



EXECUTIVE SUMMARY

MEETING DATE: July 21, 2023

HCR23-081

SUBJECT: Parker Kier Ground Lease Renewal

COUNCIL DISTRICT: 3

ORIGINATING DEPARTMENT: Real Estate

CONTACT/PHONE NUMBER: Emmanuel Arellano (619) 578-7586

REQUESTED ACTION:

Approve a ground lease with HDP Parker Kier LLC, for the occupancy and operation of Parker Kier to continue its use-as permanent supportive and very low-income housing.

EXECUTIVE SUMMARY OF KEY FACTORS:

- The Housing Commission acquired the Property, formerly Del Mar Apartments, from the Port of San Diego in 1991.
- In 1992, the Housing Commission completed essential rehabilitation to correct safety hazards and repair basic systems.
- In 2013, HDP Parker Kier, LLC, a California limited liability company (Lessee), entered into a 10-year ground lease the Housing Commission as Lessor for the Property.
- The Property was leased to Lessee solely and exclusively for the purposes of management and operation of the Property by Lessee, at its sole cost and expense, including without limitation, providing the affordable units and supportive services to eligible residents.
- The 10-year Ground Lease will end on August 31, 2023.
- HDP Parker Kier, LLC has successfully operated the Property with the support of a third-party property management company, Hyder.
- Housing Commission staff recommends extending the ground lease for an additional 15 years for HDP Parker Kier LLC to continue to manage the Property's operations.
- Ground rent will continue to be charged at 4.5% of all gross income per year in the new ground lease.
- The suggested ground lease term mirrors the typical term length of the Housing Assistance Payment (HAP) contract for the Project-Based Housing Voucher (PBV) units at Parker Kier. The HAP for the 22 PBV units is anticipated to be renewed in October 2023. Parker Kier also has 11 Sponsored-Based Housing Voucher (SBV) units under a HAP contract.
- Parker Kier provides 11 units for residents qualified under the St. Paul's Program for All-inclusive Care for the Elderly (PACE).
- The remaining 22 affordable units consist of residents from two Mental Health Services Act target programs, IMPACT and Center Star.
- The Coordinated Entry System (CES) will continue to be utilized to identify potential residents upon unit/service provider match.

REPORT

DATE ISSUED: July 13, 2023

REPORT NO: HCR23-081

ATTENTION: Chair and Members of the San Diego Housing Commission
For the Agenda of July 21, 2023

SUBJECT: Parker Kier Ground Lease Renewal

COUNCIL DISTRICT: 3

Advance notice of San Diego Housing Commission hearing of the following matter has been provided to the Housing Authority Members pursuant to the provisions of San Diego Municipal Code Section 98.0301(e)(4)(A)-(B).

REQUESTED ACTION

Approve a ground lease with HDP Parker Kier LLC for the occupancy and operation of Parker Kier to continue its use as permanent supportive and very low-income housing.

STAFF RECOMMENDATION

That the San Diego Housing Commission (Housing Commission) Board of Commissioners (Board) take the following actions:

- 1) Authorize the Executive Vice President of Real Estate, or designee, to enter into a 15-year ground lease agreement, with the Housing Commission as Lessor and HDP Parker Kier LLC as Lessee for the property known as Parker Kier at 2172 Front Street, San Diego, CA 92101 (Property). The ground lease rent will be maintained at the current level of 4.5% of Total Gross Revenue.
- 2) Authorize the Executive Vice President of Real Estate, or designee, to execute all documents and instruments that are necessary and/or appropriate to implement these approvals, in a form approved by General Counsel, and to take such actions as are necessary and/or appropriate to implement these approvals, provided that a copy of the documents, signed as to form by General Counsel, is submitted to each Housing Commissioner.

SUMMARY

The Housing Commission acquired the Property, formerly Del Mar Apartments, from the Port of San Diego in 1991. The Property is a three-story structure containing 33 affordable rental housing units (19 studios and 14 one-bedroom units) and one manager's unit. It is believed to have been built around 1908 and is west of Balboa Park in the Uptown Community in Council District 3.

In 1992, the Housing Commission completed essential rehabilitation to correct safety hazards and repair basic systems, utilizing an interest-free forgivable loan from the then-Redevelopment Agency of the City of San Diego (RDA). As a condition of the RDA loan, the Housing Commission recorded an Agreement Affecting Real Property (AARP), which required 34 units at the Property to be restricted to

individuals with drug, alcohol, and substance abuse issues, or others in need of services-enriched housing, earning at or below 50 percent of Redevelopment Law Area Median Income (AMI). In 2013, the AARP was amended administratively to allow for non-restricted manager's unit. This loan was forgiven, and a Substitution of Trustee and Deed of Partial Reconveyance was received from the City of San Diego as the designated successor agency to the RDA on April 4, 2023. The AARP restrictions will remain in place until February 2026.

In 2012, the City made an additional grant for rehabilitation work at the Property in the amount of \$2,477,765 using federal HOME Program funds. The HOME Program Grant Agreement and Declaration of Covenants, Conditions and Restrictions (CC&Rs) recorded against the Property restricts occupancy of 24 units at U.S. Department of Housing and Urban Development (HUD) AMI levels, as follows: three studios at 50 percent of AMI, 10 studios at 60 percent of AMI, two one-bedroom units at 50 percent of AMI, and nine one-bedroom units at 60 percent of AMI. The remaining 10 units are unrestricted under the HOME CC&Rs. The HOME Program restrictions are in place for 15 years, until July 19, 2027.

The Property is currently subject to the following rental restrictions as a result of financing utilized for prior rehabilitation work performed at the Property:

Program/Document	Population/Supportive Services Required	AMI Restrictions	No. of Restricted Units	Expiration
HOME		3 studio @ 50% HUD AMI 10 studio @ 60% HUD AMI 2 1-bed @ 50% HUD AMI 9 1-bed @60% HUD AMI	24	7/19/2027
Former Redevelopment Agency (AARP)	Individuals with drug, alcohol or substance abuse issues or in need of service-enriched housing	50% Redevelopment AMI	33**	2/1/2026 Due to State Noticing Requirements

***As amended administratively in 2013 to allow for non-rent restricted manager's unit*

In 2013, HDP Parker Kier, LLC, a California limited liability company (Lessee), entered into a 10-year ground lease the Housing Commission as Lessor for the Property. The Property was leased to Lessee solely and exclusively for the purposes of management and operation of the Property by Lessee, at its sole cost and expense, including without limitation, providing the affordable units and supportive services to eligible residents.

The 10-year Ground Lease will end on August 31, 2023. HDP Parker Kier, LLC has successfully operated the Property with the support of a third-party property management company. Housing Commission staff recommends extending the ground lease for an additional 15 years for HDP Parker Kier LLC to continue to manage the Property's operations. The suggested ground lease term mirrors the typical term length of the Housing Assistance Payment (HAP) contract for the Project-Based Housing Voucher (PBV) units at Parker Kier. The HAP for the 22 PBV units is anticipated to be renewed in October 2023. Parker Kier also has 11 Sponsored-Based Housing Voucher (SBV) units under a HAP contract.

AFFORDABLE HOUSING IMPACT

The Housing Commission proposes to enter into a 15-year ground lease with HDP for the Property. If approved, HDP will continue to operate the building as affordable housing with supportive services in

accordance with the restrictions. Ground lease rent is defined as 4.5% of gross receipts and will be paid from available cash flow. HDP will continue to lease 33 units (the 34th unit is the manager's unit) in the building to tenants meeting the program and income restrictions.

The Property will provide 11 units specifically to residents qualified under the St. Paul's Program for All-inclusive Care for the Elderly (PACE). The remaining 22 units will consist of residents from two Mental Health Services Act target programs, IMPACT and Center Star. The Coordinated Entry System (CES) will continue to be utilized to identify potential residents upon unit/service provider match.

The Property does not bear the expense of the service providers. Each service provider is funded via alternate funding sources. Below is a description of the three Service Providers currently providing resident services at Parker Kier.

IMPACT Program

11 Units

Intensive Mobile Psychosocial Assertive Community Treatment (IMPACT) is a model of care providing treatment and rehabilitation, as well as case management services, for people with mental illness. IMPACT provides assistance for individuals with a range of identified needs, including basics such as taking medications, finding appropriate housing, applying for benefits, assistance with education or employment, and managing activities of daily living. IMPACT works towards preventing hospitalization, improving quality of life, and improving client functioning.

Individuals referred to IMPACT meet the following requirements:

- Between the ages 25-59
- Experiencing Homelessness or at risk of becoming experiencing homelessness
- Have a serious mental illness
- Have a history of high utilization of psychiatric services

Center Star ACT Program

11 Units

The Center Star Assertive Community Treatment (ACT) program offers 24-hour, community-based treatment for individuals with a criminal justice background who have been diagnosed with a severe and persistent mental illness. All clients of Center Star ACT are eligible to receive medication management and monitoring, therapy, drug and alcohol counseling, case management, vocational rehabilitation, peer counseling and support, and housing services.

Center Star ACT serves individuals who need services that are more intensive than those provided by traditional outpatient mental health services and who meet the three following requirements:

- Between the ages of 25 to 59
- Diagnosed with a serious mental illness
- Incarcerated sometime during the last year

St. Paul's Senior Homes & Services – PACE 11 Units

St. Paul's Program of All-inclusive Care for the Elderly (PACE) is a health program designed to help frail seniors with chronic illnesses continue living safely and successfully in their own home instead of having to move into a skilled nursing facility. The program provides social and medical services at St. Paul's PACE locations or in the senior's home. Services include, but are not limited to, primary care doctors and medical specialists, medications, and medication management, physical and occupational therapy, adult day program, and home care (bathing, cleaning, shopping, and meal preparation).

Enrollment in St. Paul's PACE is voluntary, and individuals qualify if they are:

- 55 years of age or older
- Living in the designated service area (includes most of San Diego)
- Determined by the Department of Health Care Services as needing nursing home services (Determination coordinated by PACE)
- Able to live in a community setting without jeopardizing health or safety

FISCAL CONSIDERATIONS

The current ground lease rent is 4.5% of all gross income from the Property per year. This percentage is consistent with most Housing Commission ground leases executed since 2010.

Ground rent payments for the past five years have been:

2022	\$26,821.00
2021	\$20,564.00
2020	\$18,521.00
2019	\$18,200.00
2018	\$17,801.00

Ground rent will continue to be charged at 4.5% of all gross income per year in the new ground lease.

EQUAL OPPORTUNITY CONTRACTING AND EQUITY ASSURANCE

HDP Parker Kier, LLC is a nonprofit organization and as such, is not subject to the requirement to submit a Workforce Report. HDP Parker Kier, LLC does not discriminate based on race, color, religion, national origin, ancestry, gender, age, medical condition, sexual orientation, marital status, domestic partnership status, physical or mental disabilities, veterans, or any other consideration made unlawful by federal, state, or local laws.

