

fully-executed

**MEMORANDUM OF AGREEMENT
BETWEEN
EAST GARRISON PARTNERS I, LLC
AND
ARTSPACE PROJECTS, INC.
FOR THE PHASE THREE RENTAL AFFORDABLE HOUSING DEVELOPMENT
AT EAST GARRISON, COUNTY OF MONTEREY, CA**

This Memorandum of Agreement (this "MOA") is entered into as of January 16, 2007 by and between EAST GARRISON PARTNERS I, LLC, a California limited liability company ("EGP", and "Developer" under the DDA) and ARTSPACE PROJECTS, INC., a Minnesota nonprofit corporation ("Artspace"), who agree as follows:

Background

A. DDA; Site. EGP and the Monterey County Redevelopment Agency ("Agency") with the approval and agreement of the County of Monterey ("County") have entered into a Disposition and Development Agreement dated as of October 4, 2005 (the "DDA"). A Memorandum of the DDA was recorded in the Official Records of the County Recorder on May 16, 2006 as Document No. 2006044222. The DDA provides, among other things, for the construction and rental of affordable housing (the "Rental Affordable Housing"), in three phases, on a portion of the real property located on the former Fort Ord Army Base within the unincorporated area of the County, commonly referred to as the East Garrison area (the "Site"). The overall development of the Site may be referred to as the "East Garrison Project". Those portions of the Site designated for the development of the Rental Affordable Housing may be referred to as the "Rental Affordable Housing Parcels". EGP will acquire the Site from the Agency pursuant to the DDA, and this MOA is conditioned upon the acquisition of the Site by EGP. Capitalized terms used in this MOA shall have the same meaning as set forth in the DDA, unless otherwise defined in this MOA.

B. Redevelopment Plan; Specific Plan. The Site is subject to the Redevelopment Plan for the Fort Ord Redevelopment Project Area ("Redevelopment Plan") adopted by the County of Monterey ("County") pursuant to the California Community Redevelopment Law. Development of the Site is also governed by the East Garrison Specific Plan ("Specific Plan") and Tentative Map ("Tentative Map") and other entitlements and actions approved by the County and referenced in Recital F of this MOA.

C. Affordable Housing Requirements Generally. Attachment No. 3 and Section 4 of Attachment No. 9 of the DDA provide, in relevant part, that in the East Garrison Project: (a) six percent (6%) of the total of the 1,400 permitted residential units (exclusive of accessory or carriage units) developed in the East Garrison Project must be affordable to and occupied by Very Low Income Households ("Very Low Income Units"); (b) eight percent (8%) must be affordable to and occupied by Low Income Households ("Low Income Units"); and (c) six percent (6%) must be affordable to and occupied by Moderate Income Households ("Moderate Income Units"). The East Garrison Specific Plan and the DDA provide that the Very Low Income and Low Income Units in each phase shall be affordable rental units developed by one or

more qualified tax credit entities (each a "Rental Affordable Housing Developer") selected by the Developer, subject to the reasonable approval of the Agency.

D. Phasing of Rental Affordable Housing. Pursuant to the DDA, the phasing of the Rental Affordable Housing is expected to be (numbers approximate, based on approval of Final Maps):

<u>Phase One</u>	<u>Phase Two</u>	<u>Phase Three</u>
65 affordable rental units <ul style="list-style-type: none"> • not less than 25 very low income • up to 40 low income plus one on-site employee accessory unit (not income restricted), in addition to the 65 affordable rental units	65 affordable rental units <ul style="list-style-type: none"> • not less than 29 very low income • up to 36 low income plus one on-site employee accessory unit (not income restricted), in addition to the 65 affordable rental units	66 affordable live/work rental units for artists <ul style="list-style-type: none"> • not less than 30 very low income • up to 36 low. inc. including one on-site employee unit, as part of the 66 affordable live/work rental units for artists

Note: The employee accessory units in Phase One and Phase Two Rental Affordable Housing, only, shall be deemed part of the 70 accessory units allowed under the Development Approvals and the DDA in addition to the 1400 residential units, in order to meet the requirements of State law for manager units in rental projects. Accessory or carriage units elsewhere in East Garrison shall only be permitted and located as set forth in the Specific Plan and Pattern Book (as referenced in Recital F.3. and F.6., below).

E. Memorandum of Agreement with Rental Affordable Housing Developers. Section 202 (22) (j) of the DDA provides that prior to and as a condition of close of escrow for the sale of the Site to the Developer, the Developer shall submit to the Agency for its approval preliminary agreements with nonprofit housing developers (which agreements shall include requirements for submission of financing and satisfaction of other conditions) with specified nonprofit housing developers or other nonprofit housing developers reasonably satisfactory to the Agency for the construction of each phase of the Rental Affordable Housing (each, a "Rental Affordable Housing Developer"). Artspace is one of the specified nonprofit housing developers approved by the Agency under that section of the DDA.

F. Development Approvals. In connection with the actions contemplated in the DDA, the County has approved, for the development of the Site:

1. Certification of a Final Subsequent Environmental Impact Report ("FSEIR"), including project-specific mitigation measures and a Statement of Overriding Considerations, adopted by the County Board of Supervisors (Resolution No. 05-264, adopted on October 4, 2005).

2. Mitigation Monitoring and Reporting Plan ("MMRP") adopted by the County Board of Supervisors (Resolution No. 05-265, adopted on October 4, 2005).

3. The East Garrison Specific Plan ("Specific Plan") approved by the County Board of Supervisors (Resolution No. 05-266, adopted on October 4, 2005).

4. General Plan text amendments approved by the County Board of Supervisors (Resolution No. 05-265 adopted on October 4, 2005).

5. Zoning Ordinance text and map amendments adopted by the County Board of Supervisors (Ordinance No. 05000 adopted on October 4, 2005).

6. Combined Development Permit, including Conditions of Approval, comprising a standard subdivision (Vesting Tentative Map) to create parcels for up to 1400 dwelling units (plus up to 70 second ("carriage") accessory building spaces, each on the same lot as a residential unit), commercial uses, and public uses, use permit for tree removal, general development plan, use permit to allow development on slopes over thirty percent (30%), and Design Approval including approval of a Pattern Book, approved by County Board of Supervisors (Resolution No. 05-267, adopted on October 4, 2005).

7. Allocation by the County Board of Supervisors of 470 acre-feet annually of potable water (from the FORA allocation of water to the County) to serve the Project (Resolution No. 05-268, adopted on October 4, 2005).

8. The Development Agreement (the "Development Agreement"), approved by the County Board of Supervisors (Ordinance No. 05001, adopted on October 4, 2005, (the "Enacting Ordinance")).

All such documents, each as may be amended from time to time, together with the Subsequent Development Approvals and Vested Elements, each as defined in the Development Agreement, collectively are referred to herein as the "Development Approvals".

G. Agency Administration of Inclusionary Housing Requirements. In approving the Development Approvals for the East Garrison Project the County found and determined that the DDA, entered into by the Agency (and approved by the County) pursuant to the provisions of the Community Redevelopment Law (Health and Safety Code sections 33000 et seq.), contains detailed requirements and schedules of phasing for the provision of inclusionary housing which comply with, and provide for more affordable housing than is required under, the County's Inclusionary Housing Ordinance (codified at Chapter 18.40 of the Monterey County Code), with certain modifications approved by the County to the Ordinance to be consistent with the requirements of the Community Redevelopment Law and the type of financing which will be sought to develop the affordable housing units (see Exhibit B-2 to this MOA). County housing policies permit the County to designate another public agency to perform and administer the County's inclusionary housing requirements. In approving this Agreement, the County has delegated to the Agency the authority and responsibility to administer and enforce, in accordance with the terms of the DDA, the County's Inclusionary Housing Ordinance and County housing policies adopted pursuant thereto, as modified to be consistent with the requirements of the Community Redevelopment Law and the type of financing which will be sought to develop the Rental Affordable Housing.

H. Purpose of MOA. This MOA is intended to (1) satisfy the requirements of Section 202 (22) (j) of the DDA by designating and obtaining approval of Artspace as the Rental Affordable Housing Developer for the Rental Affordable Housing to be developed in Phase Three of the East Garrison Project, (2) set forth the obligations of the parties prior to entering into a Purchase Agreement (defined in Section 3 below) and Assignment and Assumption Agreement (defined in Section 3 below) with respect to the development of the Phase Three Affordable Housing Parcel (described in Section 2 below), and (3) provide for the development of the basic business terms that will be elaborated in the Rental Affordable Housing Financing and Budget referenced in the Purchase Agreement.

AGREEMENTS

Section 1. Designation of Affordable Housing Developer. Pursuant to Section 4 of Attachment No. 9 of the DDA, EGP hereby designates Artspace as the Phase Three Rental Affordable Housing Developer for all of the Phase Three Rental Affordable Housing to be developed as part of the East Garrison Project, subject to the reasonable approval of the Agency and compliance with the terms and conditions of this MOA. By its execution of the "Approval by Agency", attached hereto, Agency has approved the designation of Artspace as the Rental Affordable Housing Developer for all of the Phase Three Rental Affordable Housing to be developed as part of the East Garrison Project.

Section 2. Phase Three Rental Affordable Housing Parcel. The Phase Three Rental Affordable Housing shall be developed by Artspace within the time and manner set forth in the DDA and the Assignment and Assumption Agreement (defined in Section 3 below) on the Phase Three Rental Affordable Housing Parcel, the location of which is generally shown on the Map attached hereto as Exhibit A, subject to approval of Final Maps. Subject to the terms of this MOA, EGP will convey the Phase Three Rental Affordable Housing Parcel to Artspace or its tax credit entity by quitclaim deed consistent with the terms of the DDA and the quitclaim deed from the Agency to EGP (such quitclaim deed from EGP to Artspace or its tax credit entity is referred to herein as the "Quitclaim Deed").

Section 3. Purchase Agreement. Upon the satisfaction of the conditions set forth in this MOA, EGP and Artspace intend to enter into an Agreement for the Purchase, Sale and Development of Real Property substantially in the form attached as Exhibit C hereto (the "Purchase Agreement"), pursuant to which EGP and Artspace, subject to approval of the Agency, will enter into an Assignment and Assumption Agreement substantially in the form attached as Exhibit D hereto (the "Assignment and Assumption Agreement") to assign to Artspace, and pursuant to which Artspace will assume, certain of EGP's rights and obligations under the DDA to develop the Rental Affordable Housing in Phase Three of the East Garrison Project, all as more particularly set forth in the Assignment and Assumption Agreement. Pursuant to the Purchase Agreement, Artspace or its tax credit entity will acquire from EGP the Phase Three Rental Affordable Housing Parcel and develop the Phase Three Rental Affordable Housing. Notwithstanding the foregoing, EGP recognizes that with respect to the Phase Three Rental Affordable Housing Artspace must demonstrate in its applications for tax credits and financing that it has the legal right to acquire the Phase Three Rental Affordable Housing Parcel and construct the Phase Three Rental Affordable Housing on a timely basis to comply with its application and the conditions of financing. Therefore, by its approval of this MOA the Agency

agrees to provide EGP and Artspace with such representations and assurances as EGP and Artspace shall reasonably require in connection with applications for financing of the Phase Three Rental Affordable Housing to the effect that: (1) Artspace is the approved Rental Affordable Housing Developer for the Phase Three Rental Affordable Housing, and (2) Artspace has the right, legally enforceable against EGP and the Agency, to acquire the Phase Three Rental Affordable Housing Parcel and develop the Phase Three Rental Affordable Housing consistent with the terms of the DDA as incorporated in the Assignment and Assumption Agreement. In furtherance of the foregoing sentence, not later than thirty (30) days prior to Artspace's anticipated date for submission of an application for tax credits and/or other financing, EGP and Artspace shall complete, and EGP, Artspace, the Agency and the County shall execute in final form approved by the Agency and County, the Assignment and Assumption Agreement, to be effective upon its recordation prior to the conveyance of the Phase Three Rental Affordable Parcel by Quitclaim Deed from EGP to Artspace or its designated tax credit entity.

Section 4. Schedule. Not later than the earlier of (1) one hundred fifty (150) days from the date of this MOA or (2) March 15, 2007, EGP and Artspace shall designate assigned times for performance of the responsibilities and goals set forth in this MOA, and such times shall be set forth in a Schedule of Performance, which shall be attached as Exhibit E hereto (the "MOA Schedule of Performance").

Section 5. Inclusionary Housing Agreement. Section 4 of Attachment No. 9 to the DDA provides, in part as relevant to the Rental Affordable Housing, as follows:

"The Developer shall enter into an Inclusionary Housing Agreement with the County, in a form acceptable to the County, Agency, and Developer, prior to the recordation of the first final map for the project. A minimum of 20% of all residential units constructed in each phase of the Project must be affordable to persons and families of very low, low and moderate income levels, as follows: 6% for very low, 8% for low and 6% for moderate income, all subject to appropriate deed restrictions to assure their continued affordability in accordance with the requirements of the CRL, the Inclusionary Housing Agreement, the County's Inclusionary Housing Ordinance with such modifications of its requirements as approved by the Board of Supervisors, and the Development Approvals and, as applicable, tax credit and bond financing requirements; provided that the Rental Affordable Housing units shall continue to be affordable for a term of at least 55 years from issuance of the Certificate of Occupancy for the particular unit Rental Affordable Housing units shall be developed by one or more qualified tax credit entities (each a "Rental Affordable Housing Developer") selected by the Developer, subject to the reasonable approval of the Agency. The Developer shall provide finished graded and infrastructure serviced pads to the Inclusionary Housing development sites; provided that the pads for the Rental Affordable Housing shall be conveyed to the Rental Affordable Housing Developer at such time as the Agency subsidy payment (or payments from the Developer as part of the Shortfall Loan) under Section b. of Part H of Attachment No. 4 is available for such units and the Rental Affordable Housing Developer has obtained tax credit financing and bonded construction contracts for each phase or segment of the Rental Affordable Housing units to be developed. Eligibility for, and pricing of, the Inclusionary Housing units under this Section 4 shall be calculated according to the methodology set forth in the Inclusionary Housing Agreement consistent with the terms of this Agreement. . . . The County shall not impose any local preference policies for eligibility for the Rental Affordable Housing units."

In implementation of the above referenced provisions of Section 4 of Attachment No. 9 to the DDA, the County and Agency have approved the form of an Inclusionary Housing Regulatory Agreement and Declaration of Restrictive Covenants to be entered into by the County, Agency and Artspace or its tax credit entity (attached hereto as Exhibit B-1, the "Regulatory Agreement") including certain modifications of the County's Inclusionary Housing Policies adopted as part of the Development Approvals (attached hereto as Exhibit B-2), to apply to the Phase Three Rental Affordable Housing. The form of Regulatory Agreement attached hereto as Exhibit B-1 may be further modified to comply with the requirements of the tax credit and/or low-income housing bond programs utilized by Artspace or its tax credit entity for the financing of the Phase Three Rental Affordable Housing; provided, however, that the Agency may consider, in its sole discretion exercised pursuant to the provisions of Health and Safety Code section 33333.14 or similar sections, a request for subordination of the covenants or restrictions in the Regulatory Agreement based on requirements of financing proposed by Artspace for the Phase Three Rental Affordable Housing.

Section 6. Affordable Housing Agreements. In connection with conveyance of the Phase Three Rental Affordable Housing Parcel for the construction, rental and operation of the Phase Three Rental Affordable Housing, Artspace or its tax credit entity will be required to enter into the following agreements:

- (a) The Purchase Agreement, substantially in the form of Exhibit C hereto;
- (b) The Assignment and Assumption Agreement, substantially in the form of Exhibit D hereto;
- (c) The Regulatory Agreement, substantially in the form of Exhibit B-1 hereto; and
- (d) The Quitclaim Deed from EGP to Artspace, incorporating certain provisions of the Quitclaim Deed from the Agency to EGP that are applicable to the transfer of the Phase Three Rental Affordable Housing Parcel, including the Right of Reverter, which remedy shall be subordinated to the rights of lenders providing financing for the Phase Three Rental Affordable Housing as set forth in said Quitclaim Deed.

Section 7. Obligations of EGP. Subject to review and/or approval by the Agency as provided in the DDA, EGP shall retain the following responsibilities:

- (a) EGP shall review and approve proformas to be developed by Artspace for all the Phase Three Rental Affordable Housing in consultation with the Agency and the Agency's consultants in conjunction with the pro formas that Artspace is required to provide under this Agreement. EGP shall provide Artspace with the following: (1) the schedule for commencement and completion of the Phase Three Rental Affordable Housing consistent with the requirements of the DDA, (2) the amount of water allocated to the Project from the total amount of water allocated by the County for the East Garrison Project, (3) budgeted subsidy funds from the Agency (or from EGP's Shortfall Loan to the Agency) allocated to the Phase Three Rental Affordable Housing, and (4) design guidelines and other site specific building

guidelines for the Phase Three Rental Affordable Housing, consistent with the Pattern Book (referenced in Recital F.6. hereof).

(b) EGP shall prepare the Phase Three Rental Affordable Housing Parcel including all demolition and all new infrastructure and all utilities (to the parcel line) to the Phase Three Rental Affordable Housing Parcel required for the development of the Phase Three Rental Affordable Housing.

(c) EGP shall develop the phasing and timeline for the Phase Three Rental Affordable Housing, consistent with the phasing and scheduling requirements in the DDA.

(d) EGP shall deliver to Artspace rough, graded lot(s) within the Phase Three Rental Affordable Housing Parcel for the development of the Phase Three Rental Affordable Housing.

(e) EGP shall allocate infrastructure and common area costs across all product types being developed within the Site, including the Rental Affordable Housing; provided, however, that the Phase Three Rental Affordable Housing shall not bear costs of infrastructure or common area provided by EGP to serve the Phase Three Rental Affordable Housing Parcel nor be subject to special taxes imposed by a community facilities district or a community services district. The Phase Three Rental Affordable Housing, unless exempted by law, shall be subject to all other assessments, taxes, impact, connection and building permit fees and charges imposed by or for the County (except to the extent that building permit and impact fees are waived by the County pursuant to Section 18.40.50 G of the Monterey County Code), public and private utilities, schools and other entities.

(f) EGP shall coordinate and facilitate all public hearings, community meetings and staff meetings that EGP or Agency deem appropriate with respect to the Phase Three Rental Affordable Housing.

(g) EGP shall contribute to the cost of the Phase Three Rental Affordable Housing, as necessary in augmentation of the Agency's financial contribution, in accordance with the requirements and limitations of the DDA.

(h) EGP shall review and approve or disapprove, in consultation with Artspace, the required submittals from Artspace under Section 7 of this MOA.

Section 8. Obligations of Artspace. Subject to review and/or approval of the Agency as provided in the DDA, Artspace shall have the following responsibilities:

(a) Artspace shall consult with and advise EGP on the terms of Inclusionary Housing Plan to be entered into pursuant to Section 4 of Attachment No. 9 of the DDA with respect to such provisions and requirements pertaining to the Phase Three Rental Affordable Housing.

