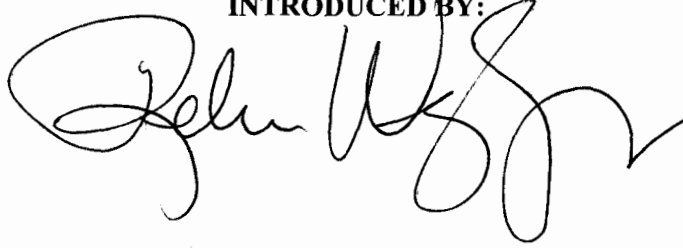


CITY OF SANTA FE, NEW MEXICO

BILL NO. 2013-24

INTRODUCED BY:



AN ORDINANCE

APPROVING CERTAIN LEASES BETWEEN THE CITY OF SANTA FE AND THE SANTA FE CIVIC HOUSING AUTHORITY FOR THE LEASE OF CERTAIN REAL PROPERTY TO BE USED FOR PUBLIC HOUSING FAMILY UNITS LOCATED AT 1222-1265 CERRO GORDO ROAD, 1227-1265 GALLEGOS LANE, 1237-1246 SENDA DEL VALLE, 1209-1219 SENDA LANE, 911 A-F AGUA FRIA STREET, 1752-1788 HOPEWELL STREET AND 1750-1765 MANN STREET; AND PUBLIC HOUSING SENIOR UNITS LOCATED AT 664-670 ALTA VISTA STREET AND 1510-1520 LUISA STREET.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. The City of Santa Fe hereby authorizes the execution of three separate leases, entered into between the City of Santa Fe and the Santa Fe Civic Housing Authority, attached hereto as Exhibits "A", "B" and "C".

A. Exhibit A, referred to as "Lease 1", dated _____, 2013 (commencement date), shall expire on the 99th anniversary of the commencement date. Lease 1 shall be used for Santa Fe Civic Housing Authority family sites located in Santa Fe, New

1 Mexico at:

- 2 • 1222-1265 Cerro Gordo Road
- 3 • 1227-1265 Gallegos Lane
- 4 • 1237-1246 Senda Del Valle and 1209-1219 Senda Lane
- 5 • 911 A-F Agua Fria Street
- 6 • 1752-1788 Hopewell Street and 1750-1765 Mann Street

7 B. Exhibit B, referred to as "Lease 2", dated _____, 2013
8 (commencement date), shall expire on the 99th anniversary of the commencement date. Lease
9 2 shall be used for a Santa Fe Civic Housing Authority Alta Vista senior site located in Santa
10 Fe, New Mexico at 664-670 Alta Vista Street.

11 C. Exhibit C, referred to as "Lease 3", dated _____, 2013
12 (commencement date), shall expire on the 99th anniversary of the commencement date. Lease
13 3 shall be used for a Santa Fe Civic Housing Authority Luisa senior site located in Santa Fe,
14 New Mexico at 1510-1520 Luisa Street.

15 **Section 2.** This Ordinance shall be effective forty-five days after the date of adoption,
16 unless a referendum is held pursuant to Section 3-54-1 NMSA 1978.

17 **Section 3.** This Ordinance shall be published as required by Section 3-17-3 NMSA
18 1978 and such publication shall contain the following information:

19 A. *Property to be leased.* The city of Santa Fe shall lease to the Santa Fe
20 Civic Housing Authority the parcels of land known as:

21 (1) Santa Fe Civic Housing Authority family sites, more fully
22 described on Exhibit A to Lease 1; and

23 (2) Santa Fe Civic Housing Authority senior sites more fully
24 described on Exhibit A to Lease 2 and Exhibit A to Lease 3.

25 B. *Market value of the Leasehold Premises.* The appraised value of each of the

1 Leasehold premises is:

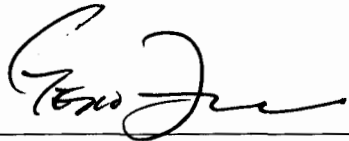
- 2 (1) Lease 1, Santa Fe Civic Housing Authority family sites
3 \$1,210,000
4 (2) Lease 2, Santa Fe Civic Housing Authority Alta Vista senior site
5 \$1,230,000
6 (3) Lease 3, Santa Fe Civic Housing Authority Luisa senior site
7 \$1,170,000

8 C. *Payment terms of the Leases.* Minimal rent shall be paid in consideration for
9 the Santa Fe Civic Housing Authority providing public housing and other affordable housing
10 opportunities for city residents.

11 D. *Lessee.* The Lessee is the Santa Fe Civic Housing Authority, 664 Alta Vista
12 Street, Suite 200, Santa Fe, New Mexico 87505.

13 E. *Purpose of the Lease.* The purpose of the leases is for the Lessee to develop
14 the premises for multi-family mixed income affordable housing, low-income housing and
15 such other uses as may be approved by the city as more fully described in the leases.

16 APPROVED AS TO FORM:

17 
18 _____

19 GENO ZAMORA, CITY ATTORNEY
20
21
22
23
24



**LEASE 1
BETWEEN
CITY OF SANTA FE
AND
SANTA FE CIVIC HOUSING AUTHORITY**

Basic Lease Information

EFFECTIVE DATE: As of _____, 2013

LANDLORD: CITY OF SANTA FE

TENANT: SANTA FE CIVIC HOUSING AUTHORITY

PREMISES: CERTAIN LAND SITUATED IN THE CITY OF
SANTA FE, COUNTY OF SANTA FE, AND
STATE OF NEW MEXICO, AS MORE
PARTICULARLY DESCRIBED IN EXHIBIT A

ANNUAL BASE RENT: DOLLARS (\$1.00)

**COMMENCEMENT
DATE:** AS PROVIDED IN SECTION 5.1

TERM: THE PERIOD BEGINNING ON THE
COMMENCEMENT DATE AND ENDING ON
THE NINETY NINTH ANNIVERSARY OF THE
COMMENCEMENT DATE

LANDLORD'S ADDRESS: CITY OF SANTA FE
200 Lincoln Avenue
Santa Fe, New Mexico 87501
Attn:

TENANT'S ADDRESS: SANTA FE CIVIC HOUSING AUTHORITY
664 Alta Vista Street,
Santa Fe, New Mexico 87505
Attn: Executive Director

The Basic Lease Information is part of the Lease; however, if any of the Basic Lease Information contradicts any provision of the Lease, then the provision of the Lease prevails.