HOUSING COMMISSION STRATEGIC PLAN

This item relates to Strategic Priority Area No. 1 in the Housing Commission Strategic Plan for Fiscal Year (FY) 2022-2024: Increasing and Preserving Housing Solutions.

KEY STAKEHOLDERS and PROJECTED IMPACTS

Key stakeholders are Parker Kier residents, the City of San Diego as the RDA's Successor Agency, the residents and businesses in the Bankers Hill neighborhood, the Community Research Foundation, Mental Health Systems, Inc., St. Paul's PACE, the Housing Commission and HDP.

ENVIRONMENTAL REVIEW

The proposed ground lease is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities), which allows the operation, repair, maintenance permitting, leasing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. Parker Kier is an existing facility which will maintain its current use, and the lease does not include expansion. Processing under the National Environmental Policy Act is not required as no federal funds are involved in the proposed lease.

CONFLICT DISCLOSURE STATEMENT:

Two San Diego Housing Commissioners (Commissioners), Eugene “Mitch” Mitchell and Ryan Clumpner, and Interim President & Chief Executive Officer (CEO) of the San Diego Housing Commission, Jeff Davis, are each directors of Housing Development Partners (HDP), a California nonprofit public benefit corporation qualified as an Internal Revenue Code Section 501(c)(3) corporation for federal purposes. Any Commissioner, who is also a director of HDP as of the date of this staff report, and Interim CEO Davis have no conflict of interest as discussed below.

The Commissioners and Interim CEO Davis receive no compensation for their service on the HDP’s Board of Directors and/or as officers of HDP. Pursuant to the provisions of Government Code Sections 1091.5(a)(7) and 1091.5(a)(8), the Commissioners and Interim CEO Davis each have a “non-interest” as described in Government Code Section 1091.5 for purposes of their action on Housing Commission matters associated with this matter, if any. This disclosure shall be incorporated into the record of the San Diego Housing Commission, if and when this matter is heard by the Housing Commission.

Further, as members of the Board of Commissioners of the Housing Commission, the Commissioners are legally entitled to vote and be counted for quorum purposes in this HDP matter. Further, Mr. Davis is not compensated by HDP, and he sits on the Board of Directors of HDP. He is legally entitled to vote and to be counted for quorum purposes for this HDP matter.

None of HDP’s board members has a financial interest in this action item that would legally preclude their participation under the provisions of Government Code Sections 1090 and/or 87100 et. seq. Further, the Housing Commission is a public agency, and the Commissioners are not compensated for their service as Commissioners of the Housing Commission. Further, Mr. Davis’s compensation from a public agency, the San Diego Housing Commission, is a non-interest under the provisions of Government Code Section 1091.5(a)(9) as well as for the purposes of Government Code Section 87100 et. seq. Mr. Davis’s compensation with the Housing Commission is not a financial interest that would, in any way, preclude him being counted for quorum purposes or voting on these matters before HDP. Further, to the extent that HDP is a public agency for local Ethics Ordinance purposes, neither the Commissioners nor Director Davis have any conflicts of interest under the local ethics ordinance that would preclude their, or any of their, actions in this matter or from being counted for quorum purposes. This disclosure shall be and is hereby documented in the official records of the HDP. Similar disclosures will be made in the records of the San Diego Housing Commission, if and when this matter is heard by the Housing Commission.

Respectfully submitted,

Emmanuel Arellano

Emmanuel Arellano
Vice President, Asset Management
Real Estate Division

Approved by,

Jeff Davis

Jeff Davis
Interim President & Chief Executive Officer
San Diego Housing Commission

Attachments: 1) Ground Lease Agreement

Hard copies are available for review during business hours at the information desk in the main lobby of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101. Docket materials are also available in the "Governance & Legislative Affairs" section of the San Diego Housing Commission website at www.sdhc.org.

GROUND LEASE (Parker Kier)

THIS GROUND LEASE ("Ground Lease") is dated as of the 1st day of September, 2023, by and between the San Diego Housing Commission ("Commission") and HDP Parker Kier, LLC, a California limited liability company ("Tenant").

RECITALS

A. The Commission is the owner of that certain real property commonly known as the Parker Kier Building, located at 2172 Front Street, San Diego, California 92101 ("Property"). The Property has been ground leased by the Commission to Tenant since September 1, 2013. The Commission and Tenant desire to enter into this Ground Lease to replace the prior ground lease in its entirety.

B. Tenant operates thirty-three (33) affordable units ("Affordable Units"), and one (1) unrestricted manager's unit on the Leasehold (collectively, the "Project"). Tenant shall operate the Project in accordance with the terms and conditions of the encumbrances on the project, including: (i) that certain HOME Program Grant Declaration of Covenants, Conditions and Restrictions, dated as of July 16, 2012 ("HOME Declaration"), and recorded against the Property on July 19, 2012, as Document No. 2012-041998, which restricts the rent and occupancy of twenty-four (24) of the thirty-three (33) residential Affordable Units for fifteen (15) years to residents with incomes at or below fifty percent (50%) and sixty percent (60%) of the area median income for the San Diego-Carlsbad-San Marcos Metropolitan Statistical Area as promulgated by the U.S. Department of Housing and Urban Development ("HUD"), adjusted for family size in accordance with the Commission's policies and procedures; and (ii) that certain Agreement Affecting Real Property recorded against the Property on April 9, 1992, including any amendments thereto, which, inter alia, restricts the rent and occupancy of the thirty-three (33) residential Affordable Units to residents with incomes at or below fifty percent (50%) of area median income as defined in the California Community Redevelopment Law. If multiple restrictions apply to any units, the most restrictive restriction shall apply.

NOW, THEREFORE, for and in consideration of the rent, covenants and agreements contained in this Ground Lease, Commission hereby leases the Property to Tenant and Tenant hereby leases the Property from Commission, and Commission and Tenant hereby covenant and agree as follows:

1. Definitions. For all purposes of this Ground Lease, unless the context otherwise requires, the following words and phrases shall have the following meanings:

(a) Affordable Units. "Affordable Units" means the thirty-three (33) dwelling units located on the Leasehold, the rent and occupancy of which are restricted to Eligible Residents, as provided herein.

(b) Affordability Provisions. “Affordability Provisions” has that meaning ascribed to it in Section 4 of this Ground Lease.

(c) Agreement Affecting Real Property. “Agreement Affecting Real Property” means that certain Agreement Affecting Real Property recorded against the Property on April 9, 1992, including any amendments thereto.

(d) Annual Rent. “Annual Rent” has that meaning ascribed to it in Section 3 of this Ground Lease.

(e) Area Median Income. “Area Median Income” or “AMI” means the lesser of: (i) then current annual area median income as defined in the California Community Redevelopment Law, as adjusted for family size, or (ii) the then current area median income for the San Diego-Carlsbad-San Marcos Metropolitan Statistical Area as promulgated by the U.S. Department of Housing and Urban Development (“HUD”), adjusted for family size in accordance with the Commission’s policies and procedures.

(f) City. “City” means the City of San Diego, a charter city.

(g) Commission. “Commission” means the San Diego Housing Commission.

(h) Eligible Residents. “Eligible Residents” has that meaning ascribed to it in Section 4(b) of this Ground Lease.

(i) Event of Default. “Event of Default” has that meaning ascribed to it in Section 20 of this Ground Lease.

(j) Governmental Requirements. “Governmental Requirements” means all applicable laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State of California, the County of San Diego, the City, or any other political subdivision in which the Property is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the Commission, Tenant, Leasehold or Property.

(k) Hazardous Materials. “Hazardous Materials” means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. Provided, however, the term “Hazardous Materials” shall not include substances typically used in the ordinary course of developing, operating and maintaining hotels in California or small amounts of chemicals, cleaning agents and the like commonly employed in routine household uses in a manner typical of occupants in other similar properties, provided that such substances are used in compliance with applicable laws.

(l) HOME Declaration. “HOME Declaration” means that certain HOME Program Grant Declaration of Covenants, Conditions and Restrictions, dated as of July 16, 2012 and recorded against the Property on July 19, 2012, as Document No. 2012-041998.

(m) Housing Authority. “Housing Authority” means the Housing Authority of the City of San Diego.

(n) Improvements. “Improvements” means the thirty-three (33) Affordable Units, the manager’s unit, parking, and all other structures and improvements now or hereafter erected or situated on the Leasehold, including without limitation, the foundations and footings thereof, any and all fixtures, equipment and machinery of every kind and nature whatsoever now or hereafter affixed or attached thereto, or now or hereafter used or procured for use in connection with the operation, use or occupancy thereof, and the appurtenances thereto, but excluding from the foregoing all fixtures and articles of personal property, title of which, pursuant to any lease of space in the Improvements shall be vested in the resident under such lease.

(o) Imposition. “Imposition” has that meaning ascribed to it in 9(a) of this Ground Lease.

(p) Lease Commencement Date. “Lease Commencement Date” means September 1, 2023.

(q) Leasehold. “Leasehold” means the leasehold estate created by this Ground Lease.

(r) Mechanic’s Liens. “Mechanic’s Liens” has that meaning ascribed to it in Section 18 of this Ground Lease.

(s) Property. The “Property” is that certain real property owned by the Commission, commonly known as the Parker Kier Building, located at 2172 Front Street, San Diego, California 92101. Except as otherwise expressly provided to the contrary in this Ground Lease, each reference to the Property is to the described real property exclusive of any improvements now or hereafter located on such real property, notwithstanding that any such improvements may and shall be construed as affixed to and as constituting part of the real property.

(t) Project. “Project” has that meaning ascribed to it in Recital B of this Ground Lease.

(u) Rent Commencement Date. “Rent Commencement Date” means the date first set forth above.

(v) Tenant. “Tenant” means HDP Parker Kier, LLC, a California limited liability company.

(w) Term. The “Term” of this Ground Lease shall commence on the Lease Commencement Date and shall expire and terminate at 12:00 midnight on July 31, 2038.

(x) Year. “Year” means for the first Year, the period of time beginning on the Commencement Date and ending one year thereafter, and for each subsequent Year thereafter, the period of time beginning on each anniversary of the Commence Date and ending one year thereafter.

2. Use and Ownership of the Property and Improvements.

(a) Use of the Property. Commission hereby leases the Property to Tenant. The Property is being leased to Tenant solely and exclusively for the purposes of (i) management and operation of the Project by Tenant, at its sole cost and expense, including without limitation, providing the Affordable Units to Eligible Residents, as provided herein, and (ii) providing supportive services to those Eligible Residents. Tenant shall not provide any supportive services at the Property to non-residents of the Property. Tenant covenants and agrees to use the Property solely and exclusively for such purposes and to diligently pursue said purpose for the Term of this Ground Lease. Tenant shall not rent any third floor apartments to any persons with mental disabilities, due to noise from overflying aircraft.

(b) Title to Improvements. All of the Improvements existing, constructed or installed upon the Leasehold shall, at all times during the Term of this Ground Lease, be and remain real property, with fee title thereto being vested in the Tenant, for tax and all other purposes; provided, however, that upon the expiration, or earlier termination of this Ground Lease, title to any such Improvements shall vest in the Commission.