(b) Artspace shall undertake to prepare, in consultation with EGP, and submit to EGP and the Agency for their review and approval, within the times set forth in the MOA

Schedule of Performance (Exhibit E to this MOA), the following documents and information as applicable to the Phase Three Rental Affordable Housing:

(1) Artspace's housing implementation plan for the Phase Three Rental Affordable Housing, including the program to finance, construct, operate and manage the Phase Three Rental Affordable Housing, consistent with the requirements of the DDA;

(2) a proposed project budget and business plan, consistent with EGP's Pro Forma;

(3) a final financing plan, taking into consideration the Agency and/or EGP's Shortfall Loan to the Agency as required by the DDA and consistent with EGP's Pro Forma;

(4) a schedule for applying for and obtaining federal or state financing, including tax credit allocations for the Phase Three Rental Affordable Housing, consistent with the schedule set forth in Exhibit E and the DDA Schedule of Performance (Attachment No. 5 to the DDA);

(5) a schedule for plans and construction of the Phase Three Rental Affordable Housing, consistent with the schedule provided by EGP consistent with the DDA Schedule of Performance (Attachment No. 5 to the DDA);

(6) the proposed form of entity to act as the Phase Three Rental Affordable Housing Developer, including principals, partners and responsible parties and personnel;

(7) any clarifications or other charges recommended by Artspace in connection with the DDA, County housing policies and/or other governing documents such as the Regulatory Agreement, the Assignment and Assumption Agreement or the Purchase Agreement; and

(8) such other information as EGP shall request.

(c) Following Agency approval of the designation by EGP of Artspace as the Phase Three Rental Affordable Housing Developer:

(1) Artspace shall serve as the Phase Three Rental Affordable Housing Developer, as such role is defined in the DDA and will be defined in the Purchase Agreement. Artspace shall make representations and warranties in the Purchase Agreement as to its status as a nonprofit developer.

(2) Artspace shall enter into an exclusive Purchase Agreement with EGP with respect to the Phase Three Rental Affordable Housing Parcel, substantially in the form attached hereto as Exhibit C subject to such revisions and conforming changes as the parties shall mutually agree upon.

(3) Artspace shall enter into an Assignment and Assumption Agreement with EGP, as approved by the Agency, substantially in the form attached hereto as Exhibit D, with such revisions and conforming changes as the parties shall mutually agree upon which are approved by the Agency and County.

(4) Artspace shall execute the Quitclaim Deed and accept title to the Phase Three Rental Affordable Housing Parcel within the time and manner set forth in the Purchase Agreement.

(5) Artspace shall execute or otherwise agree to be bound by the terms of the Regulatory Agreement insofar as it pertains to the Phase Three Rental Affordable Housing.

(6) Artspace shall have the sole and exclusive obligations of the Phase Three Rental Affordable Housing Developer, as defined in the DDA, the Purchase Agreement, and this MOA. Artspace shall further be responsible for timely performance and completion of all actions assigned to the Phase Three Rental Affordable Housing Developer in the Purchase Agreement.

(7) With respect to the Phase Three Rental Affordable Housing, as among Artspace, EGP, the Agency and the County, Artspace shall be responsible for applying for all applicable sources of subsidized funds, and shall be responsible for all other financing obligations including loan repayments, yield maintenance requirements of tax credit investors, certain guarantees as needed or required of the financing, and compliance with all the related regulatory agreements from the respective agencies administering the various affordable housing programs that will be involved. Artspace acknowledges that EGP and/or the Agency are under no obligation to provide credit support for such financing.

(8) Artspace shall, prior to the conveyance of the Phase Three Rental Affordable Housing Parcel, confirm that it has sufficient assets or access to capital and financial commitments, including the subsidy to be provided by the Agency and/or EGP under the DDA, to develop and operate the Phase Three Rental Affordable Housing.

(9) Artspace shall, following conveyance of the Phase Three Rental Affordable Housing Parcel, construct and operate the Phase Three Rental Affordable Housing in accordance with the Assignment and Assumption Agreement and the Inclusionary Housing Regulatory Agreement and Declaration of Restrictive Covenants insofar as it pertains to the Phase Three Rental Affordable Housing.

(10) Artspace shall have the following additional responsibilities in implementing the Phase Three Rental Affordable Housing requirements:

- (i) Apply for design review and approval of Architectural Plans and Site Plan from the appropriate committee pursuant to the Pattern Book (referenced in Recital F.6. hereof), and submit all engineering and building plans required by the County for issuance of a building permit, for the Phase Three Rental Affordable Housing (subject to

any waiver of building permit and impact fees that may be obtained from the County under Section 18.40.50.G of the Monterey County Code).

- (ii) Prepare required proforma(s).
- (iii) Attend all Public Hearings/Community Meetings that are relevant to its role as the Phase Three Rental Affordable Housing Developer.
- (iv) Coordinate and oversee the submittal of construction plans, and applications for all other necessary permits.
- (v) Secure a General Contractor, subject to approval of EGP.
- (vi) Enter into a partnership agreement with a tax credit investor.
- (vii) Apply for and obtain all necessary construction phase financing.
- (viii) Apply for and obtain all permanent phase financing.
- (ix) Development and implement a property management program.
- (x) Develop and implement a marketing and lease-up program.
- (xi) Develop and implement a renter qualification program.
- (xii) Develop and implement a move-in coordination and scheduling program (to the extent not covered in (x), above).
- (xiii) Comply with all monitoring and reporting requirements.
- (xiv) Adequately address cost overruns or revenue deficiency.

Section 9. Time of Essence; Termination. Time is of the essence under this MOA. Artspace has reviewed Attachment No. 3 to the DDA and understands and acknowledges that the failure to develop the Phase Three Rental Affordable Housing within the time and manner provided in the DDA may subject EGP to withholding of building permits for market rate housing or require a Member of EGP to post a guarantee for the timely completion of the Phase Three Rental Affordable Housing. EGP understands and acknowledges that in order to meet the schedule of EGP for the Phase Three Rental Affordable Housing, Artspace will need to file timely applications for tax credits and bond financing. EGP and Artspace will therefore mutually cooperate to accomplish tasks and maintain projected schedules for the Phase Three Rental Affordable Housing. Either party may terminate this MOA upon 30 days prior written

notice to the other (with written notice simultaneously provided to the Agency) if in the good faith business judgment of the terminating party the projected schedules cannot be met for any reason and it is not reasonably feasible to extend such projected schedules by mutual consent or in reliance upon one or more events of enforced delays under Section 604 of the DDA. In the event of such termination, neither party shall have any further rights or obligations to the other party.

Section 10. Counterparts. This MOA may be executed in counterparts, each of which shall be deemed to be an original, but which together shall constitute a single document. Signatures transmitted by facsimile shall be binding; provided, however, that any person transmitting his or her signature by facsimile shall promptly send an original signature to the other parties.

Section 11. Approval by Agency. This MOA is subject to the approval of the Agency.

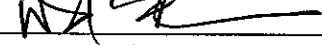
EGP:

EAST GARRISON PARTNERS I, LLC, a
California limited liability company

BY: WOODMAN DEVELOPMENT
COMPANY LLC, a California limited
liability company, as a member

By: Woodman Development Company,
Inc., a California corporation, as its
managing member

By: 
Its: TRES

By: 
Its: Treasurer

and

BY: LYON EAST GARRISON COMPANY I,
LLC, a California limited liability
company, as a member

By: William Lyon Homes, Inc., a California
corporation, as its managing member

By: _____
Its: _____

By: _____
Its: _____

notice to the other (with written notice simultaneously provided to the Agency) if in the good faith business judgment of the terminating party the projected schedules cannot be met for any reason and it is not reasonably feasible to extend such projected schedules by mutual consent or in reliance upon one or more events of enforced delays under Section 604 of the DDA. In the event of such termination, neither party shall have any further rights or obligations to the other party.

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Section 11. Approval by Agency. This MOA is subject to the approval of the Agency.

EGP:

EAST GARRISON PARTNERS I, LLC, a
California limited liability company

BY: WOODMAN DEVELOPMENT
COMPANY LLC, a California limited
liability company, as a member

By: Woodman Development Company,
Inc., a California corporation, as its
managing member

By: _____
Its: _____

By: _____
Its: _____

and

BY: LYON EAST GARRISON COMPANY I,
LLC, a California limited liability
company, as a member

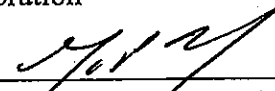
By: William Lyon Homes, Inc., a California
corporation, as its managing member

By: _____
Its: Richard S. Robinson
Senior Vice President

By: _____
Its: Douglas F. Bauer
Executive Vice President

ARTSPACE:

ARTSPACE PROJECTS, INC., a Minnesota
nonprofit corporation

By: 

Name: Bryan S. Hundberg

Title: Vice President

APPROVAL OF AGENCY

THE REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY ("Agency") hereby approves the designation by EGP of Artspace Projects, Inc. ("Artspace") as the Rental Affordable Housing Developer under the DDA and the MOA for the Rental Affordable Housing in Phase Three of the East Garrison Project and approves the terms of the MOA between EGP and Artspace, subject to the following:

1. The Agency reserves approval of the terms of the following documents for the transfer of the Phase Three Rental Affordable Housing Parcel to Artspace, as to their final form:

- (a) the Purchase Agreement (Exhibit C to the MOA);
- (b) the Assignment and Assumption Agreement (Exhibit D to the MOA);
- (c) the Inclusionary Housing Regulatory Agreement and Declaration of Restrictive Covenants (Exhibit B-1 to the MOA); and
- (d) the Quitclaim Deed from EGP to Artspace.

2. The Agency acknowledges and agrees to fulfill its financial obligations under Section 4 of Attachment No. 9 of the DDA.

3. The Agency acknowledges and agrees to provide the legally binding assurances to EGP and Artspace referenced in Section 3 of the MOA.

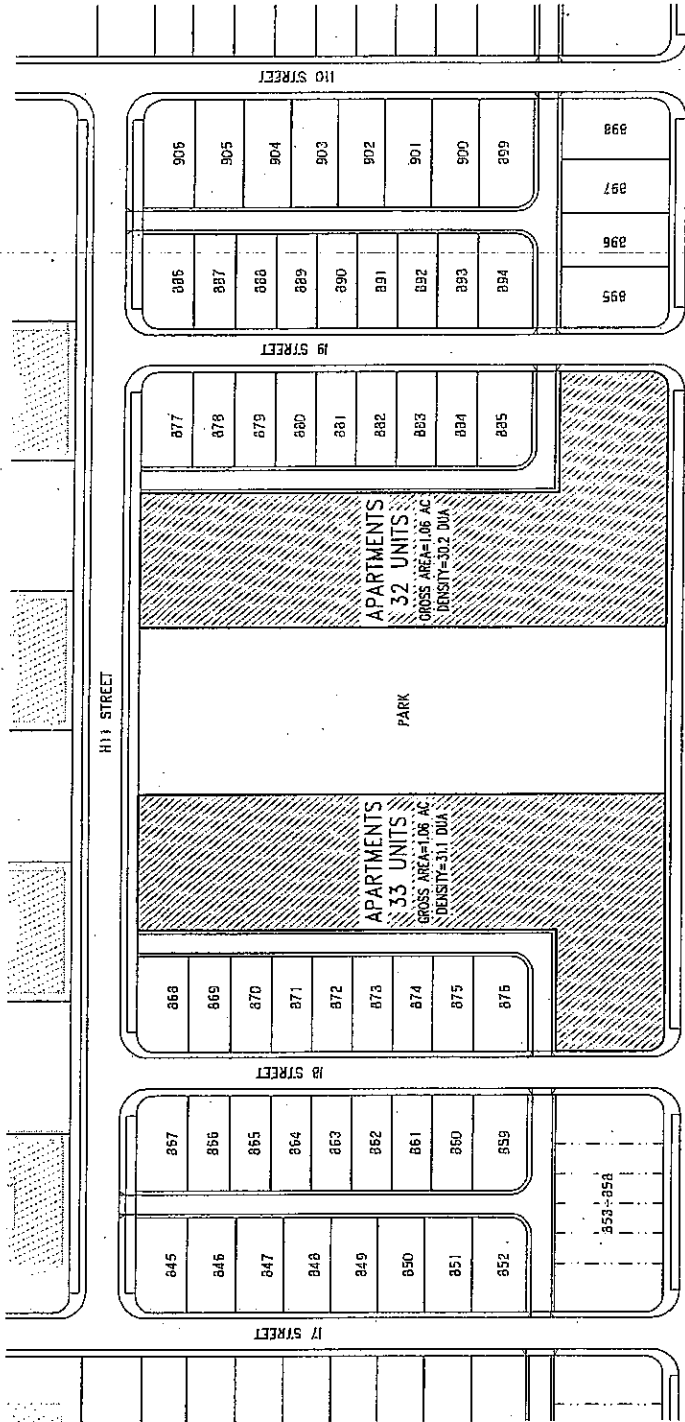
4. The Agency agrees to cooperate with EGP and Artspace in the transfer of the Phase Three Rental Affordable Housing Parcel and the development of the Phase Three Rental Affordable Units (65 units plus one on-site employee accessory unit not income restricted and deemed to be part of the 70 accessory units allowed under the Development Approvals and DDA in addition to the 1400 residential units, in order to meet the requirements of State law for manager units in rental projects), consistent with the terms of the MOA, the Assignment and Assumption, and the Inclusionary Housing Regulatory Agreement and Declaration of Restrictive Covenants.

Executed as of _____.

AGENCY:

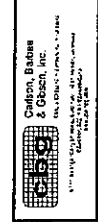
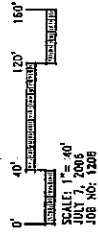
REDEVELOPMENT AGENCY OF THE
COUNTY OF MONTEREY

By: Dave Patten
Its: _____



PHASE 3 RENTAL AFFORDABLE HOUSING PARCELS
EXHIBIT 'A'

EAST GARRISON
MONTEREY COUNTY CALIFORNIA



3 of 3 sheets

EXHIBIT B-1

FORM OF COUNTY REGULATORY AGREEMENT
[AS MODIFIED TO CONFORM TO COMMUNITY REDEVELOPMENT LAW AND
DDA. SUBJECT TO FURTHER REVISION TO CONFORM TO TAX CREDIT/BOND
FINANCING REQUIREMENTS]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Redevelopment Agency of the
County of Monterey
Resource Manager
Housing and Redevelopment Office
168 W. Alisal Street
Salinas, CA 93901

Attn: Jim Cook

No fee for recording pursuant to
Government Code Section 27383

Space Above For Recorder's Use Only

INCLUSIONARY HOUSING
REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS

PHASE [TO BE INSERTED AT TIME OF EXECUTION]: EAST GARRISON
PROJECT
(Inclusionary Rental Units)

This INCLUSIONARY HOUSING REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS (this "Regulatory Agreement" or
"Agreement") is entered into as of this _____ day of _____ 200____, by and
between the REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY, a public
body, corporate and politic (the "Agency"), and _____, a
_____ (the "Owner"), with reference to the following facts:

A. Property. Owner is the owner of certain real property in the County of Monterey
("County"), California described in Exhibit A which is attached hereto and incorporated herein
by this reference (the "Property").

B. DDA. East Garrison Partners I, LLC (the "Developer") and the Agency have
entered into a Disposition and Development Agreement dated as of October 4, 2005 (the
"DDA"). A Memorandum of the DDA was recorded in the Official Records of the County
Recorder on May 16, 2006 as Document No. 2006044222. The DDA provides, among other
things, for conveyance of the Site (as defined in the DDA) from the Agency to the Master
Developer and requires the construction and rental of affordable housing (the "Rental Affordable
Housing" and "Inclusionary Rental Units"), in three phases, on designated parcels in the Site (in
this Agreement, for the phase covered hereby, the "Property") all of which is a portion of the real
property located on the former Fort Ord Army Base within the unincorporated area of the County

of Monterey, commonly referred to as the East Garrison area. The overall development of the Site may be referred to as the "East Garrison Project". The Master Developer has acquired the Site from the Agency and, subsequent thereto, has transferred the Property to the Owner pursuant to the DDA. Capitalized terms used in this Regulatory Agreement shall have the same meaning as set forth in the DDA, unless otherwise defined in this Regulatory Agreement.

C. Redevelopment Specific Plan. The Site is subject to the Redevelopment Plan for the Fort Ord Redevelopment Project Area ("Redevelopment Plan") adopted by the County of pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et. seq. ("CRL")) which governs, among other provisions, the development of income-restricted housing for very low and low income households on the Property. Development of the Site is also governed by the East Garrison Specific Plan ("Specific Plan") and related land use entitlements approved by the County (the "Development Approvals").

D. County Ordinance; Delegation to Agency. The County has adopted an Inclusionary Housing Ordinance, Monterey County Code Chapter 18.40 ("Chapter 18.40"). In approving the DDA County found that the provisions of the DDA comply with, and provide more affordable housing on the Site than is required under, Chapter 18.40, with certain modifications to Chapter 18.40 approved by the County to be consistent with the requirements of the Community Redevelopment Law and the type of financing which will be sought to develop affordable housing on the Site. County has delegated to the Agency the authority and responsibility to administer and enforce, in accordance with the terms of the DDA, the County's inclusionary housing requirements contained in Chapter 18.40 and County housing policies adopted pursuant thereto, as modified to be consistent with the requirements of the CRL and the type of financing which will be sought to develop the Rental Affordable Housing on the Site.

E. Prior Agreements. Pursuant to the DDA and with the approval of the Agency and the County, Owner and the Master Developer entered into a Memorandum of Agreement dated as of _____ (the "MOA") designating Owner as the affordable housing developer for the Phase _____ Rental Affordable Housing. In furtherance of the MOA, the Master Developer, Owner and Agency, with the consent of the County, entered into an Assignment and Assumption Agreement dated as of _____ (the "Assignment Agreement"), to be effective and recorded upon the transfer of the Property from the Master Developer to Owner. The Assignment Agreement has been recorded, followed by the recordation of the Quitclaim Deed to the Property from the Master Developer to Owner, prior to the recordation of this Regulatory Agreement, in the Official Records of the County Recorder.

F. Redevelopment Covenants and Restrictions. Pursuant to Health and Safety Code Sections 33334.2 and 33413, the Agency must require recordation of covenants or restrictions which ensure that the Rental Affordable Housing constructed in satisfaction of Health and Safety Code Section 33413(b) remains available for occupancy by very low and low income households at affordable housing cost for fifty-five (55) years. The following covenants and restrictions are recorded against the Property to ensure compliance with Health and Safety Code Sections 33334.2 and 33413.

G. This Agreement. This Agreement applies to the Property constituting the Phase _____ Rental Affordable Housing of the East Garrison Project.

