510) 577-6007

Owner: Alameda Housing Associates, L.P., a California limited partnership
345 Spear Street, Suite 700
San Francisco, CA 94105
Attn: President
Facsimile: (415) 495-4898

11.4 Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

11.5 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

11.6 Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City Manager or by any person who shall have been designated by the City Manager, without further approval by the City Council.

11.7 Non-Liability of City and City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Owner or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Owner or its successor or for any obligation of City under this Agreement.

11.8 Headings; Construction. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party.

11.9 Time is of the Essence. Time is of the essence in the performance of this Agreement.

11.10 Governing Law. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law.

11.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

11.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

11.13 Entire Agreement; Exhibits. This Agreement, together with the OPA, the Note and the Deed of Trust contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto. Exhibits A through D, attached hereto are incorporated herein by this reference.

11.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

CITY

CITY OF SAN LEANDRO,
a municipal corporation

By: _____
Chris Zapata, City Manager

ATTEST:

By: _____
Marian Handa, City Clerk

APPROVED AS TO FORM:

By: _____
Richard Pio Roda, City Attorney

OWNER

Alameda Housing Associates, L.P.,
a California limited partnership

By: BRIDGE Norcal, LLC, a California limited liability company

Its: General Partner

By: MCB Family Housing, Inc., a California nonprofit public benefit corporation

Its: Sole Member

By: _____

Name: _____

Title: _____

SIGNATURES MUST BE NOTARIZED.

STATE OF CALIFORNIA)
)
COUNTY OF ALAMEDA)

On _____, 20__, before me, _____, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF CALIFORNIA)
)
COUNTY OF ALAMEDA)

On _____, 20__, before me, _____, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit A

PROPERTY

(Attach legal description.)

EXHIBIT A

The land referred to is situated in the County of Alameda, City of San Leandro, State of California, and is described as follows:

PARCEL ONE:

Lots A through N, Block 30, as said lot and block are shown on the "Map of the Town of San Leandro", filed February 27, 1855, and recorded June 14, 1870, in Book 1 of Maps, Page 19, and Book 2 of Maps, Page 43, in the Office of the County Recorder of Alameda County.

EXCEPTING THEREFROM:

The interest conveyed to the City of San Leandro by deed recorded June 21, 1971, Book 2879, Page 973, Official Records.

PARCEL TWO:

A portion of West Joaquin Avenue, formerly Hepburn Street, as shown on the "Map of the Town of San Leandro", filed February 27, 1855, and recorded June 14, 1870, in Book 1 of Maps, Page 19, and Book 2 of Maps, Page 43, in the Office of the County Recorder of Alameda County, as vacated by the City of San Leandro, Ordinance 71-2, recorded January 14, 1971, Book 2768, Page 595 and also recorded March 14, 1973, Book 3363, Page 828, Official Records, described as follows:

Beginning at the intersection of the southwestern line of Carpentier Street with the southeastern line of said West Joaquin Avenue, as shown on said map; thence along said southeastern line of West Joaquin Avenue, southwesterly to a line parallel with the northeastern line of San Leandro Boulevard and 25.40 feet, measured at right angles, northeasterly therefrom; thence along said parallel line, northwesterly to the northwestern line of said West Joaquin Avenue; thence along said northwestern line of San Joaquin Avenue, northeasterly to the said southwestern line of Carpentier Street; thence along the said southwestern line of Carpentier Street, southeasterly to the point of beginning.

EXCEPTING THEREFROM:

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APN: 075-0039-007-05

Exhibit B

Number of Units by Unit Size and Targeted Area Median Income (AMI) Levels

Maximum Household Income	Very Low Income	90% AMI	Sub-Total	Manager's Unit	Total
Studio	5	3	8		8
1-Bedroom	20	29	49	-	49
2-Bedroom	8	14	22	-	22
3-Bedroom	22	12	34	2	36
Total	55	58	113	2	115

Exhibit C

INSURANCE REQUIREMENTS

Prior to initiating work on the Project and continuing through throughout the term of this Agreement, Owner shall obtain and maintain the following policies of insurance:

(a) a commercial general liability policy in the amount of One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) annual aggregate, together with Three Million Dollars (\$3,000,000) excess liability coverage, or such other policy limits as City may require in its reasonable discretion, including coverage for bodily injury, property damage, products, completed operations and contractual liability coverage. Such policy or policies shall be written on an occurrence basis and shall name the Indemnitees as additional insureds.