(c) Title to Personal Property. Commission acknowledges that any equipment or other personal property of Tenant now or hereafter located on the Leasehold shall be and remain the personal property of Tenant and shall not become a part of the Leasehold.

(d) Replacement Reserves. Tenant shall maintain replacement reserves approved by Commission during the term of the Ground Lease. Failure to maintain such reserves shall constitute a default under this Agreement. Annually, beginning on September 1, 2023, and each September 1, thereafter during the Term, not less than the greater of \$9,900 or the replacement reserve amount required by the California Housing Finance Agency's Mental Health Services Act Housing Program, shall be set aside as a replacement reserve. The replacement reserve shall be maintained in a separate account in anticipation of and as a contingency against unbudgeted and/or unforeseen expenses in the operation and maintenance of the Project. No disbursements from the replacement reserve account shall be made without the express prior written consent of the President and CEO of the Commission, or designee, not to be unreasonably withheld, conditioned or delayed. Upon expiration of the Term any amounts in the replacement reserve shall become the property solely of the Commission.

(e) Utilities. Tenant shall establish appropriate utility accounts, pay all utility charges and contract and pay for all services to the Property, including waste management services and security services.

(f) Operating Contracts. Tenant agrees to take assignment from the Commission of all operating contracts in effect at commencement of the Ground Lease, including, but not limited to, elevator maintenance, fire monitoring, solar systems maintenance and Cox Cable.

3. Rent.

(a) Annual Rent. Tenant's obligation to pay Annual Rent, as set forth in this Section 3, shall begin on the Rent Commencement Date. Tenant shall pay to Commission rent in the amount set forth in this Section 3, annually during the Term on September 1 provided however, that since the Annual Rent is paid in arrears, the first payment of Annual Rent shall be made on September 1, 2024. The annual rent ("Annual Rent") shall equal four and a half percent (4½%) of all Gross Income (as that term is defined below) for the immediately preceding calendar year; provided, however, if in any Year the Annual Rent calculated as set forth in this Section 3(a), would exceed the difference between Gross Income and Operating Expenses (as that term is defined below), then the Annual Rent for such Year shall be an amount equal to the difference between Gross Income and Operating Expenses. In the event Operating Expenses exceed Gross Income in any Year, then no Annual Rent shall accrue or be due or payable for such Year. Commission and Tenant acknowledge and agree that Annual Rent shall not be considered an Operating Expense of the Project for purposes of calculating Annual Rent. All rent shall be paid to Commission at the address to which notices to Commission are given, or to such other person or such other place as directed from time to time by written notice to Tenant from Commission.

(1) "Gross Income" shall mean all gross income actually collected from all residential and non-residential components of the Project, and any other income to Tenant derived from the Property, but shall not include: (i) fees paid to Tenant by County of San Diego and/or Community Research Foundation and Mental Health Systems, Inc.; (ii) security deposits; or (iii) income from third party commercial leases, including without limitation, laundry, cable television and vending machines.

(2) "Operating Expenses" shall mean actual, reasonable and customary costs, taxes, fees and expenses directly attributable to the operation, maintenance and management of the Project, to the extent approved by Commission in Tenant's annual operating budget, expressly including, but not limited to, the following: (i) required debt service payments, if any; (ii) the replacement reserve, described above; (iii) a reasonable property management fee (which shall not exceed 5% of Gross Income); (iv) an asset management fee payable to the Tenant in an amount equal to \$10,000; (v) water, sewer, electrical, gas, and other utility-type charges for the Project; (vi) costs to operate and maintain the Project; (vii) insurance premiums; (viii) legal fees and expenses incurred in connection with the management of the Project; (ix) capital expenditures to the Project to comply with applicable laws or otherwise to improve the operation or management of the Project to the extent such capital expenditures are not made from reserves and are approved by the Commission in writing or by approval of the applicable budget setting forth such capital expenditures prior to Tenant undertaking such capital expenditures; (x) bad debt losses; and (xi) taxes.

(b) Delinquent Rent. In the event Tenant fails to pay all or any part of the applicable rents within fifteen (15) days of the due date thereof, the Tenant shall pay the Commission in addition to the delinquent rent, a sum of money equal to five percent (5%) of said delinquent rent; provided, however, in the event said delinquent rent is still unpaid after an additional fifteen (15) days of becoming delinquent the Tenant shall pay Commission in addition to the delinquent rent, instead of said five percent (5%) of said delinquent rent, a sum of money equal to ten

percent (10%) of said delinquent rent. Tenant and Commission agree that it would be extremely difficult or impracticable to ascertain the precise amount of actual damages accruing to Commission as a result of such a default and that the foregoing formula is a fair and reasonable method of approximating such damages. In addition, all rent and other sums which may from time to time become due and payable by Tenant to Commission under any of the provisions of this Ground Lease shall bear interest from and after the due date thereof at the rate of ten percent (10%) per annum.

(c) Inspection of Records. Whenever the Commission desires to inspect the records and accounts of Tenant in order to determine Tenant's compliance with the terms of this Ground Lease, the Commission shall have the right at all reasonable times during normal business hours and upon at least 24 hours advance written or emailed notice to inspect all such records. Tenant agrees to cooperate in such inspection and to make the records available to Commission at Tenant's place of business in the City.

(d) Triple Net Ground Lease. It is the purpose and intent of Commission and Tenant that the rent payable under this Ground Lease shall be absolutely net to Commission. Therefore, this Ground Lease shall yield the rent specified and provided in this Section 3 absolutely net to Commission, and that Tenant shall pay all costs, charges and expenses of every kind and nature whatsoever against the Property which may arise or become due during the Term and which, except for the execution and delivery of this Ground Lease, would or could have been payable by Commission. However, notwithstanding the foregoing: (i) nothing in this Ground Lease shall require, or be construed to require, Tenant to pay any interest or principal payments or other payments on or required under any loan secured by the fee interest in the Property; (ii) in the event the Property becomes subject to property taxes as a result of a transfer of the Property by the Commission, then the Tenant shall not be liable under this Section 3(d) for such property taxes (provided, however, the foregoing shall not affect Tenant's obligation to pay any taxes assessed against the Leasehold); and (iii) Tenant shall not be responsible for payment of any income taxes, rental taxes or gross receipts taxes properly levied against the Commission.

(e) Retention of Records. Tenant shall keep, for a period of at least seven (7) years from the end of each Year of the Term, at Tenant's address set forth hereinbelow, or at such place or to such person as the Commission may reasonably approve in writing, all of the records, books, accounts and other data which are regularly kept in the ordinary course of business to establish Tenant's Gross Income for that Year, and shall make the same available to the Commission, and its employees, agents, accountants, representatives, auditors and attorneys. The parties hereto specifically agree that notwithstanding anything to the contrary contained herein, this Section 3(e) of this Ground Lease shall survive and remain in full force and effect after the termination of this Ground Lease.

4. Affordability Restrictions. The provisions in this Section 4 of this Ground Lease, shall be referred to collectively herein as the "Affordability Provisions."

(a) Restrictive Covenants. Tenant agrees and covenants on behalf of itself and its successors and assigns, and each successor-in-interest to this Ground Lease and/or the Improvements, that at all times during the Term thirty-three (33) units in the Project shall be set

aside and reserved as “Affordable Units.” As used herein the term “Affordable Units” shall refer to those residential units in the Project which are owned or held available to Eligible Residents strictly in accordance with the terms and conditions set forth herein.

(b) Affordable Unit Restrictions. The Project shall be operated at all times in compliance with the terms of the Agreement Affecting Real Property, HOME Declaration and this Ground Lease. The thirty-three (33) Affordable Units shall be occupied only by Eligible Residents. “Eligible Residents” are those tenants whose aggregate gross annual income upon initial occupancy does not exceed the Area Median Incomes set forth in the Table Below, as adjusted for family size, and who meet all other criteria contained in the Agreement Affecting Real Property, HOME Declaration and this Section 4. The following restrictions shall apply to all thirty-three (33) Affordable Units. The restrictions set forth in the Table below shall establish the rental rate, after the required deduction for utilities, and tenant income calculation criteria as follows: Unit Size (Column 1); Number of Affordable Units (Column 2); and Limit in Income of Eligible Tenants based upon percentage of the Redevelopment AMI, or the HUD AMI, whichever is the most restrictive of the two (Column 3).

TABLE OF RENT AND INCOME RESTRICTIONS

1	2	3	
UNIT SIZE	TOTAL NUMBER OF AFFORDABLE UNITS	LIMIT IN INCOME OF ELIGIBLE TENANTS (rent based on most restrictive of the two)	
Studio	3	50% CA Redevelopment AMI	50% HUD AMI
Studio	10	50% CA Redevelopment AMI	60% HUD AMI
Studio	6	50% CA Redevelopment AMI	n/a
1 bed	2	50% CA Redevelopment AMI	50% HUD AMI
1 bed	9	50% CA Redevelopment AMI	60% HUD AMI
1 bed	3	50% CA Redevelopment AMI	n/a

* Note: Redevelopment rent restrictions may be removed at the discretion of the City of San Diego, as successor agency for the Redevelopment Agency of San Diego. The HOME rents are set to expire on July 17, 2027.

(c) Maximum Rents. Tenant shall not charge rents for any Affordable Unit, which exceeds the amount allowed by the Agreement Affecting Real Property or HOME Declaration.

(d) Determination of Eligibility. The eligibility of each prospective resident under the restrictions set forth herein shall be certified by Tenant which shall submit such certification and all supporting documentation on forms acceptable to the Commission, in its reasonable discretion.

(e) Determination; Annual Requalification. Annually, Tenant shall requalify the resident as Eligible Residents. Such requalification process shall be performed by Tenant as part

of the annual certification of Tenant's compliance as set forth in Section 4(f) below. Failure of Tenant to timely comply with the resident qualification and requalification process described in this Section 4(e) and in Section 4(f), below, shall constitute a material default under this Ground Lease.

(f) Tenant Certification; Annual Recertification. Annually during the Term of this Ground Lease, on September 1, Tenant shall certify to the Commission under penalty of perjury, utilizing such forms and providing such backup documentation as the Commission may require, that Tenant is complying with all provisions of this Ground Lease. Failure to timely complete the annual recertification process described in this Section 4(f) shall constitute a material default under this Ground Lease. The Commission may, but is not obligated to, perform the following monitoring functions: (i) preparing and making available to Tenant any general information that the Commission possesses regarding income limitations and restrictions which are applicable to the Affordable Units; (ii) reviewing the applications of prospective occupants of the Affordable Units, and verifying Tenant's determination of eligibility of such persons as Eligible Residents except as provided in Section 4(d), above; (iii) reviewing the documentation submitted by Tenant in connection with the annual certification process for Eligible Residents in accordance with Section 4(e), above; and (iv) inspecting the Affordable Units to verify that they are being maintained in good condition as required by this Ground Lease (Tenant shall continually maintain the Project in a condition which satisfies the Housing Quality Standards promulgated by HUD under its Section 8 Program (24 CFR §982.401), as such standards are interpreted and enforced by the Commission under its normal policies and procedures). Notwithstanding the foregoing description of the Commission's functions, Tenant shall have no claim or right of action against the Commission based on any alleged failure to perform such function, except that Tenant may reasonably rely upon the Commission's resident eligibility determination and shall not be liable to the Commission for any damages attributable solely to the Commission's negligence or willful misconduct in conducting any such resident eligibility determinations.