NOW, THEREFORE, it is mutually agreed by and between the Owner and the Agency (the "Parties") as follows:

**ARTICLE 1.
DEFINITIONS AND EXHIBITS**

Section 1.1 Definitions. In addition to those terms defined in the Recitals to this Agreement, the following terms have the following meanings in this Agreement:

- (a) "Actual Household Size" shall mean the actual number of persons in the applicable household.
- (b) "Administrative Manual" shall mean the manual prepared pursuant to subsection 18.40.110H of Chapter 18.40 of the Monterey County Code.
- (c) "Affordable Rent" shall mean Rent, which does not exceed: (i) for Very Low Income Inclusionary Rental Units, one-twelfth (1/12th) of thirty percent (30%) of fifty percent (50%) of Median Income, adjusted for Assumed Household Size based on the number of bedrooms in the unit; (ii) for Low Income Inclusionary Units, one-twelfth (1/12th) of thirty percent (30%) of sixty percent (60%) of Median Income, adjusted for Assumed Household Size based on the number of bedrooms in the unit.
- (d) "Agreement" means this Inclusionary Housing Regulatory Agreement and Declaration of Restrictive Covenants, to be recorded against the Property.
- (e) "Annual Income" shall mean the total anticipated annual income of all persons in a household as calculated in accordance with 24 CFR 813, or successor federal housing program that utilizes a reasonably similar method of calculation, as designated by the County.
- (f) "Assumed Household Size" shall mean the assumed household size utilized to calculate the permissible Rent for a Unit as follows: for a one-bedroom unit a household size of two (2) persons shall be assumed; for a two-bedroom unit a household size of three (3) persons shall be assumed; for a three-bedroom unit a household size of four (4) persons shall be assumed; and for a four-bedroom unit a household size of five (5) persons shall be assumed. "Assumed Household Size" is not intended to restrict the actual number of persons occupying a Unit. Notwithstanding the foregoing, if tax credits are used in the financing of the development of Property, the standard applicable to such tax credit financing may be used by Owner.
- (g) "Financing Regulatory Agreement" shall mean a regulatory agreement required by Owner's financing for the development of the Property and approved by the Agency.
- (h) "Inclusionary Rental Unit" shall mean a Unit with occupancy and rents restricted pursuant to this Agreement, and shall not include one employee accessory unit which shall not be income restricted [Except Phase Three].

(i) "Low Income Household" means a household, including a Very Low Income Household, with an Annual Income which does not exceed HUD's annual determination for lower income households with incomes of approximately eighty percent (80%) of the Median Income, adjusted for Actual Household Size, and with household assets that do not exceed the limits for Inclusionary Rental Units set forth in the Administrative Manual.

(j) "Low Income Inclusionary Rental Unit" means an Inclusionary Rental Unit reserved for occupancy by a Low Income Household at an Affordable Rent.

(k) "Maximum Initial Rents" means the initial rents for the Inclusionary Rental Units determined pursuant to the formula specified in the Administrative Manual for each income level and set forth in Exhibit B attached hereto and incorporated herein.

(l) "Median Income" means the median household income as determined periodically by HUD for the Salinas Metropolitan Statistical Area and updated on an annual basis.

(m) "Property" means the real property described in Exhibit A attached hereto and incorporated herein.

(n) "Quitclaim Deed" means the deed to the Property from the Master Developer to Owner.

(o) "Regulatory Agreement" means this Agreement.

(p) "Rent" shall mean the total of monthly payments by the Tenant of a Unit for the following: use and occupancy of the Unit and land and associated facilities, including parking; any separately charged fees or service charges assessed by the Owner which are required of all Tenants, other than security deposits; a Utility Allowance; and any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the Owner, and paid by the Tenant. Utility Allowances shall be as provided by the applicable requirements of federal and state law

(q) "Rental Development" shall mean the Property and the Units to be developed on the Property, as well as any additional improvements, and all landscaping, roads and parking spaces existing thereon, as the same may from time to time exist.

(r) "Tenant" shall mean a household legally occupying a Unit pursuant to a valid rental agreement with Owner.

(s) "Term" shall mean the term of this Agreement, which is set forth in Section 6.7 of this Agreement.

(t) "Unit(s)" shall mean one or all of the _____ ()
[insert total number of units in the Rental Development] rental units to be constructed on the Property.

(u) "Very Low Income Household" means a household with an Annual Income which does not exceed HUD's annual determination for very low income households earning approximately fifty percent (50%) of Median Income, adjusted for actual household size, and with household assets that do not exceed the limit for Inclusionary Rental Units set forth in the Administrative Manual.

(v) "Very Low Income Inclusionary Rental Unit" means an Inclusionary Rental Unit reserved for occupancy by a Very Low Income Household at an Affordable Rent.

(w) "Utility Allowance" shall mean an allowance for the cost of an adequate level of service for utilities paid by the Tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV. Utility Allowances to be used for the calculation of permissible Rent under this Agreement shall be as provided by the County in the Administrative Manual to be inserted on Exhibit C hereto.

Section 1.2 Exhibits. The following Exhibits are attached and incorporated into this Agreement;

Exhibit A. Legal description of the Property.

Exhibit B. Schedule of Maximum Initial Rents for Inclusionary Units.

Exhibit C. Utility Allowance for Inclusionary Rental Units.

ARTICLE 2. AFFORDABILITY AND OCCUPANCY COVENANTS

Section 2.1 Occupancy Requirements.

(a) Very Low Income Units. _____ () [insert number] of the Inclusionary Rental Units shall be rented to and occupied by or, if vacant, available for occupancy by Very Low Income Households for the term of this Agreement as provided in Section 6.7 hereof.

(b) Low Income Units. _____ () [insert number] of the Inclusionary Rental Units shall be rented to and occupied by or, if vacant, available for occupancy by Low Income Households for the term of this Agreement as provided in Section 6.7 hereof.

(c) Employee Unit. One of the units, in addition to the Inclusionary Rental Units referenced in (a) and (b) above shall be available as an employee accessory unit and shall not be income restricted. [Except Phase Three].

(d) Sizes of Units and Bedroom Count. The Inclusionary Rental Units shall be a mix of one to _____ bedroom units as shown on Owner's construction plans as approved by the Agency:

Section 2.2 Allowable Rent.

(a) Very Low Income Rent. Subject to the provisions of Section 2.3 below, the Rent (including Utility Allowance) charged to Tenants of the Very Low Income Inclusionary Rental Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of Median Income, adjusted for Assumed Household Size; provided, however, in no event shall the Rents be required to be lower than the maximum initial rents set forth in Exhibit B to this Agreement.

(b) Low Income Rent. Subject to the provisions of Section 2.3 below, the Rent (including Utility Allowance) charged to Tenants of the Low Income Inclusionary Rental Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of sixty percent (60%) of Median Income, adjusted for Assumed Household Size; provided, however, in no event shall the Rents be required to be lower than the maximum initial rents set forth in Exhibit B to this Agreement.

(c) Agency Review of Rents. Initial rents for all Inclusionary Rental Units shall be provided to the Agency by the Owner prior to occupancy. All rent increases shall also be provided to the Agency by the Owner. The Agency shall provide the Owner with a schedule of maximum permissible rents and Utility Allowances for the Inclusionary Rental Units annually. The maximum permissible rents and the Utility Allowances for the Inclusionary Rental Units as of the date of this Agreement are set forth in Exhibit B and Exhibit C to this Agreement, respectively.

Section 2.3 Increased Income of Tenants.

(a) Increase from Very Low Income to Low Income. If, upon recertification of the income of a Tenant of an Inclusionary Rental Unit, the Owner determines that a former Very Low Income Household's Annual Income has increased and exceeds the qualifying income for a Very Low Income Household set forth in Section 1.1(r), but does not exceed the maximum qualifying income for a Low Income Household, then, upon expiration of the Tenant's lease:

(1) Such Tenant's Unit shall be considered a Low Income Unit;

(2) Such Tenant's Rent may be increased to the Affordable Rent for a Low Income Unit, upon sixty (60) days written notice to the Tenant; and

(3) The Owner shall rent the next available Unit to a Very Low Income Household at Rent not exceeding the Affordable Rent for a Very Low Income Unit, to comply with the requirements of Sections 2.1(a) and 2.2(a) above.

(b) Non-Qualifying Household. If, upon recertification of the income of a Tenant of an Inclusionary Rental Unit, the Owner determines that a former Very Low Income Household or Low Income Household has an Annual Income exceeding the maximum qualifying income for a Low Household set forth in Section 1.1(h), such Tenant shall be permitted to continue to occupy the Unit at Rent not exceeding the lesser of: (i) thirty percent (30%) of the actual household income of the Tenant; or (ii) market rate rent, and the Owner shall rent the next

available Unit to a Very Low Income Household or Low Income Household as applicable, to meet the requirements of Section 2.1 and 2.2 above.

(c) Termination of Occupancy. Upon termination of occupancy of a Unit by a Tenant, such Unit shall be deemed to be continuously occupied by a household of the same income level (e.g., Very Low Income Household or Low Income Household as the income level of the vacating Tenant, until such Unit is reoccupied, at which time the income character of the Unit (e.g., Very Low Income Inclusionary Rental Unit or Low Income Inclusionary Rental Unit) shall be redetermined. In any event, Owner shall maintain the occupancy requirements set forth in section 2.1 above.

Section 2.4 Marketing and Rental of Inclusionary Rental Units. The Owner shall market the Inclusionary Rental Units to Very Low Income Households and Low Income Households at Affordable Rents in compliance with a marketing and management plan approved by the County's Housing and Redevelopment Office acting for the Agency. The Owner shall comply with applicable fair housing laws in the marketing and rental of the Inclusionary Rental Units, and the Owner shall conduct marketing efforts in both English and Spanish [Applicable only if this requirement, limited to Spanish, will not violate federal or state law, or require additional languages to be used]. Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor.

Section 2.5 Nondiscrimination. [Except for Phase Three: units may be marketed as live/work for artists.] All of the Inclusionary Rental Units shall be available for occupancy on a continuous basis to members of the general public who are income eligible. The Owner shall not give preference to any particular class or group of persons in renting or selling the Inclusionary Rental Units, except to the extent that the Units are required to be leased to Very Low Income Households and Low Income Households. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g. SSI), age (except for lawful senior housing), ancestry, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Unit nor shall the Owner or any person claiming under or through the Owner, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of any Unit.

Section 2.6 Section 8 Certificate Holders. The Owner will accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective Tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Rental Development which have the effect of precluding occupancy of units by such prospective Tenants.

Section 2.7 Agency Approval of Documents. The following documents, to be approved in writing by the Agency, which approval shall not be unreasonably withheld or delayed, shall be used in connection with the rental of the Inclusionary Rental Units. Amendments to the following documents shall also be approved by the Agency, which approval shall not be unreasonably withheld or delayed, prior to implementation of the amendments:

(a) A marketing and management plan consistent with the terms of this Regulatory Agreement and County marketing and management requirements as set forth in the Administrative Manual, establishing the process for seeking, selecting and determining the eligibility of tenants of the Inclusionary Rental Units; provided, however that the Agency and County shall not impose any local preference policies for eligibility for the Inclusionary Rental Units.

(b) Form of rental agreement or lease to be signed by tenants of the Inclusionary Rental Units. The rental agreement or lease shall include the following provisions: (i) a minimum twelve (12)-month term; (ii) the number of persons permitted to occupy the Inclusionary Rental Unit, not to exceed two persons per bedroom plus two; (iii) the Tenants' obligation to maintain the unit in a decent and safe condition and to inform the Owner of any need for maintenance or repair; (iv) a prohibition against sublease of the Unit; (v) an obligation to report changes in household size and/or household income to the Owner and Agency; (vi) nondiscrimination provisions (vii) an obligation to provide annual income certifications and documentation to the Owner; and (viii) an obligation to comply with all monitoring requests of the Agency or its designee.

ARTICLE 3. INCOME CERTIFICATION AND REPORTING

Section 3.1 Income Certification. The Owner will obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications from each Tenant renting any of the Inclusionary Rental Units. The Owner shall make a good faith effort to verify that the income provided by an applicant or occupying household in an income certification is accurate by taking two or more of the following steps as a part of the verification process: (a) obtain a pay stub for the most recent pay period; (b) obtain an income tax return for the most recent tax year; (c) conduct a credit agency or similar search; (d) obtain an income verification form from the applicant's current employer; (e) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (f) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of Tenant income certifications shall be provided to the Agency within five (5) working days of approval by the Owner.

Section 3.2 Compliance Reports. A compliance report meeting the requirements of the Administrative Manual, verifying compliance of all completed Inclusionary Rental Units with the terms of this Agreement, and certified as correct under penalty of perjury by the Owner and any property management company managing the Units, shall be submitted annually to the County Housing and Redevelopment Office on April 1 of each year, commencing on the April 1 following issuance of final certificates of occupancy for one hundred percent (100%) of the

Inclusionary Rental Units. If similar reports on some or all of the Inclusionary Rental Units are required for regulatory compliance with other financing programs, those reports may be deemed satisfactory for the purpose of this section by the County Housing and Redevelopment Office, with respect to the portion of the Inclusionary Rental Units covered by such reports, provided that copies are provided on an annual basis to the County Housing and Redevelopment Office with an owner certification addressed to the Agency.

Section 3.3 Additional Information. The Owner shall provide any additional information reasonably requested by the Agency. The Agency shall have the right to examine and make copies of all books, records or other documents of the Owner which pertain to the Rental Development.

Section 3.4 Records and Monitoring. The Owner shall maintain complete, accurate and current records pertaining to the Rental Development, including records pertaining to income and household size of Tenants. All Tenant lists, applications and waiting lists relating to the Rental Development shall at all times be kept separate and identifiable from any other business of the Owner and shall be maintained as required by the Agency, in a reasonable condition for proper audit. Owner shall retain all records related to compliance with obligations under this Agreement and Chapter 18.40 for a period not less than five (5) years from the date of origination of such records, and make them available to Agency employees or others designated by the Agency for inspection and copying on ten (10) business days' written notice. Owner shall permit Agency employees or others designated by the Agency to inspect the Property to monitor compliance with this Agreement following five (5) business days' written notice to Owner. The Agency shall be further entitled to monitor compliance with this Agreement and Chapter 18.40 as provided in the Administrative Manual.

ARTICLE 4. OPERATION, MANAGEMENT, AND MAINTENANCE OF THE DEVELOPMENT

Section 4.1 Residential Use. The Rental Development shall be operated only for residential use. No part of the Rental Development shall be operated as transient housing.

Section 4.2 Compliance with Assignment Agreement. Owner shall comply with all applicable terms and provisions of the Assignment Agreement (as referenced in Recital E) and the Quitclaim Deed (as referenced in Recital E).

Section 4.3 Taxes and Assessments. Except to the extent Owner is exempt pursuant to law, Owner shall pay all real and personal property taxes, assessments, if any, and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any line or charge from attaching to the Property; provided, however, that Owner shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event Owner exercises its right to contest any tax, assessment, or charge against it, Owner, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

Section 4.4 Management Responsibilities. The Owner is responsible for all management functions with respect to the Rental Development, including without limitation the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The Agency shall have no responsibility over management of the Rental Development. The Owner shall retain a professional property management company approved by the Agency in its reasonable discretion to perform its management duties hereunder. With prior Agency approval, the Owner may also self-manage the Rental Development. A resident manager shall also be required for all Rental Developments with sixteen (16) or more Units.

Section 4.5 Approval of Management Policies. The Owner shall submit its written management policies with respect to the Rental Development to the Agency for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Regulatory Agreement.

Section 4.6 Property Maintenance. The Owner agrees, for the entire Term of this Agreement, to maintain all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions:

The Agency and County places prime importance on quality maintenance to ensure that all County and Agency inclusionary housing developments and County-assisted and Agency-assisted affordable housing projects within the County are not allowed to deteriorate due to below-average maintenance. Normal wear and tear of the Rental Development will be acceptable to the County assuming the Owner agrees to provide all necessary improvements to assure the Rental Development is maintained in good condition. The Owner shall make all repairs and replacements necessary to keep the improvements in good condition and repair.

In the event that the Owner breaches any of the covenants contained in this section and such default continues or is not commenced to be cured for a period of ten (10) business days after written notice from the Agency with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from the Agency with respect to landscaping and building improvements, then the Agency, in addition to whatever other remedy it may have at law or in equity, shall have the right to enter upon the Property and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, the Agency shall be permitted (but is not required) to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the Agency and/or costs of such cure, plus a fifteen percent (15%) administrative charge, which amount shall be promptly paid by the Owner to the Agency upon demand

Section 4.7 Insurance Requirements. The Owner shall maintain the following insurance coverage throughout the Term of this Agreement:

(a) Worker's Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident.

(b) Comprehensive General Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit and Five Million Dollars (\$5,000,000) aggregate limit for all occurrences for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations.

(c) Comprehensive Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit and Five Million Dollars (\$5,000,000) aggregate limit for all occurrences for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable; provided, however, that if the Owner does not own or lease vehicles for purposes of this Agreement, then no automobile insurance shall be required.

(d) Property insurance covering the Rental Development, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the Agency. Flood insurance shall be obtained if required by applicable federal regulations.

The Owner shall cause any general contractor, agent, or subcontractor working on the Rental Development under direct contract with the Owner or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (a), (b), and (c) above, except that the limit of liability for comprehensive general liability insurance for subcontractors shall be One Million Dollars (\$1,000,000), and shall require that such insurance shall meet all of the general requirements of subsections (e), (f), and (g) below, including, without limitation, the requirement of subsection (f). Liability and Comprehensive Automobile Liability insurance to be maintained by such contractors and agents pursuant to this subsection shall name as additional insureds the County, the Agency, their officers, agents, employees and members of the County Board of Supervisors and the Agency Board.

(e) The required insurance shall be provided under an occurrence form, and Owner shall maintain the coverage described in subsections (a) through (d) continuously so long as this Agreement is in effect. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.

(f) Comprehensive General Liability, Comprehensive Automobile Liability and Property insurance policies shall be endorsed to name as an additional insured the County, the Agency, and their officers, agents, employees and members of the County Board of Supervisors and the Agency Board.

(g) All policies and bonds shall be endorsed to provide thirty (30) days prior written notice of cancellation, reduction in coverage, or intent not to renew to the address established for notices to the County and the Agency.

ARTICLE 5. DEFAULT AND REMEDIES

Section 5.1 Failure of the Owner to cure or commence to cure (and diligently prosecute such cure to completion) any default in the Owner's obligations under the terms of this Agreement within thirty (30) days after the delivery of a notice of default from the Agency will constitute a default under this Agreement. Subject to the rights of lenders under the financing agreements for the development of the Property, the Agency may exercise such remedies as are available for such default pursuant to the Assignment and Assumption Agreement or any of the following:

(a) instituting against the Owner, or other parties, a civil action for declaratory relief, injunction or any other equitable relief, or relief at law, including without limitation an action to rescind a transaction and/or to require repayment of any funds received in connection with such a violation;

(b) where one or more persons have received financial benefit as a result of violation of this Regulatory Agreement the Agency may assess, and institute legal action to recover as necessary, a penalty in any amount up to and including the amount of financial benefit received, in addition to recovery of the benefit received;

(c) prosecuting a misdemeanor against any person who has rented a residential unit at a rent exceeding the maximum allowed under this Regulatory Agreement or to a household not qualified under this Regulatory Agreement, or who has otherwise violated Chapter 18.40, or any other agreement, restriction or requirement authorized or imposed under Chapter 18.40;

(d) if and to the extent necessary to correct any such default, the Owner hereby grants to the Agency the option to lease, from time to time, units in the Rental Development for a rental of One Dollar (\$1.00) per unit per year for the purpose of subleasing such units to comply with Sections 2.1 and 2.2 of this Regulatory Agreement. Any rents received by the Agency under any such sublease shall be paid to the Owner after the Agency has been reimbursed for any expenses incurred in connection with such sublease; or

(e) any other remedies authorized under Chapter 21.84 of the Monterey County Code.