LEASE

THIS AMENDED AND RESTATED GROUND LEASE (this "Lease") dated as of _____, 2013 (the "Effective Date"), is by and between (i) CITY OF SANTA FE, ("Landlord"), whose address is 200 Lincoln Avenue, Santa Fe, New Mexico 87501; and (ii) Santa Fe Civic Housing Authority, a public body corporate and politic ("Tenant"), whose address is 664 Alta Vista Street, Santa Fe, New Mexico 87505. Landlord and Tenant are jointly referred to herein as the "Parties".

ARTICLE 1 - RECITALS

WHEREAS, Landlord is the owner of the real property on Exhibit A (the "Premises") which is comprised of all legal tracts of land associated with the Santa Fe Civic Housing Authority communities located in the City of Santa Fe, New Mexico, and as more particularly described on the attached Exhibit A (referred to herein as the "Premises"); and

WHEREAS, the Tenant currently operates and manages affordable housing units for low income residents which are distributed throughout the City of Santa Fe; and

NOW, THEREFORE, in consideration of these presents, and for One Dollar per year rent and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby enter into this Lease on the terms and conditions set forth herein.

ARTICLE 2 – INCORPORATION OF RECITALS

Section 2.1 Incorporation of Recitals

The Recitals are hereby incorporated into this Lease by reference and are made a part hereof.

Section 2.2 Leasehold Interest

(a) *Conditioned upon Tenant obtaining an award of Low Income Housing Tax Credits for the fiscal years 2013 or 2014 on or before August 31, 2014, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises and or any future developments that are in excess of \$50,000 and are in accordance with Article 14 herein, upon the terms and conditions stated herein, subject only to the Permitted Encumbrances described herein at Exhibit B and to any duties and/or encumbrances created under the Prior Lease which survives the execution of this Lease, if any. In the event Tenant is successful in obtaining an award of Low Income Housing Tax Credits, Tenant, at Tenant's sole expense, may obtain a market valuation/analysis of the value of this Lease and indicate on the application for the LIHTC that the value of this Lease will be donated to the LIHTC project to be developed on the Premises. Landlord also intends to make application for New Mexico Affordable Housing Tax Credits, and if Landlord is successful in its application for these additional tax credits, Landlord agrees to use the proceeds from the sale or other disposition of the Affordable Tax Credits for the sole purpose of development of the Premises for the purpose set forth herein.*

(b) Tenant shall have the right to pass and re-pass over all existing ways and public areas located on the Premises or providing public access thereto, and to connect to and use all utilities and service conduits and facilities that service the Premises, and to Tenant's compliance with the requirements of applicable law pertaining to any such use, including, without limitation, obtaining the approvals of any regulatory body with authority over such use and the payment of any fees therefore.

Section 3.2 Landlord Cooperation

Landlord agrees to cooperate with Tenant regarding the creation and/or extension of land use restrictions and other encumbrances on the Premises required by the RAD conversion project guidelines or the New Mexico housing credit agency responsible for administering the LIHTC program, and/or such other agencies providing financing for affordable housing development, subject to Landlord's duties in its capacity as a civic and permitting authority to protect the public interest and to ensure compliance with city ordinances.

Section 3.2 Compliance with Laws

Tenant agrees to undertake and carry out the RAD conversion project guidelines and to operate the Premises as Project Based Rental Assistance (PBRA), Citation 77, FR 43650-43855 in accordance with the requirements of all applicable laws, ordinances, codes, orders, rules and regulations of all governmental authorities, agencies or departments having jurisdiction over the Premises.

Section 3.3 Approvals, Permits and Licenses.

Tenant shall apply for, or cause to be applied for, and prosecuted, with reasonable diligence, all necessary approvals, permits and licenses required for the RAD Program, and/or the construction, development, use and occupancy of the Premises or future development of the Premises. Landlord shall cooperate with Tenant as may be reasonable necessary to facilitate Tenant's activities hereunder, subject always to Landlord's duties in its capacity as civic and permitting authority to protect the public interest and ensure compliance with city ordinances.

Section 3.4 Ownership of Development

Landlord and Tenant acknowledge and agree that Tenant, during the Term of this Lease, be the owner of the improvements comprising the Premises currently and any future development, and as such, Tenant shall be entitled to all depreciation deductions and low-income housing tax credits or other benefits for income tax purposes relating to any future development during such Term.

ARTICLE 4 – REPRESENTATIONS AND WARRANTIES

Section 4.1 Landlord's Representations and Warranties

Landlord hereby represents and warrants to the Tenant that:

(a) The Landlord owns, fee simple, good and marketable title to the Premises, free and clear of all liens, charges, encumbrances, encroachments, easements, restrictions, occupancies or agreements and other matters affecting title, subject to the Permitted Encumbrances listed at Exhibit B and to any covenants, restrictions, and/or other obligations imposed on Landlord by reason of the Prior Lease.

(b) As of the Commencement Date, there is no unpaid special assessment assessed by Landlord, or of which Landlord is otherwise aware, for sewer, sidewalk, water, paving, gas, electrical or utility improvements or other capital expenditures, matured or unmatured, affecting the Premises.

(c) The person signing this Lease on behalf of Landlord is authorized duly and validly to so sign.

Section 4.2 Tenant's Representations and Warranties Tenant hereby warrants and represents to Landlord that:

(a) Tenant is, and as of the Commencement Date will be, duly organized and lawfully existing under the laws of the State of New Mexico.