(g) Relationship with Tenant. The term "Eligible Resident" shall not include Tenant, or any individuals who are partners or shareholders in Tenant, or in any entity having an interest in Tenant, the Leasehold or the Property, or any director, officer, employee, agent or consultant of the Tenant, or any relative (by blood or marriage) of any director, officer, employee, agent or consultant of the Tenant. This restriction shall not preclude occupancy by a resident manager in one (1) of the dwelling units located on the Leasehold.

(h) Limitations.

(1) No Student Dependents. The term "Eligible Resident" shall not include any student dependent as defined in the U.S. Internal Revenue Code, unless the taxpayer (upon whom the student in question is dependent) resides in the same dwelling unit. The term "Eligible Resident" shall not include any person who is a full-time student, or a household comprised exclusively of persons who are full-time students, unless such persons are married and eligible to file a joint federal income tax return. The term "full-time student" shall be defined as any person who will be or has been a full-time student during five calendar months of the calendar year in question at an educational institution (other than a correspondence school) with regular faculty and students.

(2) No Owners of Real Property. The term “Eligible Resident” shall not include any person or any household comprised of one or more persons who owns any real property; provided, however, the Commission may in the Commission’s sole discretion waive the foregoing prohibition against owners of real property on a case-by-case basis.

(3) Liquid Asset Limitation. The term “Eligible Resident” shall not include any person or household holding, directly or indirectly, liquid assets whose aggregate value exceeds, at the time of determination of eligibility, eighty percent (80%) of the then-current annual median area income promulgated by the Commission for the San Diego area, as reasonably adjusted by the Commission for household size in accordance with the Commission’s policies and procedures. As used herein, the term “liquid assets” refers to cash and assets which are readily convertible to cash within a reasonable period, including but not limited to savings and checking accounts, certificates of deposit of any term, marketable securities, money market and similar accounts, mutual fund shares, and insurance policy cash values. The term “liquid assets” shall not include retirement funds which are not readily accessible or which cannot be accessed by the buyer without the buyer incurring a penalty.

(i) Income of Co-Residents, Etc. The income of all co-residents and/or non-dependent occupants shall be taken into account in determining whether a household is an Eligible Resident hereunder.

(j) Eviction.

(1) Reasons Other Than Over Income. Subject to provisions of applicable law, in the event that a resident who was properly certified as an Eligible Resident at the commencement of such resident’s occupancy ceases to be eligible, for any reason other than the resident being over income, the Tenant shall give thirty (30) days written notice, or such longer period as proscribed by law, to such resident to vacate the Affordable Unit. The vacated Affordable Unit shall thereafter only be rented to an Eligible Resident.

(2) Over Income Residents. Subject to provisions of applicable law, in the event that a resident who was properly certified as an Eligible Resident at the commencement of such resident’s occupancy ceases to be eligible, because the resident is over income, the Tenant shall give one hundred eighty (180) days written notice to such resident to vacate the Affordable Unit. The vacated Affordable Unit shall thereafter only be rented to an Eligible Resident. The over-income resident shall continue to be considered an Eligible Resident until evicted. During the time the over-income resident resides in the Affordable Unit, such resident shall continue to pay the restricted rent. Notwithstanding the foregoing, no resident who was properly certified as an Eligible Resident at the commencement of such resident’s occupancy shall be evicted solely because the resident is over income, if such eviction would violate any State or Federal law applicable to the Tenant, Leasehold or the Property.

(k) Covenants Run with the Land/Successors Bound. All of the covenants contained herein shall constitute “covenants running with the land,” including without limitation the Affordability Provisions of this Section 4, and shall bind the Property, the Leasehold, the

Improvements and every person having an interest therein during the Term. Tenant agrees for itself and its successors that, in the event that, for any reason whatsoever, a court of competent jurisdiction determines that the foregoing covenants do not run with the land, such covenants shall be enforced as equitable servitudes against the Leasehold.

(l) Standing, Equitable Remedies; Cumulative Remedies. Tenant expressly agrees and declares that the Commission or any successor entity shall be the proper party and shall have standing to initiate and pursue any and all actions or proceedings, at law or in equity, to enforce the Affordability Provisions of this Section 4 and/or to recover damages for any default under this Section 4, notwithstanding the fact that such damages or the detriment arising from such a default may have actually been suffered by some other person or by the public at large. Further, Tenant expressly agrees that receivership, injunctive relief and specific performance are proper pre-trial and/or post-trial remedies hereunder upon any default, as well as to assure compliance with the Affordability Provisions of this Section 4. Nothing in this subparagraph, and no recovery to the Commission, shall restrict or limit the rights or remedies of persons or entities other than the Commission, against Tenant in connection with the same or related acts by Tenant. The remedies set forth in this Ground Lease are cumulative and not mutually exclusive, except to the extent that their award is specifically determined to be duplicative by final order of a court of competent jurisdiction.

(m) Remedies at Law for Breach of Tenant Restrictions. In the event of any material default under the Affordability Provisions of this Section 4, the Commission shall be entitled to, in addition to any and all other remedies available at law or in equity, to seek and to recover damages in separate actions for successive and separate breaches which may occur. Further, interest shall accrue on the amount of such damages from the date of the breach in question at the rate of ten percent (10%) per annum or the maximum rate then allowed by law, whichever is less.

(n) Residential Lease Provisions. Tenant agrees that it will include in all of its Affordable Unit leases, and cause its successors-in-interest to include in all of their leases, all provisions required under the terms of this Ground Lease, including provisions that will provide the residents with written notice of the following requirements:

(1) Tenant Restrictions. Tenant shall not rent any Affordable Unit in the Project to any person other than an "Eligible Resident." The term "Eligible Resident" shall not include: (i) any person or household holding, directly or indirectly, liquid assets whose aggregate value exceeds, at the time of determination of eligibility, 80% of the then-current annual Area Median Income, as adjusted for household size; and (ii) any person or any household comprised of one or more persons who owns any real property. The term "liquid assets" refers to cash and assets which are readily convertible to cash within a reasonable period, including, but not limited to, savings and checking accounts, certificates of deposit of any term, marketable securities, money market and similar accounts, mutual fund shares, and insurance policy cash values. The term "liquid assets" shall not include retirement funds which are not readily accessible or which cannot be accessed by the buyer without the buyer incurring a penalty. The income of all co-residents and/or occupants shall be taken into account in determining whether a household is an Eligible Resident.

(2) Rent Restriction - Percentage of Tenant Income. The monthly rent (“Affordable Rent”) for an Affordable Unit (which shall not include a utility allowance) shall not exceed the amount provided in Section 4(c), above.

(3) Term Restriction. The Affordable Units shall be rented to Eligible Residents only, for an initial term not in excess of one (1) year.

(4) Non-Smoking Policy. Affordable Unit leases shall include the terms of the Commission’s non-smoking policy, to become effective on February 1, 2014.

5. Covenants and Conditions.

(a) Quiet Enjoyment. Commission covenants and agrees that Tenant, upon paying the rent provided for in this Ground Lease and upon performing and keeping all of the covenants, agreements and provisions of this Ground Lease, shall and may lawfully and quietly hold, occupy and enjoy the Leasehold during the Term of this Ground Lease, without hindrance by or from anyone claiming by, through or under Commission.

(b) No Right to Assign. Tenant may not assign this Ground Lease or any interest herein, without the express written prior consent of the President and CEO of the Commission. This Ground Lease and any interest herein shall not be assignable by operation of law without the written consent of the President and CEO of the Commission. Nothing contained in this Section 5(b) or elsewhere in this Ground Lease shall prohibit or otherwise impair the Commission’s right to assign the Commission’s right, title and interest in and to this Ground Lease.

6. No Encumbrance of the Leasehold Estate. Tenant shall not encumber the Leasehold or any interest herein, without the express written prior consent of the President and CEO of the Commission. Tenant shall have no right to, and under no circumstances shall the Tenant, encumber the fee interest in the Property, which fee interest shall be and remain at all times solely and exclusively owned by the Commission.

7. Compliance With All Codes, Orders and Ordinances.

(a) Compliance. Tenant covenants throughout the Term of this Ground Lease, at Tenant’s sole cost and expense, to promptly comply with all codes, laws and ordinances and the orders, rules, regulations and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards and officers thereof, which may be applicable to the Property, the Leasehold or the Improvements, subject to Section 7(b), below. Tenant shall likewise observe and comply with the requirements of all policies of public liability, fire, and all other policies of insurance at any time in force with respect to the Improvements.

(b) Disputes. Tenant shall have the right to contest by appropriate legal proceedings, the validity or application of any law, ordinance, order, rule, regulation or requirement of the nature referred to in Section 7(a) above, and if by the terms of any such law, ordinance, order,

rule, regulation or requirement, compliance therewith pending the prosecution of any such proceeding may legally be held in abeyance without the incurrence of a lien, charge or liability of any kind against the Property, the Improvements or the Leasehold and without subjecting Tenant to any criminal liability of any kind or nature whatsoever for failure to comply therewith and without subjecting the Commission to any liability of any kind or nature whatsoever for failure to immediately comply therewith, Tenant may postpone compliance therewith until the final determination of any proceedings, provided that all such proceedings shall be prosecuted with all due diligence and dispatch. Under no circumstances shall any such contest of any law, ordinance, order, rule, regulation or requirement of the nature referred to in Section 7(a) above, result in any cost, liability or expense to Commission whatsoever.

(c) Prevailing Wages. Tenant, the general contractor, and any and all subcontractors, shall pay prevailing wages as required by California law for any further work done with respect to the Project.

(d) Section 3 Program Compliance. Tenant, the general contractor, and any and all subcontractors shall comply with Section 3 Program parameters and provide compliance documentation, as and to the extent required by Federal law, for any further work done with respect to the Project.

8. Utilities. Tenant shall pay or cause to be paid, as and when they become due and payable, all charges for water, gas, light, heat, telephone, electricity, garbage, refuse and all other utilities and communication services rendered or used on or about the Property, Leasehold or the Improvements at all times during the Term of this Ground Lease; provided, however, that nothing contained in this Section 8 of this Ground Lease, shall limit or otherwise impair Tenant's ability to charge the residents of the individual dwelling units in the Project for such amounts and/or to have all such amounts billed directly to the residents of the individual dwelling units in the Project.