Section 5.2 Remedies Cumulative. Subject to Section 5.1, no right, power, or remedy given to the Agency by the terms of this Regulatory Agreement or the Assignment and Assumption Agreement, is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the Agency by the terms of any such document, or by any statute or otherwise against the Owner, and any other person. Neither the failure nor any delay on the part of the Agency to exercise any such rights and remedies shall operate as a waiver

thereof, nor shall any single or partial exercise by the Agency of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 5.3 Attorneys Fees and Costs. The Agency shall be entitled to receive from the Owner or any person violating the requirements of this Agreement, in addition to any remedy otherwise available under this Agreement or at law or equity, whether or not litigation is instituted, the costs of enforcing this Agreement, including without limitation reasonable attorneys' fees and the costs of Agency staff time.

ARTICLE 6. GENERAL PROVISIONS

Section 6.1 Appointment of Other Agencies. At its sole discretion, the Agency may designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform the Agency's obligations under this Agreement.

Section 6.2 Hold Harmless. Owner will indemnify and hold harmless (without limit as to amount) the County, the Agency, and their elected officials, officers, employees and agents in their official capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the Rental Development, the Inclusionary Rental Units, or Owner's performance or non-performance under this Agreement, and shall protect and defend Indemnitees, and any of them with respect thereto, except to the extent caused by the gross negligence or willful misconduct of the County or the Agency. The provisions of this section shall survive expiration or other termination of this Agreement or any release of part or all of the Property from the burdens of this Agreement, and the provisions of this section shall remain in full force and effect.

Section 6.3 Covenants to Run With the Land. The Agency and the Owner hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property, provided, however, that on the expiration of the Term of this Agreement said covenants and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof, shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the Agency expressly releases such conveyed portion of the Property from the requirements of this Agreement.

Section 6.4 Attorneys Fees and Costs. In any action brought to enforce this Agreement, the prevailing party shall be entitled to all reasonable costs and expenses of suit, including attorneys' fees. This section shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

Section 6.5 Notices. All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the party to receive such notice at the addresses set forth below:

TO THE AGENCY: Redevelopment Agency of the
County of Monterey
Resource Manager
Housing and Redevelopment Office
168 W. Alisal Street
Salinas, CA 93401
Attn: Jim Cook

TO THE OWNER: _____

Attn: _____

Any party may change the address to which notices are to be sent by notifying the other parties of the new address, in the manner set forth above.

Section 6.6 Integrated Agreement. This Agreement constitutes the entire Agreement between the parties and no modification hereof shall be binding unless reduced to writing and signed by the parties hereto.

Section 6.7 Term and Amendment of Agreement. This Agreement shall remain in effect for a period of fifty-five (55) years; provided, however, if the Rental Development is destroyed or demolished by forces of nature without action by Owner (or irreparably damaged by forces of nature and then demolished by Owner) and such destruction or demolition occurs at least fifty (50) years following the date of this Agreement, this Agreement shall terminate upon such destruction or demolition. This Agreement, and any section, subsection, or covenant contained herein, may be amended only upon the written consent of the Resource Manager, County Office of Housing and Redevelopment or his or her designee, who shall have authority in his or her discretion to approve or disapprove amendment on behalf of the Agency.

Section 6.8 No Claims. Nothing contained in this Agreement shall create or justify any claim against the Agency by any person that Owner may have employed or with whom Owner may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Property or the construction of the Rental Development.

Section 6.9 Applicable Law. This Agreement shall be governed by California law.

Section 6.10 Waivers. Any waiver by the Agency of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the Agency to take action on any breach or default of Owner or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Owner to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the Agency to any act or omission by Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the Agency's written consent to future waivers.

Section 6.11 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 6.12 Multiple Originals; Counterpart. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 6.13 Recording of Agreement. The Owner shall cause this Agreement to be recorded against the Property in the Official Records of the County of Monterey.

Section 6.14 Severability. In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless, be and remain in full force and effect.

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

OWNER:

_____, a
California _____

By: _____
Its: _____

By: _____
Its: _____

AGENCY:

Redevelopment Agency of the County of
Monterey, a public body, corporate and politic

By: _____
Its: _____

APPROVED AS TO FORM:

By: _____
Agency Counsel

ACKNOWLEDGMENTS

State of California

County of Monterey

On _____ before me, _____,

Notary Public, personally appeared _____

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of Monterey

On _____ before me, _____,

Notary Public, personally appeared _____

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A TO EXHIBIT B-1

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B TO EXHIBIT B-1

MAXIMUM INITIAL RENTS OF INCLUSIONARY RENTAL UNITS*

<u>Income Classification</u>	<u>1 Bedroom</u>	<u>2 Bedrooms</u>	<u>3 Bedrooms</u>	<u>4 Bedrooms</u>
<u>Very Low Income Unit</u>				
<u>Low Income Unit</u>				

***NOTE: UTILITY ALLOWANCES MUST BE SUBTRACTED TO CALCULATE AMOUNT THAT MAY BE CHARGED TO TENANTS – SEE EXHIBIT C.**

EXHIBIT C TO EXHIBIT B-1

UTILITY ALLOWANCE FOR INCLUSIONARY RENTAL UNITS*
(SUBJECT TO CHANGE ANNUALLY)

1 Bedroom

2 Bedrooms

3 Bedrooms

4 Bedrooms

***NOTE: SUBTRACT UTILITY ALLOWANCE FROM MAXIMUM RENT TO
CALCULATE AMOUNT THAT MAY BE CHARGED TO TENANT.**

EXHIBIT B-2

MODIFICATIONS OF COUNTY INCLUSIONARY HOUSING POLICIES

EVIDENCE: Disposition and Development Agreement, approved by the Redevelopment Agency of Monterey County by Resolution No. _____ on October 4, 2005. This Agreement outlines the requirements for affordable housing, including the 20% inclusionary units and an additional 10% "Workforce II" housing units.

- 10. FINDING:** The project complies with the Inclusionary Housing ordinance #4185 (codified at chapter 18.40 of the Monterey County Code), with modifications as applied to this project and as herein approved by the Board. The modifications are justified by the unique facts and circumstances of this project.
1. Section 18.40.050.B.2 of the Monterey County Code allows the Board of Supervisors to modify the requirements of Chapter 18.40 as applied to a particular project if the Board finds, based on substantial evidence, that it would be appropriate to modify the requirements of the Chapter as a result of unusual circumstances.
 2. This project is unique because it is within a Redevelopment Area and is subject to the requirements of the Community Redevelopment law (Health and Safety Code secs. 33000 et seq.). In addition, this project is subject to the unusual circumstance that the Agency is conveying the land to the project applicant, and therefore, in compliance with Community Redevelopment Law, the Redevelopment Agency has negotiated a Disposition and Development Agreement (DDA) with project applicant. The DDA contains detailed requirements governing the disposition of land and development of the project, including requirements relating to the building of units affordable to very low, low, and moderate income households and workforce II households. Under the DDA, 20% of the 1400 units will be affordable deed-restricted housing, with a distribution of 6% very low, 8% low, and 6% moderate income units, which is slightly more units earmarked for low income and fewer for moderate income than the required distribution, thereby meeting a need in the County for units eligible to low income households. The project also provides more affordable units than required by the Inclusionary Housing ordinance. In addition to the 20% inclusionary units, 10% of the 1400 units will be initially sold as Workforce II housing units, affordable to households earning between 150% and 180% of median income. The DDA contains a detailed schedule governing the timing of construction of the inclusionary units and other requirements guaranteeing the provision of the inclusionary housing units.
 3. The very low and low income units are to be rental units with a term of affordability of 55 years. The moderate income units will be for sale

units for a term of affordability of 45 years. These modifications to the term of affordability are consistent with the requirements of Community Redevelopment law and type of financing which will be sought to develop the affordable units.

County consents under the DDA not to impose local preference policies for eligibility for the very low and low income rental inclusionary housing units or, unless County selects the Workforce II buyers, for the Workforce II homes. This modification is consistent with legal restrictions that may be imposed as a condition of the particular types of financing expected to be obtained to develop these units.

EVIDENCE: The project is in compliance with the requirements of the Inclusionary Housing Ordinance (#4185) based on the requirement that 20 percent of the units be affordable.

EVIDENCE: Chapter 18.40 of the County Code.

EVIDENCE: Disposition and Development Agreement between the Redevelopment Agency and East Garrison Partners I, LLC.

EXHIBIT C

FORM OF

**AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT OF
REAL PROPERTY AND ESCROW INSTRUCTIONS**

(PHASE THREE RENTAL AFFORDABLE HOUSING DEVELOPMENT)

[SUBJECT TO REVISIONS AND CONFORMING CHANGES PRIOR TO EXECUTION]

This AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT OF REAL PROPERTY AND ESCROW INSTRUCTIONS (the "**Agreement**") is made and entered into as of _____, 200_ (the "**Effective Date**"), by and between EAST GARRISON PARTNERS I, LLC, a California limited liability company ("**Seller**") and _____, a California nonprofit public benefit corporation ("**Buyer**") (collectively, the "**Parties**").

RECITALS

A. Seller is or will become the owner of certain real property located in the County of Monterey ("**County**"), State of California, consisting of approximately _____ acres; described as _____, as shown on that certain [as yet unrecorded] map entitled "Map of _____", pertinent portions of which are contained in **Exhibit A** attached hereto and incorporated herein by this reference (the "**Property**").

B. The Property is a portion of an approximately 244 acre area in the unincorporated part of the County known as East Garrison Track 0 which is to be substantially conveyed by the Redevelopment Agency of the County of Monterey ("**Agency**") to Seller for development in accordance with that certain Disposition and Development Agreement by and between the Agency and Seller, dated as of October 4, 2005 (the "**DDA**"), and recorded by Memorandum of DDA in the Official Records of the Monterey County Recorder on May 16, 2006, as Document No. 2006044222 (the "**DDA**"). The East Garrison Track 0 area is part of the former Fort Ord Army Base and was conveyed by the U.S. Army (the "**Army**") by quitclaim deed (the "**Army Deed**") to the Fort Ord Reuse Authority ("**FORA**") which will convey the East Garrison Track 0 area by quitclaim deed (the "**FORA Deed**") to the Agency, for conveyance by quitclaim deed to Seller substantially in the form of Attachment No. 7 to the DDA (the "**Agency Deed**"), subject to certain easements, use and development restrictions imposed by the Agency under the DDA and subject to certain easements, rights, conditions, disclosures, warranties and restrictions in the Army Deed and the FORA Deed, including a Finding of Suitability to Transfer ("**FOST**") adopted by the Army and appended to the Army Deed.

C. In connection with Seller's development of a project consisting of housing and other related uses on the East Garrison Track 0 property (the "**Project**"), Seller desires to ensure that certain affordable housing requirements are met in accordance with, among other things, the Redevelopment Plan for the Fort Ord Redevelopment Project (the "**Redevelopment Plan**"), the

East Garrison Specific Plan and related development entitlements approved by the County on October 4, 2005 (collectively, the "**Specific Plan**"), that certain Development Agreement by and between the County and Seller, dated as of October 4, 2005, and recorded in the Official Records of the Monterey County Recorder on May 16, 2006 as Document No. 2006044223 ("DA") and the DDA. Accordingly, Seller desires to ensure the development of approximately _____ residential rental units affordable to Very Low and Low Income Households, [plus one on-site employee accessory unit not income restricted] (the "Rental Affordable Housing Project") (the "**Rental Affordable Housing Project**"), on the Property.

D. In accordance with the requirements of the DDA for the Rental Affordable Housing Project, Seller and Buyer have entered into a Memorandum of Agreement dated as of _____ ("MOA"). Pursuant to the MOA, Seller and Buyer with the approval of the Agency, will or have entered an Assignment and Assumption Agreement consistent with the form set forth in Exhibit D to the MOA ("Assignment and Assumption Agreement"). Buyer (as defined below in Recital F) and the Agency shall enter into an Inclusionary Housing Regulatory Agreement and Declaration of Restrictive Covenants ("Regulatory Agreement") (all, collectively, the "Rental Affordable Requirements").

E. Seller has, or may, encumber the Property with certain debt financing liens and encumbrances ("**New Financing Encumbrances**"), but intends to remove such New Financing Encumbrances from title to the Property on or before the closing hereunder.

F. Seller desires to sell to Buyer the Property for the purpose of Buyer developing the Rental Affordable Housing Project, and Buyer desires to purchase the Property from Seller to develop the Rental Affordable Housing Project, in accordance with the terms and conditions contained in this Agreement. Seller acknowledges that Buyer, subject to approval of Seller and the Agency, intends to form a California limited partnership ("Buyer's Affiliate Partnership") with tax credit investors and Buyer or its wholly controlled affiliate as sole general partner to acquire, finance, develop, own and operate the Rental Affordable Housing Project. As used in this Purchase Agreement the term "Buyer" shall also mean Buyer's Affiliate Partnership when legally formed and qualified to act with respect to such matters.

G. The parties also contemplate that certain infrastructure improvements in connection with the Rental Affordable Housing Project will be completed by or for Seller prior to the Close of Escrow on the Property on Buyer's behalf.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Buyer and Seller hereby agree as follows:

1. PURCHASE AND SALE.

1.1 Agreement to Buy and Sell.

1.1.1 Subject to the terms and conditions set forth herein, Seller agrees to sell and convey to Buyer, and Buyer hereby agrees to acquire and purchase from Seller, the Property.

1.1.2 As used herein, the term "Property" shall include the Property and all of Seller's right, title and interest in and to all entitlements, easements, rights, mineral rights, oil and gas rights, water, water rights, air rights, development rights and privileges appurtenant thereto. Notwithstanding the foregoing, the term "Property" excludes, in any event, any reimbursement, payment, credit or refund of any deposits, fees, tax increments, and other payments actually paid by Seller in connection with the development of the Property ("**Fee Credits**"). All Fee Credits shall be and remain the property of Seller.

1.1.3 The parties acknowledge and agree that the Property description is a pro forma description based on an as yet unrecorded map, and that the description shall not be amended in any material respect without the mutual consent of the parties, except that any amendment required by any governmental authority or agency shall be permitted.

1.2 Purchase Price. The purchase price for the Property shall be ONE DOLLAR (\$1.00) (the "**Purchase Price**").

1.3 Fee Credits Payment. If Buyer receives any Fee Credits against fees charged Buyer at the time of building permits which are based on infrastructure, improvements or mitigation measures installed or paid for by Seller, whether prior to or after the Close of Escrow, Buyer shall immediately notify Seller of such Fee Credit and shall hold the amount of such Fee Credit in trust for the benefit of Seller. Buyer shall pay to Seller the amount of any such Fee Credit in immediately available funds as soon as reasonably possible, but in no event later than three business days after Buyer's receipt of the Fee Credit. The provisions of this Section 1.3 shall survive the Close of Escrow.

2. PROPERTY REPORTS.

On or before the Effective Date, Buyer shall have received copies of documents that to Seller's actual knowledge relate to the Property and are in Seller's actual possession and control as listed in Exhibit B attached hereto (the "**Property Reports**"), without any representation or warranty whatsoever as to the accuracy or completeness of such Property Reports except that, to Seller's actual knowledge, the Property Reports provided are true and complete copies of the Property Reports. If this Agreement is terminated for any reason other than Seller's default, Buyer shall promptly return to Seller all Property Reports received by Buyer.

3. CONDITION OF TITLE.

3.1 Applicable Requirements. Conveyance of the Property at the Close of Escrow shall be, and Buyer shall accept the Property, subject to the following, each to the extent applicable to the Property, and each as maybe amended, modified, replaced and/or supplemented:

(a) the covenants, disclosures, conditions, rights and restrictions (including the rights of reverter and option to repurchase) in the Quitclaim Deed from the Seller to Buyer, consistent with the form set forth in Exhibit C to this Agreement and approved by the Agency and Seller (the "**Seller's Quitclaim Deed**"), including, without limitation, the inclusion of or reference in Seller's Quitclaim Deed to those covenants, disclosures, conditions, rights and restrictions set forth in the Agency Deed to Seller (including use restrictions, rights of water, and

rights of reverter and option to repurchase as subordinated to approved lenders according to their terms), as referenced and incorporated into Seller's Quitclaim Deed to Buyer;

(b) the Assignment and Assumption Agreement to be entered into prior to or concurrently with this Agreement by and between the Seller, Buyer and Agency, consistent with the form set forth in Exhibit D to the MOA and approved by the Agency and Seller;

(c) the DA;

(d) the DDA;

(e) the Redevelopment Plan;

(f) the Regulatory Agreement;

(g) the Additional Easements (as defined in Section 4), if any; and

(h) all other covenants, conditions, restrictions, easements, rights-of-way, reservations, rights, agreements, encumbrances, notices, matters and title conditions existing in connection with the Property at the Close of Escrow, whether of record, shown in a preliminary title report for the Property, or reviewed and approved by Buyer prior to Close of Escrow.

All of the foregoing shall be referred to herein as the "**Applicable Requirements.**"

3.2 No Liability. Notwithstanding anything that may be to the contrary in this Agreement, Seller shall not be liable to Buyer in damages or otherwise by reason of its inability to convey title as required in Section 3.1, except solely for any title matters intentionally created by Seller that are not permitted under this Agreement, and Buyer shall look solely to its Title Policy and not to Seller for recovery of any losses, expenses, damages and/or liability in connection therewith.

4. ADDITIONAL EASEMENTS.

4.1 Before Close of Escrow. Prior to the Close of Escrow, and if the Property is not shown as a parcel on a final subdivision map approved by the County, Seller shall have the right to: (i) replat, rezone and resubdivide the Property ("**Replat**"); and/or (ii) reserve and/or impose covenants, easements, CC&R's and a homeowners association, assessment or special tax districts (including, but not limited to a community services district ("**CSD**") and a community facilities district ("**CFD**"); provided that the Property shall not be subject to special taxes, charges, fees or costs imposed by a CSD or CFD and liens in connection therewith for infrastructure improvements, maintenance of public facilities and/or public services, exclusive of taxes, charges, fees and costs imposed by the County and other public entities, so long as the Property is used for rental affordable housing subject to the Regulatory Agreement), non-monetary encumbrances, covenants, conditions and restrictions, rights, and rights-of-way, in addition to those existing on or in connection with the Property as of the Effective Date, on, over, under, across and/or through the Property necessary or desirable in connection with Seller's construction and/or development of the Project, and any related activities ("**Additional Easements**"). Notwithstanding anything that may be to the contrary in this Agreement, Buyer shall accept the

Property at Close of Escrow subject to such Additional Easements as may have been imposed as of the Close of Escrow. Such Additional Easements may include both temporary and permanent construction and/or access easements provided such easements do not interfere with Buyer's development of the Property.