(b) Tenant has, and as of the Commencement Date will have the full right, power and authority to make, execute, deliver and perform this Lease.

(c) The person signing this Lease on behalf of Tenant is authorized duly and validly to so sign.

ARTICLE 5 – TERM

Section 5.1 Effective Date; Commencement Date

This Lease shall become effective on the date it is approved in writing by the City Council (the "Effective Date").

Section 5.2 Term of Lease

The term of this Lease ("Term") shall be for a period of Ninety-nine (99) years commencing upon the date this Lease shall become effective (the "Commencement Date"), and ending on the last day of the month during which the Ninety-ninth (99th) anniversary of the Commencement Date occurs, subject to earlier termination as contemplated herein.

ARTICLE 6 – RENT

Section 6.1 Annual Base Rent

The annual base rent ("Base Rent") shall be One Dollars (\$1.00) per annum. The parties acknowledge and agree that the rent for the entire Term equal to Nine Hundred Ninety Dollars (\$99.00) has been paid by Tenant to Landlord at the time of execution of this Lease, and that no rent shall be hereafter due, unless otherwise required hereunder.

Section 6.2 Additional Rent In order that the Base Rent shall be absolutely net to Landlord, Tenant covenants and agrees to pay, as Additional Rent, without notice or demand and without set-off, abatement, suspension or deduction, all taxes, payment in lieu of taxes, betterment assessments, water and sewer rents and charges, liens, insurance, maintenance, repairs, utilities charges, all other operating expenses, and all other customary costs, general and special, which are due and payable during the Term hereof at any time imposed or levied against the Premises and/or the Future Development, provided, however, that the term "Additional Rent" shall not include any income tax, capital levy, estate succession, inheritance, transfer or similar taxes of Landlord, or any franchise tax imposed upon Landlord, or any income, profits or revenue tax, assessment or charge imposed upon rent received by Landlord under this Lease by any governmental authority, Tenant will furnish to the Landlord, upon request once per year concurrently with the Landlord's annual receipt of Tenant's audited financial statements, proof of payment of all items referred to in this Section 6.2 which are payable by Tenant; provided, that Tenant will in addition furnish to the Landlord proof of payment of any taxes or payments in lieu thereof and proof of payment of insurance premiums promptly after demand therefore. Additional Rent includes Real Estate Impositions defined as: "payments in lieu of taxes thereof in accordance with the provisions of applicable New Mexico law, and thereafter each installment of all public, special or betterment assessments levied or assessed by or becoming payable to Santa Fe County or any governmental authority having jurisdiction of the Premises and/or any future development, for or in respect of the Premises and any future development including payments in lieu of taxes (PILOT) pursuant to a cooperation agreement "", as well as real estate taxes upon the expiration of the PILOT, and all of the foregoing taxes and installments of assessments such as taxes and installments of assessments. Tenant agrees to save Landlord harmless from all costs and expenses incurred on account of Tenant's participation in such proceedings or as a result of Tenant's failure to pay Real Estate Impositions and other related charges with respect to the Premises. Landlord, without obligating itself to incur any costs or expenses in connection with such proceedings, shall cooperate with Tenant with respect to such proceedings so far as reasonably necessary. Neither party shall discontinue any abatement proceedings begun by it without first giving the other party written notice of the discontinuing party's intent so to do and reasonable opportunity to be substituted in such proceedings. Landlord shall promptly furnish to Tenant a copy of any notice of any Real Estate Imposition received by Landlord. In the event the Tenant fails to make any payment referred to in this Section 6.2.1 when due, the Landlord shall have the right after 5 days notice to Tenant to make any such payment on behalf of the Tenant and charge the Tenant as Additional Rent therefore, plus the Base Interest Rate.

6.2.2 Utilities.

Tenant shall pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat or power, telephone or other service used, rendered or supplied to Tenant in connection with the Premises, and/or any future development and shall not contract for the same in Landlord's name.

6.2.3 Other

The Tenant covenants to pay and discharge, when the same shall become due, as Additional Rent, all other amounts, liabilities, and obligations which the Tenant assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may

be added for nonpayment or late payment thereof; and, in the event of any failure by the Tenant to pay or discharge the foregoing, the Landlord shall have all the rights, powers and remedies provided and as limited herein in the case of nonpayment of rent, and additionally. Landlord shall be entitled to pay the same, and collect the amount thereof from Tenant, as Additional Rent, plus the Base Interest Rate.

Section 6.2 Payments by Tenant upon Commencement of Construction of the Development.

Unless expressly set forth in this Lease otherwise, all costs, expenses, liabilities, charges or other deductions whatsoever with respect to the Premises and the construction, ownership, leasing, operation, maintenance, repair, rebuilding, use or occupation of the Premises or the Future Development shall be the responsibility of Tenant.

ARTICLE 7 – TAXES; OPERATING EXPENSES

Section 7.1 Taxes.

Tenant will pay or cause to be paid (i) any real estate taxes which are assessed against the Premises by Landlord or any other taxing authority during the Term, or (ii) any payments to the extent required by a cooperation agreement or amendment thereto providing for payments in lieu of taxes (“PILOT”) which is entered into by Tenant with Landlord or any other taxing entity during the Term. Tenant will pay or cause to be paid all real estate recordation taxes incident to this Lease, if any.

Section 7.2 Project Operating Expenses

Tenant will pay or cause to be paid all costs and expenses attributable to or incurred in connection with the operation, maintenance and repair of the Premises and the Future Development (collectively, the “Operating Expenses”) during the Term.

ARTICLE 8 – INSURANCE

Section 8.1 Tenant’s Insurance.

Tenant will, at its sole expense, obtain and keep in force during the Term of this Lease, adequate insurance to protect Tenant and Landlord from loss as follows:

(a) “All Risk” Coverage. Tenant will, at its sole expense (but nevertheless as a portion of Operating Expenses) obtain and keep in force during the Term, “all-risk” coverage insurance on the Development naming Tenant and Landlord as the insured, as their interests may appear, in the customary form in the City for buildings and improvements of similar character. The amount of such insurance will be set forth on an “agreed amount endorsement” to the policy of such insurance and will not be less than 100% of the full replacement value of the improvements on the Premises, as determined from time to time.