9. Payment of Taxes, Assessments, Etc.

(a) All Taxes Paid in a Timely Manner. Tenant covenants and agrees to pay, before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, all property taxes, assessments, water and sewer rates and charges, and other governmental charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever (all of which taxes, assessments, water and sewer rates or charges, and other governmental charges are hereinafter referred to as an "Imposition"), which are assessed, levied or imposed on, become a lien upon, or become payable with respect to, the Property, Leasehold and/or the Improvements and the sidewalks or streets in front of or adjoining the Property and the Improvements, during the Term of this Ground Lease. Nothing contained herein is intended to, or shall be interpreted to, prohibit Tenant from seeking a property tax exemption with respect to the Leasehold under California Revenue and Taxation Code Sections 214(g) and/or 236. Notwithstanding the foregoing, if, by law, any such Imposition may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Tenant may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments and shall pay only such installments as may

become due during the Term of this Ground Lease as the same respectively become due and before any fine, penalty, interest or cost may be added thereto, for the non-payment of any such installment and interest. In addition, if any Imposition relates to a fiscal period of a taxing authority, a part of which period is included within the Term of this Ground Lease and a part of which is included in a period of time after the termination of this Ground Lease, such Imposition shall (whether or not such Imposition shall be assessed, levied, imposed or become a lien upon the Property, Leasehold and/or the Improvements, or shall become payable, during the Term of this Ground Lease) be adjusted between Commission and Tenant as of the expiration of the Term of this Ground Lease, so that Commission shall pay that portion of such Imposition which relates to that part of the fiscal period after the termination of this Ground Lease, and Tenant shall pay that portion of which relates to the period prior to the termination of this Ground Lease.

(b) Tax Receipts. Tenant, when and if requested by Commission, shall provide Commission with official receipts of the appropriate taxing authority or other evidence satisfactory to Commission evidencing payment of any and all Impositions.

(c) Tenant Not Required to Pay Taxes Unrelated to the Property. Nothing contained in this Ground Lease shall require Tenant to pay any franchise, corporate, estate, inheritance, succession, capital levy, stamp tax or transfer tax owed by the Commission, or any income, excess profits or revenue tax or any other tax, assessment, charge or levy upon the rent payable by Tenant to the Commission under this Ground Lease, nor shall any tax, assessment, charge or levy of the character described in this Section 9(c) be deemed to be included within the term "Imposition" as defined above.

(d) Evidence of Payment. Tenant covenants, upon request of Commission, to furnish to Commission within sixty (60) days after the date when any Imposition is due and payable, official receipts of the appropriate taxing authority, or other evidence satisfactory to Commission, evidencing the payment of such Imposition.

(e) Tax Disputes. Tenant shall have the right to contest the amount or validity, or to seek a refund, in whole or in part, of any Imposition by appropriate proceedings, and notwithstanding the provisions of Section 9(a) above, this shall not be deemed or construed in any way as relieving, modifying or extending Tenant's covenants to pay any such Imposition at the time and in the manner as provided in this Section 9, unless Tenant shall have deposited with Commission or a bank or trust company designated by Commission, as security for the payment of such Imposition, money or a corporate surety bond or other security acceptable to Commission in an amount equal to one hundred ten percent (110%) of the amount so contested and unpaid together with the estimated amount of all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Property, Leasehold and/or Improvements or any part thereof in said proceedings, whereupon Tenant may postpone or defer payment of such Imposition. Upon the termination of such proceedings, Tenant shall pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties or other liabilities in connection therewith, and upon such payment, Commission shall return, or cause such bank or trust company to return, the amount above referred to without interest. If, at any

time during the continuance of such proceedings, Commission shall deem the amount deposited with the Commission, or secured by any surety bond, insufficient, Tenant shall, upon demand, deposit with Commission or such bank or trust company such additional sum as Commission may request, and upon failure of Tenant to do so, the amount theretofore deposited may be applied by Commission, or such bank or trust company to the payment, removal and discharge of such Imposition and the interest and penalties in connection therewith and any and all costs, fees or other liability accruing in any such proceedings, including without limitation any and all costs, fees or other liabilities of the Commission, and the balance, if any, shall be returned to Tenant. Commission shall not be subjected to any liability for the payment of any costs or expenses in connection with any such proceeding, and Tenant covenants and agrees to indemnify, save and hold harmless Commission from any such costs or expenses, including any and all costs incurred by the Commission, including attorneys' fees.

(f) Prima Facie Evidence of Non-Payment. The certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition, of non-payment thereof as of the due date therefor, shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill.

(g) Commission Right to Cure. If Tenant in violation of the provisions of this Ground Lease shall fail to pay and discharge any Imposition prior to delinquency, the Commission may, but shall not be obligated to, pay or discharge such Imposition, and all such amounts paid by the Commission, including without limitation, costs, expenses, interest, penalties and attorneys' fees, together with simple interest at an annual rate of ten percent (10%) per annum, from the date of any such payment, shall be deemed to be and shall be payable immediately by Tenant to the Commission as additional rent.

10. Limited Covenants to Maintain the Property and Improvements.

(a) Furniture, Fixtures and Equipment. Tenant will be responsible for the installation and capital cost of all furniture, fixtures and equipment ("FF&E") to operate its program of housing and supportive services that are not already at the Property, including any additional tenant improvements for reception, property management, and supportive services for residents. At the termination of the Ground Lease, the Tenant will be responsible for removing FF&E, if requested by Commission.

(b) Security System. Tenant, at Tenant's sole cost and expense shall maintain the security system at the Project.

(c) Maintenance and Repairs. The Tenant shall be solely responsible for the cost of all maintenance and repairs (any non-capital repairs to the Property, Leasehold or the Improvements). All maintenance and repairs shall be completed by the Tenant. Notwithstanding the foregoing, (i) the Tenant shall only make maintenance and repairs that are reasonably necessary; (ii) the Tenant shall provide to the Commission all back-up documentation reasonably requested by the Commission; and (iii) with respect to any maintenance or repair with

a cost in excess of \$2,500.00, the Tenant must receive the Commission's written approval prior to making such maintenance repair.

(d) Capital Replacements. The Tenant shall pay the cost of capital component replacements, if any, up to the actual balance of the replacement reserve account described in Section 2(d), above, and the Tenant may use any funds in the replacement reserve account for that purpose. In the event the actual expenses incurred by the Tenant in any Year with respect to capital component replacements exceeds the actual balance of the replacement reserve account, then the Commission shall reimburse the Tenant for such excess amount. All such capital component replacements shall be completed by the Tenant. Notwithstanding the foregoing, (i) the Tenant shall only replace capital components to the extent replacement is reasonably necessary; (ii) the Tenant shall provide to the Commission all back-up documentation reasonably requested by the Commission; and (iii) with respect to any capital component replacement with a cost in excess of \$2,500.00, the Tenant must receive the Commission's written approval prior to making such capital component replacement.

(e) Maintenance Standards. Except as otherwise set forth in Sections 10(a), (b) and (c), above, Tenant, at its sole expense, shall maintain or cause to be maintained in good order, repair and operation the property and the Improvements (normal wear and tear excepted), including without limitation all furnishings, fixtures, equipment thereon or therein and the adjoining sidewalks and curbs, throughout the Term of this Ground Lease without expense to Commission, and to perform or cause to be performed all repairs and replacements necessary to maintain and preserve the Property, Leasehold and the Improvements, including without limitation all furnishings, fixtures, equipment thereon or therein and the adjoining sidewalks and curbs, in a decent, safe and sanitary condition, in compliance with all applicable laws, and equal in value, quality and use to the condition of the Improvements, including furnishings, fixtures and equipment, as originally constructed or installed, reasonable wear and tear excepted. Under no circumstances shall the Commission be required to make any repairs, replacements or otherwise perform any maintenance, of any kind, nature or description whatsoever, with respect to the Property, Leasehold or the Improvements. Tenant hereby expressly waives all right to make repairs at Commission's expense under Sections 1941 and 1942 of the California Civil Code, as either or both may from time to time be amended, replaced or restated. Commission shall not be required to furnish any services or facilities or to make any repairs or alterations to the Property, Leasehold or the Improvements and Tenant hereby assumes, subject to the limitations set forth in this Section 10, the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Property, Leasehold and the Improvements.

(f) Further Changes or Alterations. Except as otherwise set forth in this Section 10, Tenant agrees not to demolish or otherwise alter any portion of the Improvements and not to construct or install any buildings or structures on the Property, the Leasehold or otherwise improve or alter the Property or the Leasehold in any manner. Tenant shall not make any major structural or architectural design alterations to approved buildings, structures or improvement installed on the Property or the Leasehold. This provision shall not limit or set aside any obligation of Tenant under this Ground Lease to maintain the Property, the Leasehold and Improvements in a decent, safe, healthy and sanitary condition. Commission shall not be

obligated to make any improvements or alterations to the Property, the Leasehold or the Improvements or to assume any expenses therefore.

(g) Cosmetic Alterations. Notwithstanding anything to the contrary contained in this Ground Lease, Tenant may make cosmetic alterations or improvements (the "Cosmetic Alterations"), without Commission's consent, so long as the Cosmetic Alterations: (i) do not adversely affect weight-bearing elements, structural elements or other building elements of the Property, (ii) the Cosmetic Alterations per project does not exceed an estimated construction cost of Fifty Thousand Dollars (\$50,000.00), (iii) Tenant gives Commission at least five (5) days prior written notice of the Cosmetic Alterations prior to commencement of construction of the Cosmetic Alterations, (iv) prior to making any Cosmetic Alterations, Tenant shall apply for and obtain, any and all permits or licenses required by applicable governmental authorities which are necessary or desirable for Tenant to construct and install the same, and (v) all other provisions of this Ground Lease apply to the construction of the Cosmetic Alterations.

11. Waste. Tenant shall not commit or suffer to be committed any voluntary or permissive waste of the Property, Leasehold or the Improvements, or any part thereof (normal wear and tear excepted).

12. Damages or Destruction of the Improvements.

(a) Restoration of Damaged or Destroyed Improvements. Tenant covenants that in case of damage to or destruction of the Improvements by fire or any other cause, similar or dissimilar, Tenant will promptly, at its sole cost and expense, but only up to the amount of any available insurance proceeds, restore, repair, replace or rebuild the Improvements as nearly as possible to the condition, quality and class such Improvements were in immediately prior to such damage or destruction. Such restoration, repairs, replacement or rebuilding shall be commenced promptly and prosecuted with reasonable diligence.

(b) Obligation to Continue Paying Rent. Tenant's obligation to make payment of the rent and all other charges on the part of Tenant to be paid and to perform all other covenants and agreements on the part of Tenant to be performed shall not be affected by any such damage to or destruction of the Improvements and Tenant hereby waives the provisions of Sections 1932(2) and 1933(4) of the California Civil Code and of any other statute or law now or hereafter in effect contrary to such obligations of the Tenant as set forth in this Ground Lease, or which relieves Tenant from such obligation.

13. Environmental.

(a) Condition of the Site. The Commission and Tenant each acknowledge that lead based paint which has been stabilized is present at the Project. Tenant shall take all necessary precautions to prevent the release in, on or under the Property of any Hazardous Materials. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, Tenant shall install and utilize such equipment and implement and adhere to such procedures as are consistent with commercially reasonable standards as respects the disclosure, storage, use, removal and disposal of Hazardous Materials.