4.2 After Close of Escrow. After the Close of Escrow, Buyer shall: (i) consent to, accept, cooperate with and/or convey such Additional Easements as Seller may reasonably request in writing; and (ii) consent to and cooperate with any Replat reasonably requested by Seller; provided such Additional Easements do not interfere with Buyer's development of the Property. The provisions of this Section 4.2 shall survive the Close of Escrow.

5. ESCROW AND CLOSING.

5.1 Opening of Escrow. On or before three business days after the Effective Date, Buyer shall open an escrow (the "**Escrow**") with _____ ("**Escrow Holder**"), by depositing with Escrow Holder a copy of this fully executed Agreement, or executed counterparts hereof. As used in this Agreement, the "**Close of Escrow**" shall mean the date the Seller's Quitclaim Deed is recorded in the Office of the Recorder of the County (the "**Official Records**"), and "**Closing Date**" shall mean the date on which the Close of Escrow occurs. As referenced in Section 3.1 (a), the Seller's Quitclaim Deed contains deed restrictions and covenants, that among other things restrict the use of the Property for rental affordable housing purposes. The form of the deed restrictions and covenants contained in the Seller's Quitclaim Deed shall be subject to revision to the extent necessary to comply with any Applicable Requirements and/or any requirements of any governmental agency or authority.

5.2 Closing Date. The Close of Escrow shall occur on or before _____ (the "**Outside Closing Date**") on a date designated by Buyer upon at least five business days' written notice to Seller and Escrow Holder (the "**Scheduled Closing Date**"). The foregoing notwithstanding, Seller shall have the right to extend the Outside Closing Date and any Scheduled Closing Date for such period or periods of time as may be necessary or desirable to allow Seller to remove from record title any New Financing Encumbrances; provided such extension will not extend beyond any outside closing date required in connection with any such tax credit allocation or tax-exempt bond financing obtained by Buyer or otherwise conflict with time requirements in any financing documents in connection therewith.

5.3 Escrow Fees and Other Charges. At Close of Escrow, Buyer and Seller shall pay in accordance with County custom all costs of closing, including, without limitation: (a) the premium cost of the Title Policy (as defined in Section 6.1 below); (b) all recording charges; (c) Escrow Holder's fees; (d) all County and City documentary and transfer taxes and fees; and (e) other costs related to the transaction.

5.4 Closing Deliveries. The parties shall deposit the following with Escrow Holder prior to the Close of Escrow:

5.4.1 Buyer's Deliveries. Buyer shall deposit the Purchase Price in cash, and Buyer's share of closing costs and prorations as provided in Sections 5.2 above and 5.5.2 below. Buyer shall also execute the Seller's Quitclaim Deed as grantee thereunder, the Assignment and

Assumption Agreement, as assignee thereunder, and, if not previously done, the Regulatory Agreement.

5.4.2 Seller's Deliveries. Seller shall deposit:

(a) the Seller's Quitclaim Deed and Seller's share of closing costs and prorations;

(b) a non-foreign certification satisfying the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder in the form of **Exhibit D-1** attached hereto (the "Non-Foreign Affidavit");

(c) a California state tax withholding certificate satisfying the requirements of California Revenue and Taxation Code Sections 18805(d) and 26131 in the form of **Exhibit D-2** attached hereto (the "California Tax Certificate");

(d) an assignment and bill of sale in the form of **Exhibit D-3** attached hereto (the "Assignment"); and

(e) the executed Assignment and Assumption Agreement between Seller and Buyer and approved by the Agency under the DDA and the County under the DA.

5.4.3 Additional Instruments. Seller and Buyer shall each deposit such other instruments as are reasonably required by Escrow Holder or otherwise required to proceed to the Close of Escrow and consummate the sale of the Property in accordance with the terms of this Agreement.

5.5 Closing.

5.5.1 Actions by Escrow Holder. On the Closing Date, provided each of the conditions to the parties' obligations have been satisfied or waived, Escrow Holder shall undertake and perform the following acts in the following order:

(a) record the Assignment and Assumption Agreement;

(b) record the Seller's Quitclaim Deed in the Official Records (with documentary transfer tax information to be affixed after recording);

(c) record the Regulatory Agreement;

(d) pay any transfer and documentary taxes and fees;

(e) deliver to Seller the Purchase Price;

(f) deliver to Seller and Buyer: (i) conformed copies of the Seller's Quitclaim Deed, (ii) recorded Assignment and Assumption Agreement, and (iii) the Regulatory Agreement;

(g) deliver to Buyer: (i) the original executed Non-Foreign Affidavit, (ii) the original executed California Tax Certificate, (iii) the original executed Assignment and Bill of Sale, and (iv) the Title Policy covering the Property.

5.5.2 Prorations. Real property taxes and assessments for the Property shall be prorated as of the Close of Escrow on the basis of the most recent tax information. Said prorations shall be based on a 30-day month.

5.6 Failure to Close; Termination

5.6.1 Buyer's Default. If the Close of Escrow does not occur on the Scheduled Closing Date (as may have been extended) due to Buyer's default or breach of this Agreement where such default or breach is not cured by Buyer upon ten days' notice, Seller shall have all rights and remedies available to it at law or in equity except the right of specific performance, provided that Buyer's liability for damages to Seller, if any, shall not exceed \$100,000.00. Buyer has reviewed Attachment No. 3 to the DDA and understands and acknowledges that Buyer's failure to accept title to the Property may cause the withholding of building permits for market rate housing in the Project or cause a member of Seller to provide guarantees with respect to the timely development of the Property.

5.6.2 Seller's Default. If the Close of Escrow does not occur on the Scheduled Closing Date (as may have been extended) due to a breach of this Agreement by Seller where such breach is not cured by Seller upon ten days' notice, this Agreement shall not be terminated automatically, but only upon delivery to Escrow Holder and Seller of written notice of termination from Buyer if such breach is still uncured and outstanding on the date of such delivery, in which event (a) Escrow Holder shall automatically return any sums deposited by Buyer and then held by Escrow Holder; and (b) Buyer shall be entitled to pursue any and all remedies available to it against Seller, including, without limitation, specific performance of this Agreement; provided, that Seller's liability for damages to Buyer, if any, shall not exceed \$100,000.00.

5.6.3 Cancellation Charges. If the failure to close is due to the default of one of the parties, the defaulting party shall bear the sole and full liability for paying any escrow and title cancellation fees and charges.

6. ACTIONS PENDING CLOSING

6.1 Title Policy. Buyer's obligation to proceed to the Close of Escrow shall be conditioned upon the commitment by Title Company to issue a CLTA Owner's Policy of Title Insurance (the "**CLTA Policy**") showing title to the Property vested in Buyer with liability equal to the Purchase Price, or such other amount as Buyer may request and is acceptable to the Title Company, subject to the Applicable Requirements. Buyer may choose to obtain an ALTA Owners Policy of Title Insurance (the "**ALTA Policy**") instead of a CLTA Policy (the policy selected whether the CLTA Policy or the ALTA Policy is referred to herein as the "**Title Policy**").

6.2 Access. From and after the Effective Date of this Agreement through the Close of Escrow, Buyer, its agents, employees and contractors shall have the right to enter the Property at reasonable times and upon reasonable prior notice for the purposes of conducting such

investigations, inspections and tests of the Property as Buyer deems necessary in order to determine the condition and suitability of the Property. Buyer hereby agrees to indemnify, defend, protect and hold Seller harmless from and against any and all loss, expense, claim, damage and injury to person or property resulting from the acts or omissions of Buyer, its employees, consultants, engineers, agents and contractors on the Property in connection with and/or related to the performance of any investigation, inspection and/or test of the Property; provided that Buyer shall have no responsibility or liability for any act or omission of Seller or Seller's agents, employees or contractors and/or for any adverse condition or defect on or affecting the Property not caused by Buyer or its employees, agents, contractors, or, subcontractors but discovered or impacted during their inspections. Buyer shall obtain and maintain until Close of Escrow: (i) worker's compensation insurance as may be required by law and (ii) primary liability insurance providing coverage on an occurrence basis in the amount of at least \$1 million insuring against any loss, damage, injury or liability in connection with any such entry and/or investigations, inspections and tests of the Property by Buyer and/or Buyer's Representatives. Such insurance shall name Seller as an additional insured, and otherwise shall be issued by an insurer and be in a form and with deductibles subject to Seller's reasonable prior approval. Prior to any such entry by Buyer or Buyer's Representatives, Buyer shall provide Seller with a certificate evidencing Buyer's liability insurance, and such certificate shall provide that such insurance shall not lapse or be cancelled, terminated, or modified without 30 days' prior notice to Seller.

6.3 Financing: Budget. From and after the Effective Date of this Agreement through the Close of Escrow, Buyer shall process for closing all actions necessary or appropriate for the financing of the Property and the development and construction of the Affordable Rental Housing Project (the "**Rental Affordable Housing Financing**"), including, without limitation, documents for tax credit and bond financing, construction contracts, regulatory agreements, and any required equity contributions. The Rental Affordable Housing Financing shall be in an amount that is sufficient to fund all costs, expenses and fees covered by the Budget. Buyer shall consult regularly with Seller in Buyer's processing for closing of all such financing, and shall provide copies of such financing documents (and any drafts thereof) on Seller's written request. Such documents shall be approved by Seller and the Agency for compliance with the Applicable Requirements as a condition to Close of Escrow.

6.3.1 The "**Budget**" means a budget and business plan for the Rental Affordable Housing Project on the Property containing financial information and projections detailing all costs, expenses and fees associated with the Rental Affordable Housing Project, financing, cash flow projections, and a description of major development, construction and other milestones and deadlines, approved by Seller, a copy of which is attached as **Exhibit E**. The Budget may not be materially amended, modified or supplemented at any time without Seller's prior written approval which approval shall not be unreasonably withheld or delayed if the Budget is balanced and does not increase costs or liabilities of the Seller or Agency.

6.3.2 The "**Critical Dates Schedule**" means the schedule attached as **Exhibit F** which has been agreed to by the parties and sets forth dates for applying for or completing the components of the Affordable Rental Housing Financing and other matters essential to the Affordable Rental Housing Project. The Critical Dates Schedule is subject to extension for excused delay granted to Seller under Section 604 of the DDA taking into account time deadlines

imposed by Buyer's tax credits and financing obligations, and extensions for any delays caused by Seller.

7. CONDITIONS TO PURCHASE AND SALE.

7.1 Buyer's Conditions. The following conditions (the "**Buyer's Conditions**") are conditions precedent to Buyer's obligation to purchase the Property:

(a) The representations and warranties contained in Section 8.1 shall be true and correct as of the Close of Escrow, without any material adverse change, except for any material adverse change of which Seller has notified Buyer and Buyer has accepted in writing.

(b) Seller shall have performed all of its obligations under this Agreement to be performed on or before Close of Escrow.

(c) The Title Company shall be committed to issue the Title Policy.

(d) Seller shall have obtained all consents, approvals, authorizations and exemptions required to be obtained by it in order to consummate the transactions contemplated by this Agreement.

(e) No order or injunction restraining or preventing the transactions contemplated by this Agreement or the development of the Property shall be in effect, and no action, suit or proceeding challenging the transactions contemplated by this Agreement or adversely affecting the development of the Property, including, but not limited to eminent domain proceedings, shall be pending before any court or government agency or be overtly threatened by any government agency.

(f) The Rental Affordable Housing Financing shall have been obtained or irrevocably committed, [if applicable, the Loan Financing shall close concurrently with the Close of Escrow] and, [if applicable, on or before Close of Escrow, tax credit investors in Buyer shall have been admitted and made their respective capital contributions as required under any applicable agreement], all in accordance with the Budget.

(g) Buyer [and, with mutual agreement of Buyer, Seller, an affiliate of Seller or of any member of Seller] shall have entered into a construction contract ("**Construction Contract**") for the design, construction and development of the Affordable Rental Housing Project, on terms and conditions acceptable to the parties thereto in the reasonable discretion of each.

(h) The Property shall constitute a legal parcel subdivided in accordance with California law, which Seller shall satisfy prior to Close of Escrow.

Buyer's Conditions are for the benefit of and may be waived by Buyer. Upon the nonsatisfaction of any of Buyer's conditions, unless waived by Buyer, the Agreement may be terminated by Buyer at any time after the date Escrow is otherwise scheduled to close, in which event neither party shall have any further obligations under this Agreement except as otherwise specifically provided in Section 5.6 hereof.

7.2 Seller's Conditions. The following conditions (the "**Seller's Conditions**") are conditions precedent to Seller's obligation to sell the Property:

(a) The representations and warranties contained in Section 8.2 shall be true and correct as of the Close of Escrow, without any material adverse change, except for any material adverse change of which Buyer has notified Seller and Seller has accepted in writing.

(b) Buyer shall have performed all of its obligations under this Agreement to be performed on or before Close of Escrow.

(c) Buyer shall have obtained all consents, approvals, authorizations and exemptions required to be obtained by it in order to consummate the transactions contemplated by this Agreement.

(d) No order or injunction restraining or preventing the transactions contemplated by this Agreement shall be in effect, and no action, suit or proceeding challenging the transactions contemplated by this Agreement shall be pending before any court or government agency or be overtly threatened by any government agency.

(e) The Property shall constitute a legal parcel subdivided in accordance with California law.

(f) The Rental Affordable Housing Financing shall have been obtained or irrevocably committed in the amount specified in the Budget.

(g) Any construction loan that constitutes a portion of the Rental Affordable Housing Financing shall record and close prior to or concurrently with the Close of Escrow, and the lender of any permanent loan constituting a portion of the Rental Affordable Housing Financing shall at Close of Escrow be committed to fund upon completion of construction, subject only to standard conditions and limitations.

(h) The tax credit investors in Buyer shall have been admitted to Buyer, shall have entered into binding enforceable contractual obligations to contribute their respective capital contributions to Buyer, and shall have made, prior to or concurrently with the Close of Escrow, their respective capital contributions to Buyer to the extent required to be made prior to or concurrently with Close of Escrow or prior to commencement of construction under any applicable agreement.

(i) All necessary governmental, electoral and/or other approvals required to be obtained prior to commencement of construction shall have been obtained for the issuance to Buyer of the tax credits to be issued in connection with the Rental Affordable Housing Project.

(j) Buyer shall have entered into a construction contract with a general contractor reasonably acceptable to Seller (the "General Contractor") for the construction of the Rental Affordable Housing Project, subject only to a notice to proceed issued by Buyer following the Close of Escrow.

(k) The General Contractor shall have obtained and paid all fees for a performance bond, issued by a bonding company reasonably acceptable to Seller, insuring, in form acceptable to Seller, the timely performance by the General Contractor of all of the General Contractor's obligations under the Construction Contract. Such performance bond shall benefit and, subject to the rights of any construction lender, be enforceable directly by Seller.

(l) The General Contractor's obligations under the Construction Contract shall be unconditionally guaranteed by Artspace Projects, Inc., a Minnesota nonprofit public benefit corporation ("Artspace"), in a form acceptable to Seller. Artspace's obligations under such guarantee shall, explicitly benefit and, subject to the rights of any construction lender, be enforceable by Seller.

(m) The plans for the Rental Affordable Housing Project shall have been finally approved by all required governmental entities and all necessary permits for the construction of the Rental Affordable Housing Project shall be ready for issuance, subject only to payment of required fees.

Seller's Conditions are for the benefit of and may be waived by Seller. Upon the nonsatisfaction of any of Seller's conditions, unless waived by Seller, the Agreement may be terminated by Seller at any time after the date Escrow is otherwise scheduled to close, in which event neither party shall have any further obligations under this Agreement except as otherwise specifically provided in Section 6.5 hereof.

8. REPRESENTATIONS, WARRANTIES AND COVENANTS.

8.1 Seller's Representations and Warranties. Except as disclosed to Buyer in the Property Reports and otherwise in writing, and except as contained in any document, record or report generally available to the public, Seller hereby represents, warrants and covenants to Buyer as follows:

(a) Seller is a California limited liability company, duly organized and in good standing under the laws of the State of California with full power and authority to conduct its business as presently conducted and to execute, deliver and perform its obligations under this Agreement. Seller is or will become the sole owner in fee simple of the Property and has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement. Except as set forth in a recent preliminary title report including the Property, and except as otherwise contemplated in this Agreement, Seller has not alienated, encumbered, transferred, leased, assigned or otherwise conveyed its interest in the Property or any portion thereof, nor entered into any agreement to do so, nor shall Seller do so prior to the Close of Escrow. The entering into and performance by Seller of the transactions contemplated by this Agreement will not violate or breach any agreement, covenant or obligation binding on Seller. This Agreement has been duly authorized and executed by Seller and the parties signing on behalf of Seller, and upon delivery to and execution by Buyer shall be a valid and binding agreement of Seller.

(b) Seller and any entity or person that owns or controls Seller are not bankrupt or insolvent under any applicable Federal or state standard, have not filed for protection or relief under any applicable bankruptcy or creditor protection statute and have not been

threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute.

(c) Seller is not entering into the transactions described in this Agreement with an intent to defraud any creditor or to prefer the rights of one creditor over any other.

(d) Except for the New Financing Encumbrances and related loan documents, Seller has not entered into any material written unrecorded agreement, lease or contract that would be binding against the Property after the Close of Escrow and which would have a material adverse effect on the Rental Affordable Housing Project and Buyer's ability to construct and develop the Rental Affordable Housing Project.

(e) To Seller's actual knowledge, Seller has disclosed all material written reports and documents in Seller's actual possession and control that pertain to the Property.

Any representations and warranties made to or in connection with Seller's actual knowledge shall be deemed to be given only pursuant to the current actual knowledge of _____, without personal liability therefor and without investigation or inquiry or any duty to investigate or inquire. If Seller discovers that its representation and warranty contained in Section 8.1(d) and/or 8.1(e) is or may be inaccurate or untrue, Seller shall have the right to remedy such inaccuracy or untruth at any time within 30 days after the Effective Date.

8.2 Buyer's Representations and Warranties. Buyer represents and warrants to Seller as follows, which representations and warranties shall be true, complete and correct as of the Effective Date and the Closing Date, and shall survive the Close of Escrow:

(a) Buyer is a nonprofit public benefit corporation duly organized, validly existing and in good standing and qualified to do business in the State of California, and has the capacity and full power and authority to enter into and carry out the agreements contained in, and the transactions contemplated by, this Agreement, and that this Agreement has been duly authorized and executed by Buyer and, upon delivery to and execution by Seller, shall be a valid and binding Agreement of Buyer. The entering into and performance by Buyer of the transactions contemplated by this Agreement will not violate or breach any agreements, covenant or obligation binding on Buyer.

(b) Buyer is a nonprofit corporation qualifying under Internal Revenue Code section 501 (c)(3), the charitable mission of which is consistent with the acquisition, development and operation of affordable housing as set forth in its current Form 1023 filed with the Internal Revenue Service and its current Determination letter.

(c) Buyer and any entity or person that owns or controls Buyer are not bankrupt or insolvent under any applicable federal or state standard, have not filed for protection or relief under any applicable bankruptcy or creditor protection statute relief under any applicable bankruptcy or creditor protection statute and have not been threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute.