(b) General Liability. Tenant will, at its sole expense (but nevertheless as a portion of Operating Expenses) obtain and keep in force during the Term general liability insurance with

limits of coverage in the maximum amount which the Landlord could be held liable under the New Mexico Tort Claims Act, for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring against any and all liability of Landlord and Tenant including, without limitation, coverage for contractual liability and broad property damage, with respect to the Premises or arising out of the maintenance, use or occupancy of the Development. Such insurance will insure the performance by Tenant of its indemnity obligations hereunder as to liability for injury to or death of persons and damage to property set forth in this Lease. Such insurance will not be noncontributing with any insurance that may be carried by Landlord and will contain a provision that Landlord, although named as an insured, will nevertheless be entitled to recover under the policy for any loss, injury, or damage to Landlord, its agents, and employees, or the property of such persons.

(c) Umbrella liability insurance coverage on an occurrence form, covering losses in excess of the primary general liability, auto liability and employer's liability coverage, in amounts of such insurance carried by owners of comparable properties in the City of Santa Fe, or such other amount as may reasonably be required by the Landlord. If part of a master program, subject to annual aggregate limits, the umbrella limit shall be on a per-location basis.

(d) Workers' compensation insurance at the statutory limits and as required by law in respect of any work performed by Tenant's employees on or about the Premises and/or the Project.

(e) (75%) of the Project at the Premises are occupied, rent loss insurance on an all-risk and agreed amount basis, with the amount being sufficient to recover at least the total estimated gross receipts from all sources of income for the Premises and/or Project, or any part thereof including, without limitation, rental income, for a twelve-month period.

(f) Tenant shall require any contractor (or subcontractor thereof) or professional to carry commercial general liability, auto liability, workers compensation insurance with the scope of coverage and other provisions as described above. Such general liability and auto liability coverage shall include the Tenant and Landlord as additional insured. Tenant shall obtain and keep on file certificates of insurance which show that the contractor or subcontractor is so insured.

(g) Tenant shall require any architect, engineer, or other person entity providing professional services to Tenant and/or employed in connection with the maintenance of the Premises and/or the Project, or in the construction of other improvements, to carry professional liability (errors and omissions) insurance and valuable papers coverage in amounts reasonably acceptable to Landlord. Tenant shall obtain and keep on file certificates of insurance which show that the architect, engineer or other such professional is so insured.

(h) Other Matters. All insurance required in this Article and all renewals of it, will be issued by companies authorized to transact business in the State of New Mexico, and rated at least A+ Class X by Best's Insurance Reports (property liability). In a certificate of insurance, all insurance policies will be expressly provide that such policies will not be cancelled or altered without thirty (30) days' prior written notice to Landlord, in the case of "all-risk" coverage insurance, and to Landlord, in the case of general liability insurance; will to the extent

obtainable, provide that no act or omission of Tenant which would otherwise result in forfeiture or reduction of the insurance will affect or limit the obligation of the insurance company to pay the amount of any loss sustained; and will, to the extent obtainable, contain a waiver by the insurer of its rights of subrogation against Landlord. Upon issuance, each insurance policy or a duplicate or certificate of such policy shall be delivered to Landlord. Tenant may satisfy its obligations under this paragraph by appropriate endorsements of its blanket insurance policies. All insurance required in this article and all renewals of it shall be written to become effective on the Commencement Date and shall be continued in full force and effect for the Term and shall contain terms providing that any loss covered by such insurance may be adjusted with the Tenant and Landlord, but shall be payable to the holder of any leasehold mortgage, who shall agree to receive and disburse all proceeds of such insurance. All such insurance shall contain such contingent liability endorsements as shall make such insurance congruent with the fire and extended coverage insurance required by this Section 8.1. The minimum coverages stated in this Section shall be reviewed annually by the Landlord and Tenant and shall be increased at such review if Landlord determines such increase is necessary to reflect inflation or changes in the nature or degree of risks insured.

(i) **Delivery of Evidence of Insurance.** Certificates of insurance for all insurance required of Tenant hereunder and evidence of the payment of all premiums of such policies shall be delivered to Landlord. All public liability, property damage liability, and casualty policies maintained by Tenant will be written as primary policies, not contributing with and not in excess of coverage that Landlord may carry. If Tenant fails to maintain such excess insurance, which failure continues for thirty (30) days after Landlord gives notice to Tenant of such failure, then Landlord, at its election, may procure such insurance as may be necessary to comply with the above requirements (but shall not be obligated to procure same), and Tenant shall reimburse to Landlord, as a Landlord reimbursement, any costs associated with procuring such insurance.

Section 8.2 Landlord's Insurance.

Landlord shall obtain and maintain, at its sole cost and expense, general liability insurance with respect to the Premises.

Section 8.3 Waivers of Insured Claims

Each of the Landlord and the Tenant hereby waives all rights of recovery against the other for loss or injury against which the waiving party is protected by insurance, but only to the extent of such insurance.

Section 8.4 Notification of Accidents of Loss

In addition to notifying Tenant's insurer(s) in accordance with each policy, Tenant shall provide prompt written notice to Landlord as soon as reasonably possible of any accident or loss relating to the Premises, the Project, or any part thereof, likely to exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00) in 2007 inflation adjusted dollars.

Section 8.5 Indemnity for Death, Injury, etc.