(b) Required Disclosures. Tenant shall notify Commission, and provide to Commission a copy or copies, of all environmental permits, disclosures, applications, entitlements or inquiries relating to the Property, including notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any Governmental Requirement relating to Hazardous Materials and underground tanks. Tenant shall report to Commission, as soon as possible after each incident, any unusual or potentially important incidents with respect to the environmental condition of the Property. In the event of a release of any Hazardous Materials into the environment, Tenant shall, as soon as possible after the release, furnish to Commission a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request, Tenant shall furnish to Commission a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Property including, but not limited to, all permit applications, permits and reports including, without limitation, those reports and other matters which may be characterized as confidential.

(c) Tenant Indemnity. Tenant agrees to indemnify, defend and hold the Commission, City, Housing Authority and all of their respective commissioners, members, agents, officers, representatives, directors and employees (the "Indemnified Parties") harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorneys' fees), resulting from, arising out of, or based upon any of the following: (i) the presence, release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Property or Leasehold, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials on, under, in or about, to or from, the Property or Leasehold. The indemnification of the Indemnified Parties by Tenant set forth in this Section 13 shall apply regardless of when the Hazardous Materials came to be on, under, in or about the Property or Leasehold, including without limitation whether the Hazardous Materials came to be on, under, in or about the Property or Leasehold prior to Tenant's lease of the Property or during Tenant's lease of the Property (but Tenant's indemnification obligation set forth in this Section 13 shall not apply with respect to Hazardous Materials came to be on, under, in or about the Property after the later of: (i) termination of this Ground Lease; or (ii) Tenant is no longer in possession of the Property or Leasehold). This indemnity shall include, without limitation, any damage, liability, fine, penalty, parallel indemnity after closing cost or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, contamination, leak, spill, release or other adverse effect on the environment. This indemnity provided in this Section 13(c) does not include any condition arising solely as a result of the gross negligence or affirmative acts of the Indemnified Parties. Notwithstanding anything contained in this Ground Lease to the contrary, Tenant's duty to indemnify the Indemnified Parties as set forth in this Section 13(c) shall survive and remain an outstanding obligation of Tenant after termination of this Ground Lease.

14. Indemnification of Commission by Tenant.

(a) Definitions.

(1) Claims. “Claims” means any and all threatened, pending or completed claims, actions, suits, proceedings, arbitrations, grand jury proceedings or investigations, damages, liabilities, injunctive relief, injuries to person or property, fines, penalties, causes of action, losses, costs, expenses and judgments whether civil, criminal, administrative or investigative, and any one or more appeals therefrom.

(2) Expenses. “Expenses” means attorneys’ fees, retainers, court costs, staff time, transcripts, fees of experts, witness fees, arbitration fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all and all other direct or indirect costs and disbursements associated with any Claims, including without limitation expenses of establishing a right to indemnification under this Section 14.

(3) Indemnified Parties. “Indemnified Parties” means the City, Commission, Housing Authority and all of their respective commissioners, members, agents, officers, representatives, directors and employees (individually an “Indemnified Party”).

(4) Liabilities. “Liabilities” means the obligations (including an obligation incurred by way of settlement) to pay any judgment, settlement, penalty, interest, assessment, Claim, cost, expert witness fee and award of attorneys’ fees.

(b) Indemnification. Tenant hereby agrees to indemnify, protect and hold harmless the Indemnified Parties from and against any and all Claims incurred by or asserted against any Indemnified Party, which arise directly or indirectly, in whole, in part or in any way, from this Ground Lease, the Property, the Leasehold, the Affordable Units and from any other approval or action whatsoever in connection with the Project, except to the extent of the Indemnified Parties’ gross negligence or willful misconduct.

(c) Payment of Liabilities and Expenses. Tenant further agrees to pay any and all Liabilities and Expenses incurred by any and all Indemnified Parties with respect to any Claims which arise directly or indirectly, in whole, in part or in any way from this Ground Lease, the Property, the Leasehold, the Affordable Units and from any other approval or action whatsoever in connection with the Project.

(d) Separate Rights of Action. A separate right of action hereunder shall arise each time each Indemnified Party acquires knowledge of any matters described herein. Separate and successive actions may be brought hereunder to enforce any of the provisions hereof at any time and from time to time. No action hereunder shall preclude any subsequent action.

(e) Defense. Each Indemnified Party shall have the right, but not the obligation, to conduct its own defense with respect to any Claims and to retain legal counsel of its own

choosing. Tenant shall pay for or reimburse any such Indemnified Party for any and all Expenses and Liabilities incurred by such Indemnified Party, as such Expenses and Liabilities are incurred. An Indemnified Party's election to defend itself as provided in this Section, shall not in any way limit the Tenant's obligation to reimburse and pay for any and all Liabilities and Expenses incurred by the Indemnified Parties with respect to any Claims; provided, however, any Indemnified Party may elect in its sole discretion to demand that the Tenant defend and pay all Expenses with respect to any Claims, provided the Claims if determined adversely to such Indemnified Party, would be covered by the foregoing indemnification provisions. Upon any such demand by any Indemnified Party, Tenant shall defend and pay all Expenses and Liabilities with respect to such Claims; such defense shall be at Tenant's sole cost and expense and by counsel reasonably approved by such Indemnified Party.

(f) Survival. Tenant's duty to indemnify shall survive and remain an outstanding obligation of Tenant upon the termination of this Ground Lease.

(g) Notification of Claims. The Indemnified Parties will promptly notify Tenant of any Claims.

15. Required Insurance.

(a) Minimum Requirements. During the Term of this Ground Lease, Tenant at its sole cost and expense shall:

(1) Keep or cause to be kept a policy or policies of insurance against loss or damage to the Improvements on the Property resulting from fire, windstorm, hail, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage casualty insurance policies. In addition, if Tenant carries coverage voluntarily for additional causes (such as earthquake, riot, civil commotion, or other), such coverage shall be treated in all respects as the policy or policies required to be kept under this Section 15(a)(1), for so long as Tenant continues to voluntarily carry such coverage. All insurance hereunder shall be maintained in an amount not less than one hundred percent (100%) of the full insurable value of the Improvements as defined in Section 15(b) of this Ground Lease.

(2) Maintain or cause to be maintained public liability insurance naming the Commission, City, Housing Authority and all of their respective commissioners, members, agents, officers, representatives, directors and employees as additional insureds, to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever, in on or about the Property, the Leasehold or the Improvements; to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, as a result of the acts or omissions of Tenant, its agents, servants or employees alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of Tenant or under its control or direction arising from the use and occupancy of the Property, the Leasehold or the Improvements; and also to protect against loss from liability imposed by

law for damages to any property of any person caused directly or indirectly by or from the acts or activities of Tenant in connection with the Property, the Leasehold the Improvements, or Tenant or its sublessees, or any person acting for Tenant or under its control or direction. Such property damage and personal injury insurance shall also protect the Commission and such additional insureds against incurring any legal cost in defending claims for alleged loss. Such personal Injury and property damage insurance shall be maintained in full force and effect during the entire Term of this Ground Lease in an amount of at least \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. Tenant agrees that provisions of this paragraph as to public liability insurance shall not be construed to limit in any way the extent to which Tenant may be held responsible for the payment of damages to persons or property resulting from Tenant's activities, or the activities of any other person or persons for which Tenant is otherwise responsible.

(3) If Tenant has employees, maintain or cause to be maintained workers' compensation insurance issued by an insurance carrier authorized under the laws of the State of California for workers' compensation and employer's liability under the Workers' Compensation Insurance and Safety Act now in force in California, or any act hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Tenant in connection with the Property, the Leasehold or the Improvements, and shall cover full liability for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of, any person incurring or suffering injury or death in connection with the Property, the Leasehold or the Improvements, or the operation thereof by Tenant.

(4) Such other insurance (or other terms with respect to any insurance required pursuant to this Section 15(a), including without limitation amounts of coverage or deductibles) on or in connection with the Project as the Commission may reasonably require, which at the time is commonly obtained in connection with properties similar in type of building size, use and location to the Project.

(b) Definition of Full Insurable Value. The term "full insurable value", as used in Section 15(a) and elsewhere in this Ground Lease, shall mean the actual replacement cost of the Improvements.

(c) General Insurance Provisions. All insurance provided for under Section 15 of this Ground Lease shall be for the benefit of Tenant and the additional insureds described above (i.e., the Commission, City, Housing Authority and all of their respective commissioners, members, agents, officers, representatives, directors and employees as additional insureds). All insurance provided for under Section 15 shall be periodically reviewed by the parties for the purpose of mutually increasing or decreasing the minimum limits of such insurance, from time to time, to amounts which may be reasonable and customary for similar facilities of like size and operation and in the same location as the Property. All insurance provided for under Section 15 shall be effected under policies issued by insurers licensed or permitted to do business in the state of California and reasonably approved by the Commission, the Commission may not withhold approval of any insurer having a rating of A-VII or better in Best Insurance Guide, or if Best

Insurance Guide is no longer in existence, similar or comparable rating. All insurance required to be maintained by Tenant pursuant to Section 15 may be taken out under a blanket insurance policy or policies covering other premises or properties, and other named or additional insureds in addition to the parties hereto; provided, however, that any such policy or policies of blanket insurance, or supplemental written certification from the insurers under such policies, shall specify therein the amount of insurance allocated to the coverage required under Section 15 (except that no such allocation shall be required if coverage is provided on a "blanket limit" basis) and provided further, that in all other respects, any such blanket policy shall comply with the other provisions of Section 15. All certificates of insurance shall provide that such certificates and the policies related thereto shall not be canceled or materially changed without at least thirty (30) days' prior written notice to the Commission. All insurance policies shall provide that there shall be no exclusion from coverage for cross liability among the named insureds. Certificates of insurance (and, at the Commission's request, copies of each required policy) shall be deposited with the Commission together with appropriate evidence of payment of the current premiums therefor; and, at least thirty (30) days prior to expiration of any such policy, certificates of renewal policies shall be so deposited.

(d) Failure to Maintain Insurance. If Tenant fails or refuses to procure or maintain insurance as required by this Ground Lease, the Commission shall have the right, at Commission's election, to procure and maintain the insurance described in Section 15 for the benefit of Tenant and Commission. The premiums paid by the Commission shall be treated as supplemental Annual Rent due from Tenant, to be paid on the first day of the month following the date on which the premiums were paid. The Commission shall give prompt notice of the payment of such premiums, stating the amount paid and the name of the insured(s) which shall include Tenant.