(d) Buyer is a qualified nonprofit organization meeting the requirements of IRC Section 42(h)(5)(C) and is a qualified nonprofit corporation within the meaning of the California Revenue and Taxation Code Section 214(g).

(e) Buyer has not had any "negative points" (as such term is used in the Regulations of the California Tax Credit Allocation Committee or the Procedures of the California Debt Limit Allocation Committee) assessed against it.

(f) Neither Buyer nor any partnership in which Buyer is a general partner is in default of any agreement with respect to any other property which has been awarded Tax Credits or tax exempt financing.

(g) There has not been an IRS Form 8611 filed with respect to any project in which the Buyer has a direct or indirect interest.

8.3 Buyer's Covenants. In addition to all other covenants of Buyer contained in this Agreement, Buyer shall perform the following covenants:

(a) Financing. From and after the Effective Date of this Agreement, Buyer shall use all commercially reasonable efforts to apply for and obtain all other financing in addition to the Rental Affordable Housing Financing that may be reasonably available and/or suitable in connection with the Rental Affordable Housing Project on the Property ("**Additional Rental Affordable Housing Financing**"). If Buyer obtains any such Additional Rental Affordable Housing Financing, Buyer shall use such Additional Rental Affordable Housing Financing solely for the Rental Affordable Housing Project and/or to pay any amounts owing Seller under any loan or advance to Buyer.

(b) Compliance. In connection with this Agreement, and the transactions and activities contemplated therein, including but not limited to the Buyer's development of the Rental Affordable Housing Project, Buyer shall fully comply with all Applicable Requirements and all Applicable Laws, and shall not, by any act or omission, cause Seller to fail to comply with any Applicable Requirements and Applicable Laws. "Applicable Laws" means all applicable federal, state, and local laws, rules, regulations, ordinances, codes, orders, and decrees.

(c) Transfers. Buyer shall not engage in any Transfer without the prior written consent of Seller, which Seller may withhold in its sole and absolute discretion. As used in this Agreement, "**Transfer**" means (i) any transfer, sale, lease (other than tenant leases), option, encumbrance or other conveyance of all or any portion of the Property; (ii) any direct or indirect transfer, sale, encumbrance, assignment or other conveyance, whether in a single transaction or a series of transactions, of 25% or more, cumulatively, of the direct or indirect beneficial ownership interests in Buyer and/or any successor or assign of Buyer and/or (iii) the suspension or termination of Buyer's involvement in and/or ultimate decisionmaking authority for the Rental Affordable Housing Project. Any Transfer that does not comply with the requirements of this Section shall be null and void, and shall constitute an incurable default by Buyer under this Agreement. Notwithstanding the foregoing, Buyer and Seller acknowledge and agree that the Buyer may, after the Effective Date of this Agreement without Seller's approval, convey limited partnership interests in itself to one or more tax credit investors for sufficient

consideration and consistent with the Budget and investors may transfer interests to other investors, so long as _____ remains the sole general partner of the Buyer and retains control over day today management of the development of the Rental Affordable Housing Project; provided, however, that with the consent of Seller and Agency such tax credit partners may replace Buyer as general partner and substitute a new general partner.

(d) Development of Rental Affordable Housing Project: Critical Dates Schedule. Buyer shall develop and construct the Rental Affordable Housing Project in accordance with: (i) all Applicable Requirements and all Applicable Laws, and any requirements of any governmental authority or agency in connection with the foregoing, (ii) the Budget, and (iii) in accordance with plans and specifications approved by Seller and by any governmental authority or agency. Buyer shall complete the tasks and items listed in the Critical Dates Schedule by the deadlines specified therein.

(e) Rental Affordable Housing Project Breakdown. Buyer shall develop, construct, and operate the Rental Affordable Housing Project so that a certain percentage of the units are very low income units, and a certain percentage of the units are low income units, as described in the DDA and the MOA (the "**Rental Affordable Housing Breakdown**"). The Rental Affordable Housing Breakdown shall be subject to determination and subsequent adjustment by Seller with Buyer's consent up to the time of Buyer's submission of applications for tax credit and bond financing.

(f) Buyer's Partnership Agreement. Seller shall have the right to reasonably approve the partnership agreement for the Buyer and any material amendments thereto for the purpose of determining compliance with Applicable Requirements.

The provisions of this Section 8.3 shall survive the Close of Escrow.

8.4 Seller's Covenants. In addition to all other covenants of Seller contained in this Agreement, Seller shall provide for the completion of the off-site infrastructure improvements necessary to serve the Property, including utilities stubbed to the parcel line of the Property, on a schedule coordinated with Buyer's construction and opening schedule for the Property, all as to be set forth in more detail on Exhibit G to this Agreement containing the requirements of Seller to provide horizontal improvements pursuant to the DDA to serve the Property. The provision of this Section 8.4 shall survive the close of escrow.

9. PROCESSING.

From and after the Effective Date, Seller shall have the right to process all applications, plans, maps, agreements, documents, approvals and other instruments or entitlements necessary or appropriate in Seller's sole discretion in connection with the Property and/or the development of the Rental Affordable Housing Project so long as it does not restrict Buyer's ability to develop the Property as contemplated in this Agreement. Buyer shall cooperate fully with and, upon Seller's request, assist Seller in the processing of any such items, including without limitation attending a reasonable number of meetings with governmental authorities relating to the same, and to the extent necessary or appropriate, executing all such items and materials. The provisions of this Section shall survive the Close of Escrow.

10. AS-IS SALE; RELEASE.

10.1 As-Is Sale. Buyer represents, warrants and covenants to Seller as of the Close of Escrow that Buyer independently has inspected the Property, or has had full opportunity to do so, and that Buyer has elected to go forward with the purchase of the Property based solely upon such examinations and inspections as Buyer has deemed appropriate to make, and not based on any information provided by or on behalf of Seller, including without limitation the Property Reports. Buyer agrees that except with regard to Seller's representations and warranties contained in Section 8.1 above, and Seller's covenants under Section 8.4, above, Buyer will accept the Property in its condition at Close of Escrow AS-IS, WHERE-IS and WITH ALL ITS FAULTS, including, without limitation, any faults and conditions specifically referenced in this Agreement. Buyer acknowledges and agrees that Seller (including, without limitation, any employee, representative, consultant, contractor or agent of Seller) has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, or past, present or future, concerning or with respect to the Property, including, without limitation, any of the following:

- (a) the habitability, suitability or fitness for a particular purpose of the Property;
- (b) the manner and quality of the Property;
- (c) the nature, quality or condition of the Property, including, without limitation, the water, soil, and geology;
- (d) compliance with any environmental protection, pollution, land use, or zoning laws, rules, regulations, orders or requirements, including, but not limited to, the Endangered Species Act;
- (e) the presence or absence of hazardous or toxic materials or substances at, on, under, or adjacent to the Property;
- (f) the fact that all or a portion of the Property may be located on or near an earthquake fault line or located in an Alquist-Priolo special study zone;
- (g) the availability or provision of utilities or transportation to or for the Property;
- (h) any other matter concerning or relating to the Property.

Buyer further acknowledges and agrees that any information made available to Buyer or provided or to be provided by or on behalf of Seller with respect to the Property, including without limitation the Property Reports, was obtained from a variety of sources and that neither Seller nor any of its agents, employees, representatives, consultants or contractors has made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information except as may otherwise be provided herein. Notwithstanding the foregoing, Seller shall deliver the Property in usable form, and the costs of

environmental remediation of known hazardous or toxic materials at, on, under or adjacent to the Property will be borne by Seller.

10.2 Release. To the maximum extent permitted by law, Buyer, on behalf of itself and its employees, agents, officers, affiliates, members, partners, managers, parent companies, subsidiaries, and all of its and their respective successors, transferees and assigns (collectively, "**Buyer's Parties**"), hereby waives and assumes the risk of all Released Claims (as defined below), and releases, covenants not to sue, and forever discharges Seller, and Seller's employees, agents, officers, affiliates, members, partners, managers, parent companies, subsidiaries and each of their respective successors, transferees and assigns (collectively, "**Seller's Benefited Parties**"), from and against any past, present or future claims, damages, liabilities, losses, costs or expenses (including, without limitation, attorneys' and expert witness fees) whether or not now known or unknown, suspected or unsuspected, accrued or unaccrued (collectively, "**Claims**") that Buyer or any of Buyer's Parties had, has or may at any time in the future have, arising from or relating to the Property (the "**Released Claims**"). Without limiting the generality of the foregoing, the Released Claims shall include, without limitation, Claims attributable to or in connection with (a) the physical condition of the Property; (b) status of title and zoning and land use entitlements; (c) any lack of access, utilities or entitlements; (d) the feasibility or infeasibility of obtaining entitlements, permits or approvals for the future development or use of the Property; (e) the environmental condition of the Property and the presence on the Property of hazardous or toxic materials, substances, wastes, pollutants or other contamination; (f) any surface and subsurface conditions; (g) the presence on the Property of any threatened or endangered species, or any archaeological sites, artifacts or other matters of archaeological significance; (h) any accident or casualty on the Property that occurs following the Close of Escrow, irrespective of the cause; and (i) a slope failure or surface or subsurface geologic or groundwater condition. Notwithstanding the foregoing, "**Released Claims**" shall not include any Claims to the extent directly and solely caused by (i) Seller's negligence or willful misconduct (provided that Seller shall be entitled to conclusively rely on the recommendations and opinions of, and information provided by, Seller's consultants and engineers) and/or (ii) Seller's breach of its covenants, representations or warranties expressly set forth in this Agreement or in any instruments executed and delivered by Seller at Close of Escrow.

10.3 Waiver. Buyer, on behalf of itself and all of Buyer's Parties, hereby waives application of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Buyer's Initials

Buyer acknowledges, for itself and on behalf of each of the Buyer's Parties, that it is aware that it, or any of the other Buyer's Parties, may hereafter discover facts in addition to or different from

those which it now knows or believes to be true with respect to the subject matter of this Agreement, but that it is Buyer's intention to hereby fully, finally and forever waive, assume the risk of, release and discharge each and all of the Released Claims and to bind all of the other Buyer's Parties to this release, assumption of risk, discharge and waiver. In furtherance of this intention, the releases set forth in this Section shall be and remain in effect as full and complete general releases notwithstanding the discovery or existence of any such additional or different claim or fact.

10.4 Environmental Insurance. Without limiting the provisions of Sections 10.1 through 10.3, above, Seller shall cause Buyer to be covered as an additional Named Insured under policies of environmental liability insurance obtained by the Fort Ord Reuse Authority ("FORA PLL") and any excess or additional environmental liability policies obtained by Seller. If Seller is unable to have Buyer named as an additional Named Insured under such insurance, Seller shall indemnify Buyer for any such environmental claims, except to the extent such claims are not entitled to coverage under such insurance.

10.5 Buyer's Insurance; Indemnification. Buyer shall at its own cost obtain and maintain or cause to be obtained and maintained, in such form and content as required by Seller in consultation with Buyer, comprehensive general liability, course of construction and builder's risk, and completed operations insurance, naming Seller and its members as Additional Insureds. Buyer shall defend, indemnify and hold harmless Seller from any claims or liability arising out of Buyer's ownership, development and operation of the Property and the Rental Affordable Housing Project. The foregoing provisions shall be binding on any and all successors and assigns of Buyer with respect to the Property and the Rental Affordable Housing Project.

10.6 Survival. The provisions of this Section 10 shall survive the Close of Escrow.

11. DEFAULT.

11.1 Buyer's Default. If Buyer fails to comply with any of its covenants, obligations and/or duties under this Agreement (except for any default or breach under Section 5.6.1), and if Buyer fails to cure such failure upon ten days' notice from Seller, Seller shall have, in addition to the right to exercise the Repurchase Option as provided in Section 12, and any other rights or remedies Seller may have under the Assignment and Assumption Agreement or otherwise under this Agreement, the right to terminate this Agreement. Buyer has reviewed Attachment No. 3 to the DDA and understands and acknowledges that Buyer's failure to accept title to the Property may cause the withholding of building permits for market rate housing in the Project or cause a member of Seller to provide guarantees with respect to the timely development of the Property.

11.2 Seller's Default. If Seller fails to comply with any of its covenants, obligations, and/or duties under this Agreement (except for any default or breach covered under Section 5.6.2), and if Seller fails to cure such failure upon ten days' notice from Buyer, Buyer shall have, in addition to any other rights or remedies Buyer may have under this Agreement, the right to terminate this Agreement.

12. REPURCHASE OPTION.

12.1 Repurchase Option. In addition to Seller's rights of reverter and repurchase under the Quitclaim Deed, and as a separate and distinct remedy, upon the Close of Escrow hereunder, Seller shall have, and Buyer grants to Seller, an exclusive, irrevocable option (the "**Repurchase Option**") to repurchase the Option Property at the Option Price (as defined below). The "**Option Property**" means the Property, together with (i) such plans, specifications, warranties, agreements, entitlements, permits, certificates, approvals and licenses as may exist in connection with the Property and/or the Rental Affordable Housing Project at the time of option exercise, and (ii) all improvements as may exist on the Property at the time of option exercise and all other property and materials used or to be used in connection with such improvements and/or the Rental Affordable Housing Project. Seller's rights under this Section 12 shall be subordinated to Buyer's financing to the same extent that Agency's rights against Seller and/or Buyer shall be subordinated under the Agency Quitclaim Deed.

12.2 Option Price. The "**Option Price**" shall equal the total amount of out of pocket construction costs and expenses incurred by Buyer, as of the time of Option exercise, in connection with the construction of the Rental Affordable Housing Project. The Option Price shall be paid first by cancellation and offset of any outstanding amounts owed by Buyer and any Affiliate of Buyer to Seller. For purposes of this Agreement, "**Affiliate**" means, with respect to a person or entity, a person or entity controlled by, controlling, or under common control with such person or entity.

12.3 Option Term. The Repurchase Option shall be effective for a term commencing immediately upon the Close of Escrow and ending upon issuance of a Certificate of Completion by the Agency for the Rental Affordable Housing Project has been completed in accordance with all Applicable Requirements and all Applicable Laws, in Seller's reasonable discretion.

12.4 Option Exercise; Repurchase Events. Seller shall have the right to exercise the Repurchase Option by written notice to Buyer and tax credit investors in the Affordable Housing Partnership (the "**Exercise Notice**") at any time after any Repurchase Event occurs, and, as for Curable Repurchase Events, the Repurchase Cure Period elapses without cure of the Curable Repurchase Event. Buyer shall give Seller written notice of the occurrence of any Repurchase Event. For the purposes of this Agreement, "**Repurchase Event**" means any of the following events which would give rise to Agency's remedies to terminate Buyer's rights to develop the Property or revest title in the Agency if Seller did not exercise its remedies hereunder: (i) Buyer engages in a Transfer, except transfers permitted under Section 8.3, including transfers between tax credit investors; (ii) Buyer fails to comply with, and/or causes Seller to fail to comply with, any Applicable Requirements and/or any Applicable Laws; (iii) Buyer fails to meet any deadline specified in the Critical Dates Schedule under Buyer's control; and (iv) Buyer fails to comply with any of its post-closing covenants, duties or obligations in this Agreement and/or any of the Financing Documents. In the event of any Repurchase Event described in Section 12.4(ii), (iii), and (iv) that is reasonably susceptible of cure without causing any material adverse effect on the Project and Seller's ability to develop the Project on the schedule and in the manner currently proposed (a "**Curable Repurchase Event**"), then Buyer and/or tax credit investor(s) in the Rental Affordable Housing Partnership shall have 30 days from the delivery of a notice specifying such Curable Repurchase Event to cure, or if such cure is not possible within 30 days,

to commence within said 30 day period and diligently proceed to cure, such Curable Repurchase Event (the "**Repurchase Cure Period**").

If Seller exercises the Repurchase Option, Buyer shall upon request from Seller assign any plans, specifications, warranties and agreements in connection with the Property and/or the Rental Affordable Housing Project to Seller. Buyer shall ensure that all plans, specifications, warranties and agreements in connection with the Property and/or the Rental Affordable Housing Project shall be assignable to Seller at no cost or expense to Seller.

12.5 Option Closing. Concurrently with Buyer's receipt of an Exercise Notice, an escrow shall be opened with Escrow Holder. The closing of the purchase and sale of the Option Property ("**Option Closing**") shall occur after the date of the Exercise Notice on a date designated by Seller upon three days' written notice to Buyer, subject to Seller's right to extend the Option Closing from time to time for a period or periods not to exceed 30 days. At the Option Closing, Buyer shall convey the Property to Seller by quitclaim deed with the condition of title specified in Section 12.7 below, and all other Option Property other than the Property by bill of sale and assignment in a form reasonably acceptable to Seller. The parties shall timely execute and deliver any other documents or agreements reasonably necessary, and otherwise reasonably cooperate, to consummate the Option Closing.

12.6 Closing Costs and Prorations. Buyer shall pay all escrow fees of Escrow Holder and all documentary and other transfer taxes. Seller shall pay all necessary recording fees and the costs of any title insurance policy it may require. Current real property taxes and assessments for the Property shall be prorated as of the Option Closing on the basis of the most recent tax information. Said prorations shall be based on a 30 day month.

12.7 Condition of Title. At Option Closing, the Property shall be conveyed to Seller in the same title condition as shall have been conveyed to Buyer at the Close of Escrow, except that Seller shall accept (i) conditions or matters affecting title to the Property that Seller caused in connection with the development of the Project and/or the Rental Affordable Rental Housing Project and (ii) encumbrances imposed by senior lenders in connection with the Rental Affordable Housing Financing and/or Loan Financing previously approved by Seller. Buyer shall at its sole cost and expense take such action as is necessary to remove any title exceptions created by it and not allowed by this Agreement.

12.8 Memorandum of Option. Seller shall have the right, immediately upon the Close of Escrow, to record a memorandum of option ("**Memorandum of Option**") giving official notice of the Repurchase Option and Seller's rights thereunder. Seller shall execute and deliver a quitclaim of the Memorandum of Option at the expiration of the Option Term and satisfaction of the conditions set forth in Section 12.3.

12.9 Survival; Binding Effect. Without limiting the generality of any provision of this Agreement, the provisions of this Section shall survive the Close of Escrow, and shall run with the land and be binding on the successors, assigns, and transferees of Buyer as covenants running with the land and/or as equitable servitudes. Buyer acknowledges and agrees that if Seller exercises the Repurchase Option and Buyer defaults in its obligations thereunder, Seller will suffer irreparable harm for which damages will be an inadequate remedy, and that, in addition to

all remedies Seller may have in equity or at law, Seller shall be entitled to specific performance of the Repurchase Option.

13. CONDEMNATION.

If, prior to the Close of Escrow, any portion of the Property is taken by any entity by condemnation or with the power of eminent domain, or if the access thereto is reduced or restricted thereby (or is the subject of a pending taking which has not yet been consummated), Seller shall immediately notify Buyer of such fact. In such event, Seller shall have the right, in Seller's sole discretion, to terminate this Agreement and the Escrow upon written notice to Seller and Escrow Holder not later than seven days after receipt of Seller's notice thereof. If this Agreement and the Escrow are so terminated, all documents and funds shall be returned by Escrow Holder to each party who so deposited the same, and neither party shall have any further rights or obligations hereunder, except for payment of escrow cancellation fees which shall be borne equally by Buyer and Seller.