The Tenant agrees to pay and to defend, indemnify and hold harmless the Landlord, from and against any and all liabilities, losses, damages, causes of action, suits, claims, demands, judgments, costs and expenses of any kind or any nature whatsoever (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable expert's and attorney's fees and expenses), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by, or asserted or awarded against Landlord, or its respective employees, agents, officers, shareholders, directors or other persons serving in an advisory capacity to it (such as monitoring committee members) or against the Project and/or Premises or any portion thereof, arising from: (a) any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property on the Premises or within the Project or on adjoining sidewalks, streets or ways, in each case arising out of the use, possession, ownership, condition or occupation of the Premises, the Project or any part thereof (but not of any property not expressly referred to above), from and after the date hereof; (b) violation by the Tenant, the Tenant's employees, agents, or approved subtenants, or invitees, or any of them, of any obligation of Tenant under this Lease, any Permitted Mortgage, and/or any one or more of the Governing Documents, and/or any restriction, statute, law, ordinance or regulation. The Landlord shall give the Tenant prompt notice of any written claim made or suit instituted against Landlord, relating to any matter which would result in indemnification pursuant to this Section 8.5, but the Landlord's failure to give such prompt notice to the Tenant shall not release Tenant from performing Tenant's obligations under this Section 8.5. The obligations of the Tenant under this Section 8.5 shall survive the expiration or any earlier termination of the Term of this Lease. The foregoing indemnification shall not be construed as creating any rights in or conferring any rights to any third parties.

ARTICLE 9 – USE OF PREMISES, COMPLIANCE WITH LAWS, AND COVENANTS APPLICABLE TO MULTI-FAMILY UNITS

Section 9.1 Permitted Use.

Tenant shall throughout the Term continuously use and operate the Premises, and/or any future development only for the following uses and such other uses as are reasonably and customarily attendant to such uses: the leasing of Multi-family mixed income rental units, including but not limited to, development, marketing for lease and leasing of Section Eight housing and the RAD Program. The Tenant agrees to operate the Premises and/or any future development in a manner which strictly satisfies the requirements of this Lease and the Applicable Housing Requirements.

Section 9.2 Compliance with Laws

Tenant shall not use or occupy, or suffer or permit any portion of the Premises to be used or occupied in violation of any law, ordinance, order, rule, regulation, certificate of occupancy, or other governmental requirement. Tenant will comply with applicable laws and all rules, orders, regulations, and requirements of the board of fire underwriters or insurance service office, or any other similar body, having jurisdiction over the Premises.

ARTICLE 10 – ENVIRONMENTAL CONDITIONS

Section 10.1 Tenant's Environmental Covenants.

Tenant acknowledges and agrees that it originally entered upon the Premises to construct the Existing Improvements in 1963 and 1964 and has occupied the Premises continuously thereafter. Except for claims relating to environmental matters that existed prior to such entry of Tenant upon the Premises, or that are attributable to the negligence of Landlord thereafter ("Excluded Claims"), Tenant agrees that, by the execution of this Lease, Tenant releases the Landlord of any claims it may have against the Landlord pursuant to applicable Environmental Laws, as the same are defined in Section 10.4(a) hereof, with respect to the Premises, the Existing Improvements, the Future Development, and all parts thereof. Subject only to the Excluded Claims, Tenant further acknowledges and agrees that in consideration of the rights and benefits granted to Tenant under this Lease, Tenant shall be responsible for carrying out in accordance with the requirements of such Environmental Laws any remediation required pursuant thereto of the Premises, the Existing Improvements, and the Future Development, and all parts thereof, at Tenant's sole expense, without recourse to the Landlord, and inclusive of the indemnification obligations of Tenant set forth hereunder. Except with respect to the Excluded Claims, Tenant hereby waives any right, remedy, or recourse against Landlord in regard to any environmental matters arising in regard to the Premises, the Existing Improvements, the Future Development, and all parts thereof. No representations, warranties or other covenants are made by the Landlord in regard to the condition of the Premises, and/or the Existing Improvements, and the Premises and the Existing Improvements are being provided to the Tenant hereunder in "AS IS", "WHERE IS", AND "WITH ALL FAULTS" condition. Tenant hereby waives any right, remedy, or recourse against the Landlord with respect to any environmental matters arising in regard to the Premises, the Existing Improvements, the Future Development, and all parts thereof Project. Without limitation of any of Tenant's other covenants, agreements, obligations, and indemnifications under this Lease, Tenant hereby specifically covenants and agrees to fulfill the responsibilities set forth below with respect to environmental matters and Hazardous Materials or Prohibited Substances (as hereinafter defined):

(a) Tenant, its agents, employees, and contractors shall comply with all applicable provisions of all Environmental Laws applicable to the Premises, the Existing Improvements, the Future Development, and Tenant's use of the Premises from the time it first entered upon the Premises to construct the Existing Improvements and under this Lease. All required governmental permits and licenses issued to Tenant, its agents, employees, and contractors and associated with the Premises, the Existing Improvements, and/or the Future Development shall remain in effect or shall be renewed in a timely manner, and Tenant, its agents, employees and contractors shall comply therewith.

(b) Tenant shall not itself, and Tenant shall not permit any other person, including, but not limited to, third parties with whom Tenant contracts in regard to this Lease, to bring onto the Premises any (i) asbestos or asbestos-containing material or polychlorinated biphenyl material, or (ii) hazardous substances or hazardous waste as defined under any federal, state or local law, that may require remediation under applicable law (other than quantities or such substances, including gasoline, diesel fuel and the like as are customary and necessary to prosecute construction and occupancy of the Development on the Premises), or (iii) soil

containing volatile organic compounds, polyaromatic hydrocarbons ("PAH"), lead, arsenic, or other compounds in concentrations that pursuant to applicable Environmental Laws may pose a significant risk to public health and/or safety (collectively (i)-(iii) are the "Prohibited Substances"). Tenant shall be liable for the consequences of, and responsible for removal and lawful disposal, at its sole expense, of any Hazardous Materials, Prohibited Substances, or both brought onto the Premises, resulting from a default under this Section. All soils brought onto the site for fill should be tested prior to acceptance/use.