16. Commission's Right to Perform Tenants Covenants. Tenant covenants and agrees that if it shall at any time fail to perform any of the covenants contained herein within the time limits provided herein, after any notice of any default has been given, including without limitation any failure to pay any Imposition in accordance with the provisions of Section 9, or to take out, pay for, maintain or deliver any of the insurance policies provided for in Section 15, or to fail to cause any lien of the character referred to in Section 18 to be discharged as provided therein, or shall fail to perform any other act on its part to be performed, then Commission may (but shall not be obligated to) and without further notice or demand upon Tenant and without waiving or releasing Tenant from any obligations of Tenant contained in this Ground Lease contained, (a) pay any Imposition payable by Tenant pursuant to the provisions of Section 9, or (b) take out, pay for and maintain any of its insurance policies provided for in Section 15, or (c) discharge any lien of the character referred to in Section 18 as provided therein, or (d) perform any other act on Tenant's part to be performed as provided in this Ground Lease. All sums so paid by Commission and all necessary incidental costs and expenses paid or incurred by Commission in connection with the performance of any such act by Commission, together with interest thereon at the rate of ten percent (10%) per annum from the date of making of such expenditure by Commission, shall be payable to Commission on demand or, at the option of Commission, may be added to any rent then due or thereafter becoming due under this Ground Lease, and Tenant covenants to pay any such sum or sums, and Commission shall have (in addition to any other

right or remedy of Commission) the same rights and remedies in the event of the non-payment of any such sums by Tenant as in the case of default by Tenant in the payment of rent.

17. Condemnation.

(a) Total Taking. If, at any time during the Term of this Ground Lease, there shall be a total taking or a constructive total taking of the fee title to the Property and Improvements in condemnation proceedings or by any right of eminent domain, this Ground Lease shall terminate on the date of such taking and the rent and other charges payable by Tenant under this Ground Lease shall be apportioned and paid to the date of such taking. For the purposes of this Section, the term “a constructive total taking” shall mean a taking of such scope that the untaken portion of the Property and Improvements is insufficient to permit the restoration of the existing Improvements so as to constitute a complete, economical project. In the event of any such total taking or constructive total taking and the termination of this Ground Lease, the award or awards for such taking (“Condemnation Proceeds”), shall be distributed solely to the Commission. Tenant hereby waives any right to receive any Condemnation Proceeds whatsoever.

(b) Partial Taking. In the event of a taking which is less than a total taking or constructive total taking (a “Partial Taking”), this Ground Lease shall not terminate or be affected in any way, and the Condemnation Proceeds shall be distributed solely to the Commission. All or a portion of the Condemnation Proceeds shall be used by the Commission to restore, repair, replace or rebuild the Project to substantially its former condition or with such changes or alterations reasonably necessary so as to constitute a complete, rentable project; provided, however, that the Commission shall not be liable for and shall have no obligation to restore, repair, replace or rebuild the Improvements to the extent any and all costs associated with such restoration, repair, replacement or rebuilding exceeds the amount of the Condemnation Proceeds. Tenant hereby waives any right to receive any Condemnation Proceeds whatsoever.

(c) Partial Termination in the Event of a Partial Taking. In the event of a partial taking, this Ground Lease shall terminate as to the portion of the Property so taken.

(d) Temporary Taking. If, at any time during the Term, the whole or any part of the Property, the Leasehold, or of the Improvements shall be taken in condemnation proceedings or by any right of eminent domain for temporary use or occupancy (a “Temporary Taking”) the foregoing provisions of this Section 17 shall not apply and Tenant shall continue to pay, in the manner at the times specified in this Ground Lease, the full amounts of the rent and other charges payable by Tenant under this Ground Lease, and, except only to the extent that Tenant may be prevented from so doing pursuant to the terms of the order of the condemning authority. Tenant shall perform and observe all of the other terms, covenants, conditions and obligations of this Ground Lease upon the part of Tenant to be performed and observed, as though such taking had not occurred. In the event of any such Temporary Taking, Tenant shall be entitled to receive the entire amount of the Condemnation Proceeds made for such taking, whether paid by way of damages, rent or otherwise unless such period of temporary use or occupancy shall extend beyond the termination of this Ground Lease, in which case the Condemnation Proceeds shall be apportioned between Commission and Tenant as of the date of termination of this Ground Lease. Tenant covenants that, upon the expiration of any such period of temporary use or occupancy

during the Term, it will, at its sole cost and expense, restore the Improvements, as nearly as may be reasonably possible, to the condition in which the same was immediately prior to such taking, wear and tear during such temporary use or occupancy excepted. To the extent that Commission receives any portion of the Condemnation Proceeds as compensation for the cost of restoration or repair of the Improvements, Commission shall, upon restoration of the Improvements by Tenant as provided above, pay such sum to Tenant. Any portion of the Condemnation Proceeds received by Tenant as compensation for the cost of restoration of the Improvements shall, if such period of temporary use or occupancy shall extend beyond the Term of this Ground Lease, be paid to Commission on the date of termination of this Ground Lease.

18. Mechanic's Liens. Tenant shall not suffer or permit any mechanic's, vendor's, laborer's, or materialman's statutory or similar liens (collectively "Mechanic's Liens") to be filed against the Property, the Leasehold or the Improvements, by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding any interest in the Property, the Leasehold and/or the Improvements or any part thereof through or under Tenant. If any such Mechanic's Lien shall be filed, Tenant shall, within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise; provided, however, that Tenant shall have the right to contest, with due diligence, the validity or amount of any such lien or claimed lien, if Tenant posts a bond and causes the lien to be released from the Property, the Leasehold or the Improvements. Subject to the foregoing provisions, if Tenant shall fail to cause such lien to be discharged within such 30-day period, then, in addition to any other right or remedy of Commission, Commission may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings. Nothing in this Ground Lease shall be deemed or construed in any way as constituting the consent or request of Commission, express or implied by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvements, alteration to or repair of the Property, the Leasehold or the Improvements or any part thereof, nor as giving Tenant a right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any Mechanic's Liens against the Property, the Leasehold or the Improvements.

19. Tenant to Use Property in a Lawful Manner.

(a) Lawful Uses Only. Tenant shall not use or allow the Improvements, the Property, the Leasehold or any parts thereof, to be used or occupied for any unlawful purpose or for any dangerous or noxious trade or business.

(b) Delivery to Commission Upon Termination. Upon termination of this Ground Lease, Tenant shall surrender to Commission the Property and the Improvements, in good order and repair, reasonable wear and tear excepted and also except as Tenant may have been prevented from maintaining the Improvements in good order and repair by occupation of the Improvements by any sovereign who shall have taken the temporary use of the Improvements and shall then be in possession of the Improvements. Upon such termination, Tenant shall also deliver to Commission all leases, lease files, plans, records, registers and all other papers and

documents which may be necessary or appropriate for the proper operation and management of the Property and the Improvements.

(c) Inspection. Tenant agrees to permit Commission and the authorized representatives of Commission to enter the Property, the Leasehold or the Improvements at all reasonable times during usual business hours and upon at least 24 hours advance written or emailed notice for the purpose of inspecting the same or exhibiting the same to prospective purchasers of the Property, the Leasehold or the Improvements.

20. Bankruptcy and Other Events of Default.

(a) Termination of Ground Lease in Event of Bankruptcy. Tenant agrees that in the event all or substantially all of Tenant's assets are placed in the hands of a receiver or trustee, and such receivership or trusteeship continues for a period of sixty (60) days, or should Tenant make an assignment for the benefit of creditors or be finally adjudicated a bankrupt, or should Tenant institute any proceeding under the Federal Bankruptcy Code as the same now exists or under any amendment thereof which may hereafter be enacted, or under any other act relating to the subject of bankruptcy, or to be discharged of its debts, or to effect a plan of liquidation, composition or reorganization, or should any involuntary proceeding be filed against Tenant under any such bankruptcy laws and such proceeding is not dismissed within ninety (90) days thereafter (each an "Event of Default"), then this Ground Lease and any interests of Tenant in and to the Property and the Leasehold shall not become an asset in any of such proceedings and (i) such event shall constitute an Event of Default hereunder and (ii) in addition to any and all other rights or remedies of Commission under this Ground Lease or as otherwise provided by law, it shall be lawful for Commission to declare the Term ended and to reenter the Property and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim thereon or hereunder.

(b) Events of Default. In addition to any Events of Default set forth in Section 20(a), above, each of the following shall be an Event of Default, if the same is not cured prior to the expiration of the cure periods set forth in this Section 20(b), if any: (i) Tenant at any time is in default with respect to any rental payments or other charges payable by Tenant under this Ground Lease, and if such default continues for a period of five (5) days after written notice from Commission to Tenant; (ii) Tenant is in default in the prompt and full performance of any other of its promises, covenants or agreements contained in this Ground Lease and such default or breach of performance continues for more than thirty (30) days after written notice thereof from Commission to Tenant specifying the particulars of such default or breach of performance, provided, however, that if such default or breach is not reasonably capable of being cured by Tenant within such thirty (30) day period, Tenant shall have such additional time not to exceed ninety (90) days to cure such default or breach as may be reasonably required by Tenant to cure such default or breach; (iii) Tenant abandons the Property or the Leasehold; or (iv) Tenant breaches the Affordability Provisions hereof, and such breach continues for a period of thirty (30) days after written notice from Commission to Tenant, provided, however, that if such default or breach is not reasonably capable of being cured by Tenant within such thirty (30) day period, Tenant shall have such additional time not to exceed ninety (90) days to cure such default or breach as may be reasonably required by Tenant to cure such default or breach. Upon the

occurrence of any one or more of the foregoing Events of Default, Commission shall, in addition to any or all other rights or remedies of Commission under this Ground Lease or as otherwise permitted by law, at the option of Commission, without further notice or demand of any kind to Tenant, have the following rights:

(1) The right of Commission to declare the Term ended, to declare this Ground Lease terminated and to reenter the Property and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim thereon or thereunder.

(2) The right of Commission without declaring this Ground Lease ended to reenter the Property and occupy the whole or any part thereof for and on account of Tenant and to collect the rent and any other charges that may thereafter become payable.

(3) The right of Commission, even though it may have reentered the Property, to thereafter elect to terminate this Ground Lease and all of the rights of Tenant in or to the Property and the Leasehold.

(c) Reentry Not Termination of Ground Lease. Should Commission have reentered the Property under the provisions of Subsection 20(b)(2), above, Commission shall not be deemed to have terminated this Ground Lease, or the liability of Tenant to pay rent thereafter to accrue, or its liability for damages under any of the provisions of this Ground Lease, by any such reentry or by any action in unlawful detainer, or otherwise, to obtain possession of the Property, unless Commission shall have notified Tenant in writing that it has so elected to terminate this Ground Lease. Tenant further covenants that the service by Commission of any notice pursuant to the unlawful detainer statutes of the State of California and the surrender of possession pursuant to such notice shall not (unless Commission elects to the contrary at the time of or at any time subsequent to the serving of such notices and such election is evidenced by a written notice to Tenant) be deemed to be a termination of this Ground Lease. In the event of any entry or taking possession of the Property as provided above, Commission shall have the right, but not the obligation, to remove from the Property and the Leasehold all or any part of the personal property located therein and may place the same in storage at a public warehouse at the expense and risk of the owner or owners thereof.