14. BROKERS.

Buyer and Seller each represents and warrants to the other that it has not engaged any other real estate broker or finder in connection with this transaction. Seller agrees to indemnify, defend and hold Buyer harmless against any loss, liability, damage, cost, claim or expense (including reasonable attorneys' fees) incurred by reason of any brokerage fee, commission or finder's fee which is payable or alleged to be payable to any broker or finder by or on the basis of any alleged acts by Seller. Buyer agrees to indemnify, defend and hold Seller harmless against any loss, liability, damage, cost, claim or expense (including reasonable attorneys' fees) incurred by reason of any brokerage fee, commission or finder's fee which is payable or alleged to be payable to any broker or finder by or on the basis of any alleged acts by Buyer. The representations, warranties, indemnities and agreements contained in this Section 14 shall survive the Close of Escrow or earlier termination of this Agreement.

15. GENERAL PROVISIONS.

15.1 Counterparts. This Agreement may be executed in any number of identical counterparts and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any counterpart signature pages may be detached and assembled to form a single original document. A facsimile of a counterpart signature page shall be considered the equivalent of an ink original for all purposes.

15.2 Entire Agreement; Amendment. This Agreement, together with all exhibits hereto and documents referred to herein, if any, constitute the entire agreement among the parties hereto with respect to the subject matter hereof, and supersede all prior understandings or agreements. This Agreement may be modified only by a writing signed by both parties. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement whether or not actually attached.

15.3 Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect and shall in no way be impaired or invalidated, and the parties

agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

15.4 Choice of Law. This Agreement and each and every related document are to be governed by, and construed in accordance with, the internal laws of the State of California.

15.5 Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement. No provision of this Agreement shall be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other consistent remedies unless they are expressly excluded.

15.6 Time of the Essence. Time shall be of the essence as to all dates and times of performance, whether they are contained herein or contained in any escrow instructions to be executed pursuant to this Agreement.

15.7 Attorneys' Fees. If any party hereto institutes an action or proceeding for a declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default of, or any other action arising out of this Agreement, or the transactions contemplated hereby, or if any party is in default of its obligations pursuant thereto, whether or not suit is filed or prosecuted to final judgment, the non-defaulting party or prevailing party shall be entitled to its actual attorneys' fees and to any court costs incurred, in addition to any other damages or relief awarded. The "prevailing party," for purposes of this Agreement, shall be deemed to be that party which obtains substantially the relief sought, whether by dismissal or award or judgment.

15.8 Assignment; Successors and Assigns. Except as permitted in Section 8.3(c) hereof, Buyer shall not transfer, encumber, sell or assign whether by operation of law or otherwise ("**Assign**") all or any portion of this Agreement and/or its rights and obligations hereunder without the express prior written consent of Seller which Seller may withhold in its sole and absolute discretion. Any Assignment that does not strictly comply with the requirements of this Section shall be null and void. Subject to the foregoing provisions of this Section, this Agreement shall be binding upon and shall inure to the benefit of successors and permitted assigns of the parties to this Agreement.

15.9 Notices. All notices, consents, requests, demands or other communications to or upon the respective parties shall be in writing and shall be effective for all purposes upon receipt on any work day before 5:00 PM local time and on the next work day if received after 5:00 PM or on other than a business day, including, without limitation, in the case of: (i) personal delivery; (ii) delivery by messenger, express or air courier or similar courier; (iii) delivery by

United States first-class certified or registered mail, postage prepaid and (iv) transmittal by electronically confirmed telecopier or facsimile, addressed as follows:

If to Seller: East Garrison Partners I, LLC
24571 Silver Cloud Court, Suite 101
Monterey, CA 93940
Attention: Ian Gillis
Fax: (831) 647-0446

with a copy to: McDonough Holland & Allen, PC
555 Capitol Mall, 9th Floor
Sacramento, CA 95814
Attention: Joseph Coomes, Esq.
Fax: (916) 444-3826

If to Buyer: _____

Attention: _____
Fax: () - _____

With a copy to: _____

Attention: _____
Fax: () - _____

If to Escrow Holder: _____

Attention: _____
Fax: () - _____

In this section "**work days**" means days other than Saturdays, Sundays, and federal and state legal holidays. Either party may change its address by written notice to the other in the manner set forth above. Receipt of communications by United States first-class or registered mail shall be sufficiently evidenced by return receipt. Receipt of communication by facsimile shall be sufficiently evidenced by a machine-generated confirmation of transmission without notation of error. In the case of illegible or otherwise unreadable facsimile transmissions, the receiving party shall promptly notify the transmitting party of any transmission problem and the transmitting party shall promptly resend any affected pages.

15.10 No Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the parties hereto, and no third party is intended to or shall have any rights hereunder.

15.11 No Partnership. Nothing in this Agreement shall be construed as making Buyer and Seller joint venturers or partners.

15.12 Natural Hazard Disclosure Statement. Buyer shall receive from Seller a Natural Hazard Disclosure Statement pertaining to the Property ("**Disclosure Statement**"). Buyer acknowledges that the Disclosure Statement is being delivered pursuant to the Natural Hazard Disclosure Act (California Government Code Sections 8589.3, 8589.4, and 51183.5, California Public Resources Code Sections 2621.9, 2694, and 4136, and California Civil Code Section 1102.6c(d), and any successor statutes or laws, as amended ("**Disclosure Act**"). Buyer acknowledges and agrees that nothing contained in the Disclosure Statement shall release Buyer from its obligation to fully investigate the condition of the Property, including without limitation whether the Property is located in any natural hazard areas, and that Buyer has the expertise to perform such investigations. Buyer further acknowledges and agrees that the matters set forth in the Disclosure Statement may change on or prior to the Closing and that Seller has no obligation to update, modify or supplement the Disclosure Statement.

15.13 Remedies. Each remedy set forth in this Agreement is cumulative of and in addition to any other remedy in this Agreement or available at law or in equity. The exercise, partial exercise or failure to exercise any remedy by any party shall not be an election of remedies and such party shall not be precluded from exercising any other remedy under this Agreement or other remedy available at law or in equity.

15.14 Assignment and Assumption Agreement; Quitclaim Deed. Nothing in this Agreement shall be deemed to waive, modify or otherwise excuse Buyer from compliance with, the provisions of the Assignment and Assumption Agreement or the Quitclaim Deed, and the rights and remedies of the Agency and Seller under said documents. In the event of any conflict between the provisions in this Agreement and any provision in the Assignment and Assumption Agreement, the provision in the Assignment and Assumption Agreement shall prevail.

15.15 Terminology; Interpretation. The captions beside the section numbers of this Agreement are for reference only and shall not modify or affect this Agreement in any manner whatsoever. Wherever required by the context, any gender shall include any other gender, the singular shall include the plural, and the plural shall include the singular. The parties acknowledge that each party has reviewed or has had the opportunity to review with counsel this Agreement and agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto. The parties further agree that no drafts of this Agreement or any amendments or exhibits hereto shall be used to interpret the meaning of this Agreement or any provision thereof, or the parties' intent.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

SELLER:

EAST GARRISON PARTNERS I, LLC,
a California limited liability company
"EGP"

By: Woodman Development Company, LLC,
a California limited liability company,
as a member

By: Woodman Development
Company, Inc., a California
corporation, as its
managing member

By: _____
Its: _____

By: _____
Its: _____

By: Lyon East Garrison Company I, LLC,
a California limited liability company,
as a member

By: William Lyon Homes, Inc.,
a California corporation,
as its managing member

By: _____
Its: _____

By: _____
Its: _____

BUYER:

a California non-profit public benefit
corporation

By: _____
Name: _____
Title: _____

ACCEPTANCE BY ESCROW HOLDER:

Escrow Holder hereby acknowledges that it has received a fully executed counterpart of the foregoing Agreement for Purchase and Sale of Real Property and Escrow Instructions and agrees to act as Escrow Holder thereunder and to be bound by and perform the terms thereof as such terms apply to Escrow Holder.

Dated: _____

By: _____

Name: _____

Title: _____

EXHIBIT A

MAP OF _____

EXHIBIT B

LIST OF PROPERTY REPORTS

The Property Reports consist of the following:

1. Preliminary Title Report/Commitment;
2. Listing and Copies of Title Exceptions;
3. ALTA Survey/Endorsements;
4. Tentative Tract Maps with Conditions of Approval;
5. Final Recorded Tract Map;
6. Specific Plan/EIR;
7. Commission/Council Minutes of Approval;
8. Environmental Assessment Report as set forth in the Army's Track 0 Finding of Suitability to Transfer (FOST); and
9. Soils Assessment Report.

EXHIBIT C

FORM OF QUITCLAIM DEED

[TO BE INSERTED]

EXHIBIT D-1

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

To inform _____, a California _____
("Transferee"), that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended ("Code"), will not be required upon the transfer of certain real property to the Transferee by [Seller], a [status] ("Transferor"), the undersigned hereby certifies the following on behalf of the Transferor:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder); and

2. The Transferor's U.S. employer or tax (social security) identification number is _____

The Transferor understands that this Certification may be disclosed to the Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

The Transferor understands that the Transferee is relying on this Certification in determining whether withholding is required upon said transfer.

Under penalty of perjury I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

Date: _____, 200__

"TRANSFEROR"

[Seller]

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT D-2

SELLER'S STATE TAX WITHHOLDING CERTIFICATE

To inform _____, a California _____
_____ ("Transferee"), on behalf of [Seller], a [status] ("Transferor"), the undersigned hereby certifies that withholding of tax under Sections 18805 and 18662 of the California Revenue and Taxation Code (collectively, the "Act") will not be required by Transferor:

CHECK ALL APPLICABLE ITEMS:

- 1. Transferor is a resident of California. Transferor's last known address is _____
- 2. Transferor is a corporation qualified to do business in California.
- 3. Transferor is a partnership as determined in accordance with Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue Code.
- 4. Transferor has received a homeowner's property tax exemption for the Property.
- 5. Transferor is a bank acting as a trustee other than a trustee of a deed of trust.

If none of the above apply, the undersigned certifies that Transferor has filed Form 597-A with the California Franchise Tax Board ("FTB") for the purpose of obtaining a Certificate from the FTB that Transferor is not required to pay to the FTB the amount of tax otherwise required to be withheld and paid under the Act, or is required only to pay a reduced amount of such tax.

Transferor understands that this Certificate may be disclosed to the California Franchise Tax Board by Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury I declare that I have examined this Certificate and to the best of my knowledge and belief it is true, correct and complete, and I further declare, in my individual capacity, that I have authority to sign this document on behalf of Transferor.

Date: _____, 200_

"TRANSFEROR"

[SELLER]

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT D-3

ASSIGNMENT AND BILL OF SALE

Reference is hereby made to (a) that certain property located in [City], [County] County, California and described in more detail on **Exhibit A** of that certain Purchase Agreement and Escrow Instructions between Seller and Buyer (as such parties are defined below) dated as of [Month] 200_, (b) to the improvements located thereon and (c) to the rights, privileges and entitlements incident thereto (the "**Property**").

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned, [Seller], a [status] ("**Seller**"), does hereby, give, grant, bargain, sell, transfer, assign, convey and deliver to, a California _____ ("**Buyer**"), all of Seller's right, title and interest in the Property, including, without limitation: (i) all entitlements, subdivision agreements and other agreements relating to the development of the Property; (ii) all plans, specifications, maps, drawings and other renderings relating to the Property; (iii) all warranties, claims and any similar rights relating to and benefiting the Property or the assets transferred hereby; (iv) all intangible rights, goodwill and rights benefiting the Property; (v) all development rights benefiting the Property; and (vi) all rights, claims or awards benefiting the Property; excluding in any event all rights to receive a reimbursement, credit or refund from the applicable agency or entity of any deposits or fees paid in connection with the development of the Property, which shall be and remain the property of Seller.

Seller hereby covenants that it will, at any time and from time to time upon written request therefor, execute and deliver to Buyer, its nominees, successor and/or assigns, any new or confirmatory instruments and do and perform any other acts which Buyer, its nominees, successors and/or assigns, may reasonably request in order to fully transfer possession and control of, and protect the rights of Buyer, its nominees, successors and/or assigns in, all the assets of Seller intended to be transferred and assigned hereby.

"**Seller**"

[Seller], a [status]

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT E

BUDGET

[TO BE INSERTED]

EXHIBIT F

CRITICAL DATES SCHEDULE

[TO BE INSERTED]

EXHIBIT G

SELLER'S HORIZONTAL IMPROVEMENTS

TO SERVE THE PROPERTY

[List and Timing to be Provided Prior to Execution of this Agreement.]

EXHIBIT D
FORM OF
ASSIGNMENT AND ASSUMPTION AGREEMENT

[SUBJECT TO CONFORMING CHANGES PRIOR TO TRANSFER; MAY BE COMBINED INTO AGREEMENT ASSIGNING RIGHTS UNDER DEVELOPMENT AGREEMENT]

RECORDED AT THE REQUEST OF
AND WHEN RECORDED, RETURN TO:

PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT

(PARCEL _____, PURSUANT TO DISPOSITION AND DEVELOPMENT AGREEMENT AND AGENCY DEED: EAST GARRISON PROJECT)

THIS PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT (herein "this Agreement") is entered into as of _____, 200__ (the "Effective Date"), by and among EAST GARRISON PARTNERS I, LLC, a California limited liability company (herein "Master Developer") and _____, a _____ (herein "Assignee") and is consented to by the REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY ("Agency") and approved by the COUNTY OF MONTEREY ("County").

The Effective Date of this Agreement shall be the date of its recordation in the Official Records of the County of Monterey pursuant to Section 6 hereof.

RECITALS

A. Master Developer entered into a Disposition and Development Agreement with the Agency dated as of October 4, 2005 (the "DDA"). A Memorandum of the DDA was recorded in the Official Records of the Monterey County Recorder on May 16, 2006, as Document No. 2006044222. The DDA sets forth rights, terms and conditions and requirements for the acquisition and development of certain real property described therein (the "Site") included within the Fort Ord Redevelopment Project Area. Pursuant to the DDA, the property subject to this Agreement will be developed as part of a new mixed-use community with residential, commercial, office, research, public, cultural, recreation, park and open space land

uses (the "Project"). Unless otherwise defined in this Agreement, capitalized terms shall have the same meanings as set forth in the DDA.

B. Master Developer owns the Site pursuant to that certain Quitclaim Deed, dated as of _____, from the Agency to Master Developer, which Deed was recorded in the Official Records of the Monterey County Recorder on _____, 200_, as Instrument No. _____ (the "Agency Deed"), setting forth certain disclosures, covenants, restrictions and requirements pertaining to the Assigned Parcel (as defined below), as well as the Remaining Site (as defined below).

C. Subject to Agency approval as provided in the DDA, the Master Developer desires to convey and assign to Assignee, its interests under the DDA as to that portion of the Site identified and described in Exhibit I, attached hereto and incorporated herein by this reference (herein the "Assigned Parcel"). The remainder of the Site as described in the DDA shall be hereafter referred to as the "Remaining Site."

D. Assignee desires to be bound by and assume all of the Master Developer's obligations and other terms and conditions under the DDA and Agency Deed with respect to the Assigned Parcel.

E. Agency has determined that this Agreement satisfies the requirements of the DDA and Agency Deed with respect to the transfer of the Assigned Parcel.

F. In its approval of this Agreement, the County has determined that this Agreement also satisfies the requirements pertaining to the transfer and assignment of the Assigned Parcel under that certain Development Agreement (the "DA") between the Master Developer and the County, dated as of October 4, 2005, and recorded in the Official Records of the Monterey County Recorder on May 16, 2006, as Instrument No. 2006044223.

AGREEMENTS

NOW, THEREFORE, THE MASTER DEVELOPER AND ASSIGNEE HEREBY AGREE AS FOLLOWS:

1. Transfer of Assigned Parcel. Subject to all of the terms and conditions of that certain Purchase and Sale Agreement (the "Transfer Document"), Master Developer intends to transfer the Assigned Parcel to Assignee subject to the terms of the DDA and the Agency Deed applicable to the Assigned Parcel, and Assignee agrees to accept such transfer subject to the terms and conditions of the DDA and Agency Deed applicable to the Assigned Parcel, including but not limited to those provisions for performance in the development of the Assigned Parcel, restrictions on subsequent assignments, and rights and remedies in the event of default. The Transfer Document, in addition to other rights and remedies, reserves to the Master Developer the right to exercise certain remedies of reverter and repurchase under the Agency Deed prior to the exercise by the Agency of such rights retained by the Agency in the DDA and Agency Deed.

Certain relevant provisions of the Transfer Document are attached hereto as Exhibit 5 and incorporated herein by reference.

2. Assignment by Master Developer. Subject to the terms and conditions of this Agreement, as of the Effective Date (as determined under Section 6 hereof), Master Developer hereby assigns, transfers and grants to Assignee, and its successors and assigns, all of the Assigned Development Rights and Obligations, as such term is defined in Section 8 below. The Retained Development Rights and Obligations (as such term is defined in Section 8 of this Agreement) are hereby retained by the Master Developer and/or its other assignees and the Remaining Site.

3. Acceptance and Assumption by Assignee. Subject to the terms and conditions of this Agreement, as of the Effective Date (as determined under Section 6 hereof), Assignee, for itself and its assignors and assigns, hereby accepts such assignment and assumes all of the Assigned Development Rights and Obligations. Except as expressly provided in this Agreement, Assignee agrees, expressly for the benefit of the Agency, to comply with, perform and execute all the covenants and obligations of Master Developer under the DDA and Agency Deed arising from or under the Assigned Development Rights and Obligations.

4. Effect of Assignment.

(a) Approval or acceptance of this Agreement by the Agency shall not be deemed to create any responsibility on the part of Assignee for the performance or satisfaction of the Retained Development Rights and Obligations and the Remaining Site and Agency shall look solely to the Master Developer and/or its other assignees for the performance of such obligations, it being understood and agreed that the failure of the Master Developer and/or its assignees to timely perform all or any of such Retained Development Rights and Obligations shall not delay or prevent development of or the issuance of building permits or certificates of occupancy for the Assigned Parcel except to the extent such failure by the Master Developer and/or its assignees relates to satisfaction of conditions precedent under the DDA, if any, to the issuance of building permits, such as backbone infrastructure or services to serve the Assigned Parcel. Subject to the foregoing, approval or acceptance of this Agreement by the Agency shall be deemed to relieve the Master Developer and/or its other assignees from any and all responsibility or liability to the Agency for the Assigned Parcel and the performance of the Assigned Development Rights and Obligations and Agency shall look solely to the Assignee for the performance of such obligations, subject to the rights (but not the obligations) of the Master Developer to enforce such obligations pursuant to Section 12 of this Agreement, and subject to the Master Developer's obligations under the DDA to cause the development of the Rental Affordable Housing required on the Site. It is understood and agreed that the failure of Assignee for the performance of the Assigned Development Rights and Obligations shall not delay or prevent development of or the issuance of building permits or certificates of occupancy for the Remaining Site, except to the extent that such failure by the Assignee triggers a suspension of building permits for market rate housing units in the Remaining Site under Attachment No. 3 of the DDA.