(c) Tenant shall immediately notify Landlord, in writing and provide Landlord with copies of all forms, notices and other information received by or on behalf of Tenant, its agents, employees, and contractors concerning any releases, spills or other incidents relating to Hazardous Materials, Prohibited Substances, or both, or any violations of Environmental Laws at or relating to the Premises when and as supplied to any government agency. Tenant shall also comply with all laws, ordinances, regulations and orders of all governmental, regulatory and other public and quasi-public agencies, authorities and entities having jurisdiction over the same with respect thereto.

Section 10.2 Landlord's Environmental Covenants.

Without limitation of any of Landlord's other covenants, agreements and obligations under this Lease, Landlord hereby specifically covenants and agrees to provide Tenant with copies of all forms, notices and other information received by or on behalf of Landlord concerning any releases, spills or other incidents relating to Hazardous Materials or Prohibited Substances, or any violations of Environmental Laws at or related to the Premises when and as supplied to any governmental agency.

Section 10.3 Tenant's Environmental Indemnity.

Tenant covenants and agrees to indemnify, defend and hold Landlord free and harmless from and against any and all losses, liabilities, penalties, claims, fines, litigation, demands, costs, judgments, suits, proceedings, damages, disbursements or expenses (including reasonable attorneys' fees and expenses) which may at any time be imposed upon, reasonably incurred by or asserted or awarded against Landlord in connection with or arising from:

(a) Any Hazardous Materials, Prohibited Substances, or both which are first placed on, in, or under all or any portion of the Premises during the period defined herein as the Term, or during the period preceding the Term when Tenant occupied the Premises, with the exception of any Hazardous Materials, Prohibited Substances or both which are placed on, in, or under all or any portion of the Premises by Landlord, its agents, employees and contractors; or

(b) Any violation of any Environmental Laws by Tenant, its agents, employees, and contractors at or relating to the Premises, the Existing Improvements, the Future Development, and all parts thereof, which is not a condition existing prior to the original entry upon the Premises by the Tenant to construct the Existing Improvements.

Section 10.4 Environmental Definitions.

For the purpose of this Lease, the following definitions shall apply:

(a) "Environmental Laws" means any present or future federal, state or local law, ordinance, rule, regulation, permit, license or binding determination of any governmental authority relating to, imposing liability or standards concerning, or otherwise addressing the environment, health or safety, including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. ("CERCLA"); the Resource Conservation and Recovery Act, 42, U.S.C. Section 6901 et seq. ("RCRA"); the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq. ("TOSCA"); the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the Clean Water Act, 33 U.S.C. Section 1251 et seq. and any so-called "Superfund" or "Superlien" law; and the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq. ("OSHA"), as each is from time to time amended and hereafter in effect.

(b) "Hazardous Materials" means:

- 1) "Hazardous substances" as defined by CERCLA;
- 2) "Hazardous wastes," as defined as RCRA;
- 3) Any hazardous, dangerous or toxic chemical, waste, pollutant, containment or substance ("pollutant") within the meaning of any Environmental Law prohibiting limited or otherwise regulating the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal or recycling of such pollutant;
- 4) Petroleum crude oil or fraction thereof;
- 5) Any radioactive material, including any source, special nuclear or by-product material as defined in 42 U.S.C. Section 2011 et seq. and amendments thereto and reauthorizations thereof; or
- 6) Asbestos-containing materials in any form or condition, or polychlorinated biphenyls in any form or condition.

Section 10.5 Survival

The agreements, representations and warranties of Landlord and Tenant respectively in this Article 10 shall survive the expiration or early termination of this Lease.

ARTICLE 11 – ASSIGNMENTS, SUBLEASES AND TRANSFERS

Section 11.1 Consent Required.

(a) Assignment of Tenant's Interest(s). Tenant hereby acknowledges that Landlord has entered into this Lease because of Tenant's financial strength, goodwill, ability and expertise and that, accordingly, this Lease is one which is personal to Tenant, and Tenant agrees for itself and Tenant's successors and permitted assigns in interest hereunder that Tenant will not, other than by a Permitted Encumbrance/Mortgage, Exhibit B, directly or indirectly, transfer or assign this Lease or any of Tenant's rights or interest therein, to all or any part of the Premises or the Future Development, without the prior written consent of Landlord. Notwithstanding the foregoing, by Landlord's execution of this Lease, Landlord is deemed to have approved, subject to any applicable law, regulation, ordinance, or agreement between the parties hereto, (i) a transfer to a single-purpose Owner Entity created in order to finance the Future Development,

provided that the Tenant is a general partner or otherwise exercises control of such Owner Entity; (ii) a transfer by Tenant to a mortgage under a Permitted Encumbrance/Mortgage in compliance herewith; (iii) an assignment or other transfer by such mortgage to a third-party purchaser in connection with a foreclosure sale under any such Permitted Encumbrance/Mortgage, or acceptance by the mortgagee or its designee of a deed in lieu of foreclosure under the Permitted Encumbrance/Mortgage; and/or (iv) the lease to any Multi-family mixed income residential housing tenant or other qualified tenant of a unit in the Premises, or, any future development. Upon the granting of any Landlord consent, whether deemed or otherwise evidenced in writing, with respect to any transfer or assignment by Tenant, this Lease shall be binding upon and inure to the benefit of the Landlord and Tenant, and their respective successors, assigns, legal representatives, mortgagees under Permitted Encumbrance/Mortgages, and other transferees and, upon the assumption of all the assignor's obligations by the assignee or transferee, the assignor shall be released from any liability hereunder from and after the date of such transfer, and upon the written request of the assignor, Landlord shall execute and deliver to the assignor a release agreement in a form reasonably acceptable to the Landlord and assignor to evidence such release. Notwithstanding the foregoing, however, the assignor shall remain fully and conditionally liable for all obligations of assignor to have been performed under this Lease on or prior to the date of any such assignment or transfer; to the fullest extent that assignor would have been liable under this Lease if such assignment or transfer has not occurred. The provisions of this Section 11.1(a) shall survive each such transfer and the termination of this Lease.