(d) Termination of Ground Lease. Should Commission elect to terminate this Ground Lease under the provisions of Subsections 20(b)(1) or (3), above, Commission may recover from Tenant as damages:

(1) the value at the time of award of any unpaid rent which had been earned at the time of such termination;

(2) the value at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves could have been reasonably avoided;

(3) the value at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided;

(4) any other amount necessary to compensate Commission for all the detriment proximately caused by Tenant's failure to perform its obligations under this Ground Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses incurred by Commission in maintaining or preserving the Property or the Leasehold after such default, preparing the Improvements for reletting to a new resident, any repairs or alterations to the Improvements for such reletting, leasing commissions, or any other costs necessary or appropriate to relet the Property; and

(5) at Commission's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time at law or in equity.

(e) Value at the Time of Award Defined. As used in Subsections 20(d)(1) and (2), above, the "value at the time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in Subsection 20(d)(3), above, the "value at the time of award" is computed by discounting such amount at the discount rate of the San Francisco Federal Reserve Bank, at the time of award, plus one percent.

(f) Furniture, Fixtures and Equipment. In the Event of Default, after expiration of the notice and cure periods afforded to Tenant, all of Tenant's fixtures, furniture, equipment, improvements, additions, alterations, and other personal property shall remain on the Property and in that event, and continuing during the length of such default, Commission shall have the right to take the exclusive possession of same and to use same, rent or charge free, until all defaults are cured or, at its option, at any time during the Term, to require Tenant to forthwith remove same.

(g) Reentry Upon Termination. Upon the termination of this Ground Lease pursuant to any of the provisions of this Section 20, it shall be lawful for Commission, without formal demand or notice of any kind, to re-enter the Property and the Improvements by summary dispossession proceedings or any other action or proceeding authorized by law, to remove Tenant therefrom without being liable for any damages therefore.

(h) Compliance. Commission shall not be deemed to be in default in the performance of any obligation required to be performed by it under this Ground Lease until it has failed to perform such obligation within thirty (30) days after written notice by Tenant to Commission specifying the nature of Commission's default; provided, however, that if the nature of Commission's obligation is such that more than thirty (30) days are required for its performance, then Commission shall have an additional ninety (90) days if it commences such performance within such thirty (30) day period and thereafter diligently prosecute the same to completion.

21. Limitation of Commission Liability. The term "Commission" as used in this Ground Lease, so far as covenants or obligations on the part of Commission are concerned shall be limited to mean and include only the owner or owners at the time in question of the fee of the

Property and in the event of any transfer or transfers of the title to such fee, Commission herein named (and in case of any subsequent transfers or conveyances the then grantor) shall be automatically freed and relieved from and after the date of such transfer or conveyance from all obligations on the part of Commission contained in this Ground Lease to be performed thereafter, provided that any prepaid rent or trust funds in the hands of such Commission or the then grantor at the time of such transfer, shall be transferred to the grantee or transferee, who shall expressly assume, subject to the limitations of this Section, all of the terms, covenants and conditions in this Ground Lease contained on the part of Commission thereafter to be performed, it being intended by this Section that the covenants and obligations contained in this Ground Lease on the part of Commission shall, subject to the provisions of this Section 21, be binding on Commission, its successors and assigns, only during and in respect of their respective successive periods of ownership.

22. Estoppel Certificates.

(a) By Tenant. Tenant agrees at any time and from time to time upon not less than twenty (20) days prior notice by Commission to execute, acknowledge and deliver to Commission a statement in writing certifying that this Ground Lease is unmodified and in full force and effect (or if there have been modifications that the Ground Lease is in full force and effect as modified and stating the modifications), and the dates to which the rent has been paid, and stating whether or not to the best knowledge of the signer of such statement Tenant is then in default or may be in default with notice or the passage of time, or both, in keeping, observing or performing any term, covenant, agreement, provision, condition or limitation contained in this Ground Lease, and, if in default, specifying each such default, it being intended that any such statement delivered pursuant to this Section may be relied upon by Commission or any prospective purchaser of the fee but reliance on such statement may not extend to any default as to which the signer shall have had no actual knowledge.

(b) By Commission. Commission agrees at any time and from time to time upon not less than twenty (20) days prior notice by Tenant to execute, acknowledge and deliver to Tenant a statement in writing certifying that this Ground Lease is unmodified and in full force and effect (or if there shall have been modifications that the Ground Lease is in full force and effect as modified and stating the modifications) and the dates to which the rent has been paid, and stating whether or not to the best knowledge of the signer of such statement Tenant is then in default or may be with notice or the passage of time, or both, in keeping, observing or performing any term, covenant, agreement, provision, condition or limitation contained in this Ground Lease and, if Tenant shall be in default, specifying each such default of which the signer may have knowledge and such other information as may be reasonably requested by Tenant, it being intended that such statement delivered pursuant to this Section may be relied upon by any prospective transferee of Tenant's interest in this Ground Lease and the Improvements, but reliance on such certificate may not extend to any default as to which the signer shall have had no actual knowledge.

23. Notices. All notices under this Ground Lease shall be in writing and sent (a) by certified or registered U.S. mail, postage pre-paid, return receipt requested, (b) overnight by a nationally recognized overnight courier such as UPS Overnight or FedEx, or (c) by personal delivery. All notices shall be effective upon receipt (or refusal to accept delivery). All notices shall be delivered to the following addresses (either party may designate by notice in writing given in the manner specified above a new or other address to which notices or demands shall thereafter be so given or made):

Commission: San Diego Housing Commission
Attn: Loan Management
1122 Broadway, Suite 300
San Diego, CA 92101

Copy to: Christensen & Spath LLP
401 West A Street, Suite 2250
San Diego, CA 92101

Tenant: HDP Parker Kier, LLC
c/o Housing Development Partners of San Diego
1122 Broadway, Suite 300
San Diego, CA 92101
Attn. Emmanuel Arellano

Copy to: Downs Pham & Kuei
235 Montgomery Street
30th Floor
San Francisco, CA 94104
Attn. Irene Kuei

24. General Conditions.

(a) Remedies Cumulative. The specified remedies to which Commission may resort under the terms of this Ground Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Commission may be lawfully entitled in case of any breach or threatened breach by Tenant of any provision of this Ground Lease. The failure of Commission to insist in any one or more cases upon the strict performance of any of the covenants of this Ground Lease or to exercise any option contained in this Ground Lease shall not be construed as a waiver or a relinquishment for the future of such covenant or option.

(b) No Waiver. A receipt by Commission of rent with knowledge of the breach of any covenant of this Ground Lease shall not be deemed a waiver of such breach, and no waiver by Commission of any provision of this Ground Lease shall be deemed to have been made unless expressly in writing and signed by Commission. In addition to the other remedies provided in this Ground Lease, Commission shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation, of any of the covenants, conditions or provisions of this Ground Lease.

(c) Amendments. No waiver, modification, amendment, discharge or change of this Ground Lease shall be valid unless it is in writing and signed by the Commission and Tenant.

(d) No Real Estate Brokers. Each of Commission and Tenant hereby represents and warrants that it has dealt with no real estate broker, agent or party who may be entitled to a commission or fee on account of this Ground Lease. Each of Commission and Tenant hereby indemnifies and agrees to hold the other party harmless from and against any loss, cost, liability and expense, including attorneys' fees, which may be incurred in the event the foregoing representation and warranty proves incorrect.

(e) Representations. Commission hereby disclaims any warranty, guaranty or representation of the nature and condition of the Property, including (but not by way of limitation) the soil and geology and suitability thereof for any and all activities and uses which Tenant may elect to conduct thereon at any time during the Term, the manner of construction and the conditions and state of repair or lack of repair of all improvements located thereon, and the nature and extent of the rights of others with respect to the Property, whether by way of easement, right of way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise.

(f) Captions. The captions in this Ground Lease are inserted for convenience of reference and in no way define, describe or limit the scope or intent of this Ground Lease or any of the provisions of this Ground Lease.

(g) Invalidity of Particular Provisions. If any term or provision of this Ground Lease or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Ground Lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Ground Lease shall be valid and be enforced to the fullest extent permitted by law.

(h) Successors Bound. Subject to the other provisions of this Ground Lease, this Ground Lease shall be binding upon and inure to the benefit of Commission and Tenant and their respective legal representatives, successors, heirs and permitted assigns, and wherever a reference in this Ground Lease is made to either Commission or Tenant, such reference shall be deemed to include, wherever applicable, also a reference to the successors and assigns of such party, as if in every case so expressed.

(i) Recordation. This Ground Lease shall be recorded as an encumbrance against the Property in the Office of the County Recorder of San Diego County, California.

(j) Governing Law. This Ground Lease shall be interpreted and construed in accordance with California law.

(k) Counterparts. This Ground Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(l) Entire Agreement. This Ground Lease, together with any written modifications or amendments hereafter entered into and with all documents executed by the Commission and/or Tenant with respect to the Property, contain the entire agreement between the parties relating to the transactions contemplated by this Ground Lease and all prior or contemporaneous agreements, understandings, representations or statements, oral or written, are superseded.

(m) No Third-Party Rights. Nothing in this Ground Lease, express or implied, is intended to confer upon any person, other than the parties to this Ground Lease, and their respective successors and assigns.

(n) Time Of Essence. Time is of the essence in this Ground Lease.

(o) Attorneys' Fees. The parties agree that the prevailing party in litigation for the breach and/or interpretation and/or enforcement of the terms of this Ground Lease shall be entitled to their expert witness fees, if any, as part of their costs of suit, and attorneys' fees as may be awarded by the court, pursuant to California Code of Civil Procedure ("CCP") Section 1033.5 and any other applicable provisions of California law, including, without limitation, the provisions of CCP Section 998. All claims, disputes, causes of action or controversies shall be subject solely to the jurisdiction of the San Diego Superior Court.

(p) Relationship. Nothing contained in this Ground Lease shall be deemed or construed by the parties or by any third person to create a relationship of principal and agent or partnership or a joint venture between Commission and Tenant or between either or both of them and any third party.

(q) Commission Approval. Where this Ground Lease refers to an action or approval of the Commission, it shall mean the approval of the President and CEO of the Commission, or designee, unless otherwise provided.

(r) Recitals Incorporated. The Recitals to this Ground Lease are hereby incorporated in this Ground Lease by this reference.

(s) No Merger of Ground Lease With the Fee Estate. There shall be no merger of this Ground Lease or any interest in this Ground Lease, nor of the Leasehold, with the fee estate in the Property for any reason.

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

IN WITNESS WHEREOF, the parties have executed this Ground Lease as of the date first above written.

TENANT:

HDP Parker Kier, LLC, a California limited liability company

By: Housing Development Partners of San Diego,
a California nonprofit public benefit corporation

Its: Manager

By: _____

Name: _____

Its: _____

[Signatures Continued on Following Page]

COMMISSION:
San Diego Housing Commission

By: _____
Emily S. Jacobs
Executive Vice President, Real Estate

Approved as to Form:
Christensen & Spath LLP

By: _____
Walter F. Spath III, Esq.
Commission General Counsel