(b) Without limiting the foregoing, Agency approval of this Agreement shall constitute Agency consent and agreement to the following:

- (i) Agency hereby acknowledges and agrees that a default under the DDA with respect to the Remaining Site by the Master Developer and/or its other assignees which is not caused by Assignee or a breach of the DDA with respect to the Remaining Site by any third party (other than Assignee) or by any of their respective agents, employees or contractors, shall not constitute a default or breach of the DDA on the part of Assignee with respect to the Assigned Parcel; however, it is understood that a default by the Master Developer under certain circumstances set forth in the DDA, as referenced in the first sentence of subsection (a) of this Section 4, could impact the issuance of building permits for the Assigned Parcel.
- (ii) Agency is not aware of any breach or default by the Master Developer referred to above with respect to any portion of the Assigned Parcel or the Assigned Development Rights and Obligations hereby transferred to Assignee.
- (iii) Pursuant to the DDA, Agency has approved the qualifications and financial capability of Assignee to carry out the development of the Assigned Parcel hereby transferred from Master Developer to Assignee.
- (iv) Agency hereby acknowledges and agrees that a default under the DDA by Assignee with respect to the Assigned Parcel which is not caused by the Master Developer shall not constitute a default or breach of the DDA on the part of the Master Developer and/or its other assignees with respect to the Assigned Parcel or the Remaining Site; provided, however, that the Master Developer acknowledges that it has the responsibility under the DDA to cause the development of the Rental Affordable Housing on the Assigned Parcel.
- (v) The DDA with respect to the Assigned Parcel and the Assigned Development Rights and Obligations may not be amended by the Agency and Assignee in any way that may have a material effect on the Master Developer or its ownership or other interest in the Site or any part thereof, including rights and remedies with respect to the Assigned Parcel, without the Master Developer's express written consent so long as the Master Developer retains an ownership or other interest in the Site or any part thereof.
- (vi) For the period that the Master Developer retains an interest in the Site or any part thereof under the DDA, the DDA with respect to the Remaining Site and with respect to the Master Developer's

Retained Development Rights and Obligations, may be amended without Assignee's consent (but following prior written notice to Assignee; provided, however, the timely delivery of said notice shall not be a condition to the validity of any such amendment) so long as the amendment does not have a material effect on the Assignee or its ownership or other interest in the Assigned Parcel or any part thereof.

5. Substitution of Assignee. Assignee hereby assumes, as applicable to the Assigned Parcel, all of the burdens and obligations of the Master Developer under the DDA and Agency Deed with respect to the Assigned Rights and Obligations, but not with respect to the Retained Development Rights and Obligations, and agrees to observe and fully perform all of the duties and obligations of the Master Developer under the DDA and Agency Deed as applicable to the Assigned Parcel with respect to the Assigned Rights and Obligations, but not with respect to the Retained Development Rights and Obligations, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel, it being the express intention of both the Master Developer and Assignee that, upon the Effective Date of this Agreement, Assignee shall, subject to the terms and conditions of this Agreement become substituted for the Master Developer as the "Developer" under the DDA and Agency Deed with respect to the Assigned Rights and Obligations, but not with respect to the Retained Development Rights and Obligations, as applicable to the Assigned Parcel.

6. Effective Date. The Effective Date of this Agreement shall be the date of its recordation in the Official Records of the Recorder of Monterey County. The Effective Date of this Agreement shall be entered in the introductory paragraph of this Agreement and this Agreement shall be recorded by the parties immediately preceding conveyance or transfer of the Assigned Parcel to Assignee.

7. Assignee Representations and Warranties. Assignee warrants and represents to the Agency as a material inducement to its approval of the assignment hereunder, that Assignee has independently reviewed, analyzed, and understands the effect and conditions of the DDA and Agency Deed, the County's approval of the East Garrison Specific Plan and other Development Approvals (as defined in the DDA) pertinent to the development of the Assigned Parcel. Assignee further warrants and represents to the Agency that except as may be expressly set forth in Sections 9 and 10 below, it is not relying upon any representations on the part of the Agency or any of its officers, agents or employees as to the status or effect of such matters.

8. Assignment of Development Rights and Obligations Related to the Assigned Parcel. As used herein "Assigned Development Rights and Obligations" means all of Master Developer's rights, title and interest (hereinafter collectively "Rights") and obligations, duties, responsibilities, conditions and restrictions (hereinafter collectively "Obligations") under the DDA and Agency Deed to cause the vertical development of the Property for use as Rental Affordable Housing as set forth in Exhibit 2 hereto, but only to the extent those Rights or Obligations are applicable to Assignee and/or the Assigned Parcel. The Assigned Development Rights and Obligations are set forth or referenced in the following exhibits to this Agreement; which are incorporated herein by reference:

- Exhibit 1: Location and Legal Description of Assigned Parcel
- Exhibit 2: Permitted Uses and Scope of Development for Assigned Parcel
- Exhibit 3: Schedule of Performance for the Assigned Parcel
- Exhibit 4: Provisions of DDA and Agency Deed Applicable to Assigned Parcel

Any and all Rights and Obligations not expressly within the Assigned Development Rights and Obligations are hereby retained by the Master Developer and/or its other assignees and the Remaining Site ("Retained Development Rights and Obligations").

9. Other Provisions:

(a) Commencement and Completion of Development: The Assignee shall commence and complete development within the time provided therefor in the Schedule of Performance attached hereto as Exhibit 3, subject to Enforced Delays under Section 604 of the DDA.

(b) Uses; Scope of Development; Approval of Construction Plans: The Assignee shall use and develop the Assigned Parcel in accordance with the Permitted Uses and Scope of Development for Assigned Parcels attached hereto as Exhibit 2. The Assignee shall submit its construction plans to the County of Monterey for approval pursuant to the Development Approvals, which shall include the Pattern Book.

(c) Reversionary Deeds:

(i) The Assignee shall deliver to the escrow holder under the Transfer Document an executed and acknowledged reversionary deed transferring the Assigned Parcel back to the Master Developer in a form reasonably satisfactory to the Master Developer with irrevocable instructions directing the escrow holder to record the reversionary deed upon the Master Developer's written notice that the Assignee has committed an uncured reversionary default under Section 512 of the DDA with respect to the Assigned Parcel.

(ii) The Assignee shall deliver to the escrow holder under the Transfer Document an executed and acknowledged reversionary deed in substantially the form attached to the DDA as Attachment No. 8-B transferring the Assigned Parcel to the Agency with irrevocable instructions directing the escrow holder to record the reversionary deed upon the Agency's written notice that the Assignee has

committed an uncured reversionary default under Section 512 of the DDA and the Master Developer has failed to exercise its remedies pertaining thereto (and after exhaustion of remedies under Section 513).

- (iii) Reversionary defaults for purposes of subsections (a) and (b) shall be as set forth in Section 512 of the DDA.

10. Agency Approval of Assignment and Conditions of Approval. Subject to the terms and conditions of this Agreement, the Agency hereby approves and consents to (i) the assignment of the DDA and the Agency Deed, as to the Assigned Parcel, to Assignee, and (ii) the assignment of the Assigned Development Rights and Obligations to Assignee.

11. Remedies of Master Developer.

(a) Master Developer shall have the right to enforce the provisions of this Agreement and Assignee's obligations under the Assigned Development Rights and Obligations by any appropriate legal or equitable actions and remedies in the event of any delay, failure to perform or breach by Assignee constituting an uncured material default under the provisions of this Agreement or the Assigned Development Rights and Obligations assumed by Assignee.

(b) The remedies set forth in the DDA that are available to the Agency in the event of an uncured material default by the Master Developer shall also be available to the Agency and the Master Developer in the event of an uncured material default by the Assignee, including termination of the title of the Assignee in the Assigned Parcel in the first instance in favor of the Master Developer, and if the Master Developer fails to exercise its rights, in favor of the Agency.

12. Remedies of Agency. Subject to the right of Master Developer to first exercise its rights under Section 11 above and relevant provisions of the DDA, Agency shall have the right under the DDA and the Agency Deed to enforce the provisions of this Agreement and the Assigned Development Rights and Obligations by any appropriate legal or equitable actions and remedies in the event of any delay, failure to perform or breach by Assignee constituting an uncured material default under the provisions of this Agreement or the Assigned Development Rights and Obligations assumed by Assignee.

13. Master Developer Deed to Assignee. The deed from the Master Developer to the Assignee shall include, among other things, a condition subsequent to the effect that in the event of an uncured material default by the Assignee and the failure of the Master Developer to enforce the terms of the Assignment and Assumption Agreement or revert title in the Assigned Parcel to the Developer in the first instance, the Agency may declare a termination in favor of the Agency of the title and all of the rights and interests in the Assigned Parcel conveyed by the deed to the Assignee.

14. Successors and Assigns. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and to their respective heirs, successors and assigns.

15. Amendments. Assignee acknowledges and agrees that Master Developer and Agency may amend the DDA from time to time without the consent of Assignee; provided that no amendment which would have a material effect on the Assignee or its ownership or other interest in the Assigned Parcel or any part thereof shall be effective without the express written consent of Assignee, except as otherwise permitted under the terms of the DDA existing prior to such amendment.

16. Vertical Development Insurance Requirements

Prior to the commencement of vertical construction on the Assigned Parcel, the Assignee shall furnish or cause to be furnished to the Agency and Master Developer duplicate originals or appropriate certificates of commercial general liability insurance, with an endorsement naming the Agency, the County and Master Developer as additional or coinsureds, in not less than the following amounts: \$1 million single limit for each occurrence and \$5 million general aggregate for all occurrences. The Assignee shall, upon request, also furnish or cause to be furnished to the Agency, the County and Master Developer evidence satisfactory to the Agency, the County and Master Developer that any contractor with whom it has contracted for the performance of work on the Site carries workers' compensation insurance as required by law. All insurance policies maintained in satisfaction of this section shall contain a provision requiring the insurance carrier to provide thirty (30) days' prior written notice of any cancellation or termination to the Agency and Master Developer. The obligations set forth in this section shall remain in effect until completion of vertical development on the Assigned Parcel and may be satisfied by the insurance provided, with the same limits as set forth above, in a regulatory agreement approved by the Agency and entered into by the Assignee in connection with the development of the Assigned Parcel.

17. General Provisions.

(a) Notices. Notices under this Agreement with respect to the Assigned Parcel shall be sent in the manner required by Section 601 of the DDA to Assignee as follows:

Attn.: _____

with a copy thereof to the Master Developer as follows:

Attn.: _____

(b) Applicable Law. This Agreement shall be construed and enforced in accordance with the law of the State of California, without reference to choice of law provisions.

(c) Headings. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or constraining the terms, covenants or conditions of this Agreement.

(d) Severability. Except as otherwise provided herein, if any provision(s) of this Agreement is (are) held invalid, the remainder of this Agreement shall not be affected, except as necessarily required by the invalid provisions, and shall remain in full force and effect unless amended or modified by mutual consent of the parties.

(e) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute the same instrument, with the same effect as if all of the parties to this Agreement had executed the same counterpart.

SIGNATURES CONTINUED ON NEXT PAGE

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

MASTER DEVELOPER:

EAST GARRISON PARTNERS I, LLC,
a California limited liability company

BY: WOODMAN DEVELOPMENT COMPANY LLC,
a California limited liability company, as a member

By: Woodman Development Company, Inc.,
a California corporation, as its
managing member

By: _____

John Anderson
President

and

BY: LYON EAST GARRISON COMPANY I, LLC,
a California limited liability company, as a member

By: William Lyon Homes, Inc., a California
corporation, as its managing member

By: _____

Its: _____

By: _____

Its: _____

ASSIGNEE:

By: _____

Title: _____

REDEVELOPMENT AGENCY OF THE
COUNTY OF MONTEREY

By: _____

Title: _____

"AGENCY"

COUNTY OF MONTEREY

By: _____

Title: _____

"COUNTY"

ACKNOWLEDGMENTS

STATE OF CALIFORNIA)
COUNTY OF _____)

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

WITNESS my hand and official seal.

Signature _____

* * * * *

STATE OF CALIFORNIA)
COUNTY OF _____)

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

WITNESS my hand and official seal.

Signature _____

**EXHIBIT 1
TO EXHIBIT D**

**LOCATION AND
LEGAL DESCRIPTION OF ASSIGNED PARCEL**

All that certain real property situate in the County of Monterey, State of California, and described as follows:

[To Be Inserted.]

**EXHIBIT 2
TO EXHIBIT D**

**PERMITTED USES AND
SCOPE OF DEVELOPMENT FOR ASSIGNED PARCEL**

[To Be Inserted.]

**EXHIBIT 3
TO EXHIBIT D**

**SCHEDULE OF PERFORMANCE
FOR THE ASSIGNED PARCEL**

[To Be Inserted.]

**EXHIBIT 4
TO EXHIBIT D**

**PROVISIONS OF DDA AND
AGENCY DEED APPLICABLE TO ASSIGNED PARCEL**

**[NOTE: SECTIONS REFERENCED BELOW ARE TO BE APPROPRIATELY
MODIFIED (TO INCLUDE, AMONG OTHER MODIFICATIONS,
REFERENCES TO BOTH DEVELOPER AND AGENCY RESERVED
APPROVALS AND REMEDIES) AND TO BE SET FORTH IN FULL AS
MODIFIED IN EACH ASSIGNMENT AND ASSUMPTION AGREEMENT TO
BE ENTERED INTO.]**

A. APPLICABLE DDA PROVISIONS.

The following provisions of the DDA are hereby incorporated by reference and shall be applicable to the rights and obligations of Assignee with respect to the Assigned Parcel only, and shall be interpreted and applied in a manner consistent with the terms of this Agreement. It is recognized that certain of the DDA provisions listed below will be recorded concurrently with Master Developer's quitclaim deed for the conveyance of the Assigned Parcel to the Assignee or its permitted successor or assign and that certain of the DDA provisions listed below will have been satisfied at the time of and as a condition to such conveyance of the Assigned Parcel or shall have been incorporated into the Master Developer's quitclaim deed to Assignee or its permitted successor or assign.

Wherever the term "Developer" is used in any of the sections set forth below, such term shall refer to the Assignee of this Agreement and further, shall include any permitted nominee, transferee, assignee or successor in interest to the DDA, unless otherwise expressly stated herein. The term "Master Developer" as used herein refers to East Garrison Partners I, LLC.

Any of the rights held by the Agency in any of the Sections set forth below (such as rights of review, approval, consent, notification, etc.) shall also be deemed to be rights of the Master Developer. Whenever Assignee is required pursuant to the terms set forth below to provide notice or request the consent or approval of the Agency, the Assignee shall also be required to provide notice or request consent or approval from the Master Developer.

The term "Site" as used in the Sections set forth below shall mean the Assigned Parcel.

[§107] The Developer.

[§108] Special Phasing Conditions: Deed-Restricted Affordable Housing

- [§204] "AS IS" Conveyance; Release by Developer
- [§205] Agency Financial Assistance; Developer's Evidence of Financing
- [§302] Scope of Development
- [§304] Construction Schedule.
- [§306] County and Other Governmental Agency Permits
- [§307] Rights of Access
- [§308] Local, State and Federal Laws
- [§309] Antidiscrimination During Construction
- [§310] Responsibilities of the Agency
- [§311] Taxes, Assessments, Encumbrances and Liens
- [§312] Prohibition Against Transfer of Site, the Buildings or Structures Thereon and Assignment of Agreement
- [§314] No Encumbrances Except Mortgages, Deeds of Trust, Sales and Lease-Backs or Other Financing for Development
- [§315] Holder Not Obligated to Construct Improvements
- [§316] Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure

- [§317] Failure of Holder to Complete Improvements

- [§318] Right of Agency to Cure Mortgage, Deed of Trust or Other Security Interest Default

- [§319] Right of the Agency to Satisfy Other Liens on the Site After Title Passes

- [§320] Certificate of Completion

- [§321] Prevailing Wages

- [§401] Uses

- [§402] Obligation to Refrain From Discrimination

- [§403] Form of Nondiscrimination and Nonsegregation Clauses

- [§404] Effect and Duration

- [§405] Rights of Access – Public Improvements and Facilities

- [§501] Defaults – General

- [§503] Institution of Legal Actions

- [§504] Applicable Law; Interpretation

- [§506] Rights and Remedies are Cumulative

- [§507] Damages

[§508] Specific Performance

[§512] Right of Reverter

[§513] Dispute Resolution; Legal Action

[§601] Notices, Demands and Communications Between the Parties

[§602] Conflicts of Interest

[§603] Nonliability of Agency or Developer Officials and Employees

[§604] Enforced Delay: Extension of Times of Performance

[§605] Inspection of Books and Records

[§606] Plans and Data

[§607] Attorneys' Fees

[§608] No Third Party Beneficiaries

[§610] General Indemnity

[§611] Mechanics' Liens

[§612] Government Functions of Agency; No Joint Venture or Third Party Liability

Attachments and Exhibits: As referenced in the Sections above

B. APPLICABLE AGENCY DEED PROVISIONS.

Only those provisions of the Agency Deed which are expressly incorporated or referenced in the Master Developer's quitclaim deed for the conveyance of the Assigned Parcel to the Assignee or its permitted successor or assign shall be applicable to the Assigned Parcel.

EXHIBIT E

MOA SCHEDULE OF PERFORMANCE

**[TO BE COMPLETED AND SUBSTITUTED AS
THIS EXHIBIT E AS PROVIDED IN SECTION 4 OF THIS MOA]**

Phase Three Rental Affordable Housing

Action	Party Responsible	Expected Date of Performance	Outside Date for Performance
Execution of this MOA	EGP and Artspace		Within 15 days following Agency approval of this MOA
Artspace submits information required under Section 7 of the MOA to EGP	Artspace	___ / ___ /06	___ / ___ /06
EGP approves or disapproves Section 7 information	Artspace	___ / ___ /06	Within 30 days of receipt.
Final designation of Artspace as Affordable Housing Developer	EGP	___ / ___ /06	___ / ___ /06
Execution of Purchase Agreement and Assignment and Assumption Agreement	EGP/Artspace	___ / ___ /06	___ / ___ /07
Agency (and County) approval and execution of Assignment and Assumption Agreement	Agency/County	___ / ___ /06	___ / ___ /07

Apply for Low Income Housing Tax Credits	Artspace	____ / ____ / ____	No later than the ____ round of tax credits in ____
Apply for MHP funds	Artspace	Earliest possible time.	No later than ____ / ____ / ____
Receipt of MHP funds	Artspace	____ / ____ / ____	No later than ____ / ____ / ____
Developer and Agency/County enter into Inclusionary Housing Agreement	Agency/County/EGP/Artspace	____ / ____ /06	____ / ____ /06
Close escrow	EGP	____ / ____ / ____	Per Schedule, Purchase Agreement
Commence and complete construction	Artspace	____ / ____ / ____	Per Schedule, Purchase Agreement