(b) Any person to whom any assignment or transfer is made without such consent shall have no claim, right or remedy, whatsoever hereunder against Landlord and Landlord shall have no duty to recognize any person claiming under or through the same.

Section 11.2 Subsequent Assignment

In cases where Landlord's consent is required such consent to any one assignment will not constitute a waiver of the requirement that the Tenant obtain consent to any subsequent assignment.

Section 11.3 Request for Consent

If Tenant requests Landlord's consent to any assignment hereunder, Tenant shall provide to Landlord such information as Landlord may decide to reasonably require whether to grant such consent.

Section 11.4 Transfer by Landlord

(a) Landlord shall not transfer all or any part of its interest in the Premises without the prior written consent of the Tenant, which shall not be unreasonably withheld, subject only to the requirements of applicable law, regulation, ordinance, or public exigency, and otherwise to the terms of this Lease. Upon any such approved transfer, the transferee shall assume all of Landlord's obligations under this Lease. Landlord shall not transfer all or any portion of its interest in the Premises if the same would cause (i) a violation of any applicable laws or regulations, any material terms of this Lease, or any agreement or contract with respect to the

Premises and/or any future development which is reasonably necessary to carry out Tenant's obligations hereunder or under applicable law and to which Tenant is a party or by which Tenant is bound, and of which Landlord has prior written notice, or (ii) a reduction in Tenant's receipt of operating subsidy for the Premises, unless such reduction is, or causes, a default by Tenant of its obligations hereunder, or otherwise under applicable law.

ARTICLE 12 – LEASEHOLD FINANCING

Section 12.1 Right to Mortgage

Subject to Landlord's consent, if required, and to the terms and conditions of this Lease, Tenant shall have the right from time to time to grant one or more mortgages of its interest in the Premises, and/or any future development (each, once approved, a "Permitted Encumbrance/Mortgage") as the same may reasonably be necessary to carry out, complete, operate, and/or maintain the same. Each such mortgage shall be subject to this Lease. The Tenant shall give prior written notice to Landlord of its intention to enter into any such mortgage, and shall provide Landlord with any such information as it may determine reasonably require whether to consent thereto. In no event shall Landlord ever be required to execute any such mortgage or any note secured thereby or any other obligation securing any such note, or to subordinate Landlord's fee interest in the Premises or any part thereof to any such mortgage. Tenant shall identify the name of each mortgagee ("Permitted Leasehold Mortgagee") for such portion of the Premises and the address (es) to which notices to the Leasehold Mortgagee are to be sent. Landlord agrees to execute any additional documents or further assurances as may be reasonably be requested by any Leasehold Mortgagee in connection with any Leasehold Mortgage permitted by this Article 12.

Section 12.2 Consent Required for Termination and Amendments.

No termination, cancellation, surrender, or material modification of this Lease by agreement between Landlord and Tenant shall be effective unless and until consented to in writing by such Permitted Leasehold Mortgagee, provided that such consent shall not be unreasonably withheld.

Section 12.3 Default Notice and Notice Provisions.

Landlord, upon providing Tenant with any notice of default under this Lease, shall at the same time send a copy of such notice to every Permitted Leasehold Mortgagee, provided, however, that the failure to provide such additional notices shall not invalidate any duly delivered notice to Tenant. From and after such notice has been given to the Permitted Leasehold Mortgagee, such Permitted Leasehold Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or causing the same to be remedied, as is given Tenant after the giving of such notice to Tenant, plus in each instance, the additional periods of time specified in Sections 12.4 and 12.5 to remedy, commence remedying or cause to be remedied the defaults specified in any such notice. Landlord shall accept such performance by or at the instigation of the Permitted Leasehold Mortgagee as if the same had been done by Tenant.

Section 12.4 Notice to Permitted Leasehold Mortgagee

Anything contained in this Lease to the contrary notwithstanding, if any default shall occur and remain uncured beyond all applicable grace or cure periods of this Lease, which entitles Landlord to terminate this Lease as to all or any portion of the Premises to take any other remedial action against Tenant, Landlord shall have no right to terminate this Lease or take such remedial action unless, following the expiration of the period of time given Tenant to cure such default, Landlord shall notify each Permitted Leasehold Mortgagee, if applicable, to the extent of Landlord's actual knowledge of their existence, of Landlord's intent to so terminate at least thirty (30) calendar days in advance of the proposed effective date of such termination, if such default is capable of being cured by the payment of money, and at least forty-five (45) calendar days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money. The provisions of Section 12.5 shall apply if, during such thirty (30) or forty-five (45) calendar day notice period, any Permitted Leasehold Mortgagee:

(a) Notifies Landlord of such Permitted Leasehold Mortgagee's desire to nullify such notice; and

(b) Pays or causes to be paid all Additional Rent and other payments then due and in arrears applicable to the subject portion(s) of the Premises, as specified in the notice given to such Permitted Leasehold Mortgagee and which becomes due during such thirty (30) or forty-five (45) day period; and

(c) Complies or in good faith, with reasonable efforts, commences to comply with any non-monetary requirements of this Lease applicable to the subject portion(s) of the Premises then in default and except as provided in the following sentence, reasonably susceptible of being complied with by such Permitted Leasehold Mortgagee.

No Permitted Leasehold Mortgagee shall be required during such thirty (30) day or forty-five (45) day period to cure or commence to cure any default consisting of Tenant's failure to satisfy and discharge any lien, charge or encumbrance against Tenant's interest in this Lease or any part thereof which is (a) authorized by this Lease, and (b) junior in priority to the lien of the Permitted Leasehold Mortgage, if applicable, held by such Permitted Leasehold Mortgagee.