(b) a comprehensive automobile liability coverage in the amount of One Million Dollars (\$1,000,000), combined single limit including coverage for owned and non-owned vehicles and shall furnish or cause to be furnished to City evidence satisfactory to City that Owner and any contractor with whom Owner has contracted for the performance of work on the Owner's interest in the Property or otherwise pursuant to this Agreement carries workers' compensation insurance as required by law. Automobile liability policies shall name the Indemnitees as additional insureds.

(c) Upon commencement of construction and continuing until issuance of a Certificate of Completion, Owner and all contractors working on behalf of Owner shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee. Such insurance shall include coverage for risks of direct physical loss or damage, excluding the perils of earthquake, earth movement, and flood.

(d) Upon completion of construction of the Project, Owner shall maintain property insurance covering all risks of loss (other than earthquake and flood) for 100% of the replacement value of the Project with deductible, if any, in an amount acceptable to City, naming City as loss payee.

(e) Companies writing the insurance required hereunder shall be authorized to issue insurance policies in the State of California. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A: VII. The Commercial General Liability and comprehensive automobile policies required hereunder shall name the Indemnitees as additional insureds. Builder's Risk and property insurance shall name City as loss payee as its interests may appear.

(f) Prior to commencement of construction, Owner shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage and duly executed endorsements evidencing such additional insured status. The certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination or non-renewal of the

coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination or non-renewal.

(g) If any insurance policy or coverage required hereunder is canceled or reduced, Owner shall, within twenty-one (21) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Owner's expense, and Owner shall promptly reimburse City for such expense upon receipt of billing from City.

(h) Coverage provided by Owner shall be primary insurance and shall not be contributing with any insurance, or self-insurance maintained by City, and the policies shall so provide. The insurance policies shall contain a waiver of subrogation for the benefit of the City. Owner shall furnish the required certificates and endorsements to City prior to the commencement of construction of the Project, and shall provide City with certified copies of the required insurance policies upon request of City.

Exhibit D

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of San Leandro
835 East 14th Street
San Leandro, CA 94577
Attn: Executive Director

Space above this line for Recorder's use.

**NOTICE OF AFFORDABILITY RESTRICTIONS ON
TRANSFER OF PROPERTY**

THIS NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY (this "**Notice**") is dated as of _____, 20____ with reference to that certain real property consisting of approximately __ acres located in the City of San Leandro ("**City**") and more particularly described in Exhibit A attached hereto (the "**Property**").

1. The City of San Leandro, a municipal corporation ("**City**") and Alameda Housing Associates, L.P., a California limited partnership ("**Owner**") have entered into that certain Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (the "**Regulatory Agreement**") dated as of the date hereof and recorded in the Official Records of Alameda County substantially concurrently herewith.

2. The Regulatory Agreement requires not less than fifty-five (55) of the residential units developed on the Property to be rented at affordable rents to households who qualify as Very Low-Income and not less than an additional fifty-eight (58) of the residential units developed on the Property to be rented at affordable rents to households whose income is less than or equal to ninety percent (90%) of Area Median Income, as more particularly set forth in the Regulatory Agreement.

3. The restrictions set forth in the Regulatory Agreement will be in effect for a period of fifty-five (55) years, commencing on the date of issuance of a final certificate of occupancy for the Project unless the term is extended by mutual agreement of the City and Owner.

This Notice is intended to provide notice of documents that affect title to the Property. Reference should be made to the Regulatory Agreement for a more detailed description of all matters described in this Notice. In the event of any conflict between the terms of this Notice and the terms of the Regulatory Agreement, the Regulatory Agreement shall prevail.

This Notice is being recorded and filed in compliance with California Health and Safety

Code Section 33334.3(f)(3) and (4), and shall be indexed by the City and the current owner of the Property.

IN WITNESS WHEREOF, City and Owner have executed this Notice as of the date first written above.

CITY:

**CITY OF SAN LEANDRO,
A Municipal Corporation**

By: _____
Chris Zapata, City Manager

ATTEST:

By: _____
Marian Handa, City Clerk

APPROVED AS TO FORM:

By: _____
Richard Pio Roda, City Attorney

OWNER:

Alameda Housing Associates, L.P.,
a California limited partnership

By: BRIDGE Norcal, LLC, a California limited liability company

Its: General Partner

By: MCB Family Housing, Inc., a California nonprofit public benefit corporation

Its: Sole Member

By: _____

Name: _____

Title: _____

SIGNATURES MUST BE NOTARIZED

STATE OF CALIFORNIA)
)

COUNTY OF ALAMEDA)

On _____, 20__, before me, _____, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF CALIFORNIA)
)
COUNTY OF ALAMEDA)

On _____, 20__, before me, _____, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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Signature _____ (Seal)

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(Attach legal description.)

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APN: 075-0039-007-05