Section 12.5 Procedure on Default

If Landlord shall elect to terminate this Lease by reason of any default of Tenant, which default has not been cured within the applicable cure period, and the Permitted Leasehold Mortgagee, if applicable, shall have proceeded in the manner provided for by Section 12.4, the specified date for such termination as fixed by Landlord in its notice given pursuant to Section 12.4 shall be extended for a period of six (6) months, provided that the Leasehold Mortgagee shall be permitted to avail itself of additional cure periods as described at Section 12.4 and 12.5 provided that such Permitted Leasehold Mortgagee shall, during such six-month period:

(a) Pay or cause to be paid, the Additional Rent and any other monetary obligations of Tenant under this Lease, as the same become due, and continue its good faith efforts to perform all of Tenant's other obligations under this Lease, excepting (i) obligations of Tenant to satisfy or otherwise discharge any lien, charge or encumbrance against Tenant's interest in this

Lease or any part thereof which is junior in priority to the lien of the Permitted Leasehold Mortgage, if applicable, held by such Permitted Leasehold Mortgagee, and (ii) past non-monetary obligations then in default and not reasonably susceptible of being cured by such Permitted Leasehold Mortgagee; and

(b) Except to the extent enjoined and stayed, take steps to acquire or sell Tenant's interest in this Lease, by foreclosure of such Permitted Leasehold Mortgagee, or other appropriate means and prosecute the same to completion with reasonable efforts.

Section 12.6 Extension of Cure Period

If at the end of the six-month period specified in Section 12.5, such Leasehold Mortgagee, if applicable, is complying with Section 12.5(a), and provided that any Leasehold Mortgagee shall be permitted to avail itself of additional cure periods as described at Section 12.4 and 12.5, and the time for completion by such Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Tenant's interest in this Lease, by foreclosure of its Leasehold Mortgage or by other appropriate means with reasonable efforts. Nothing in this Article 12, however, shall be construed to extend this Lease beyond the Term. If any Leasehold Mortgagee is complying with Section 12.5, upon the acquisition of Tenant's interest in this Lease by such Leasehold Mortgagee or its designee, or any other purchaser at a foreclosure sale or otherwise and the discharge, by operation of law or otherwise, of any lien, charge or encumbrance against Tenant's interest in this Lease or any part thereof which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee and which Tenant is obligated to satisfy and discharge by the terms of this Lease, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease.

Section 12.7 Right to New Lease

In the event that the Lease is terminated by Landlord, Landlord shall, if requested by Leasehold Mortgagee, if applicable, grant to the Leasehold Mortgagee a new lease on the following terms and conditions:

(a) In the event of the termination of this Lease prior to its stated expiration date, Landlord agrees that it will enter into a new lease of the Premises with any Leasehold Mortgagee, if necessary, including but not limited to a corporation or other entity formed by or on behalf of such Leasehold Mortgagee, for the remainder of the Term of this Lease effective as of the date of such termination, at the Base Rent and Additional Rent and upon the same covenants, agreements, terms, provisions, and limitations herein contained, provided (i) such Leasehold Mortgagee makes written request upon Landlord for such new lease within thirty (30) days from the date Landlord notifies such Leasehold Mortgagee of such termination and such written request is accompanied by payment to Landlord of all amounts then due to Landlord under this Lease but for such termination, (ii) such Leasehold Mortgagee pays or causes to be paid to Landlord at the time of the execution and delivery of such new lease any and all sums which would at the time of the execution and delivery thereof be due under this Lease but for such termination and pays or causes to be paid any and all expenses, including reasonable counsel fees, court costs, and costs and disbursements incurred by Landlord in connection with

any such termination and in connection with the execution and delivery of such new lease and (iii) such Leasehold Mortgagee agrees to reinstate the lien and take the Premises subject to the loan of any other Leasehold Mortgagee which held a lien senior in priority to the lien of such Leasehold Mortgagee if such senior Leasehold Mortgagee had also requested a new lease and tendered the required payments(s).

(b) Any new lease made pursuant to this Section 12.7 shall have the same priority as this Lease (except with respect to any non-electing Leasehold Mortgagee) and shall be prior to any mortgage or any lien, charge or encumbrance of the fee of the Premises created by Landlord, except the Declaration of Restrictive Covenants, for a term of years equal to the balance of the Term of this Lease.

(c) Any permitted mortgage or deed of trust upon Landlord's interest in the Premises and any action by such mortgagee or trustee or beneficiary of such deed of trust by way of receivership, foreclosure, exercise or power of sale, or deed in lieu thereof shall be subject to this Lease and to the new lease to be given pursuant to this Section 12.7 and any mortgagee or holder of such mortgage or the beneficiary and trustee of any such deed of trust must recognize this Lease and any new lease and all rights of Tenant and each Leasehold Mortgagee hereunder and thereunder.

(d) The provisions of this Section 12.7 shall be self-operative and require no further action by the mortgagee of any mortgage or beneficiary and trustees of any deed of trust encumbering Landlord's interest in the Premises, the Development, or both, but upon request by Tenant or the Leasehold Mortgagee electing under Section 12.7(a), Landlord agrees to obtain from such mortgagee or beneficiary and trustees an instrument duly executed and acknowledged confirming the priority of such new lease.

Section 12.8 Assumption of Tenant's Obligations

For purposes of Articles 11 and 12, the making of a Leasehold Mortgage, if applicable, shall not be deemed to constitute an assignment or transfer of this Lease or Tenant's interest created hereby, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Lease or of Tenant's interests under this Lease so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of Tenant to be performed hereunder, but a Leasehold Mortgagee may become the holder of Tenant's leasehold estate and succeed to Tenant's interest in this Lease by foreclosure of its Leasehold Mortgage or as a result of the assignment of this Lease in lieu of foreclosure, and any purchaser at any sale of Tenant's interest under this Lease in any proceeding for the foreclosure of any mortgage or the assignee or transferee of Tenant's interest in this Lease under any instrument of assignment or transfer in lieu of the foreclosure of any mortgage shall be deemed to be an assignee or transferee approved by Landlord and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of Tenant to be performed hereunder, but only for so long as such purchaser or assignee is the owner of Tenant's interest in this Lease.

Section 12.9 Non-Curable Defaults.

Nothing in this Article 12 shall require any Leasehold Mortgagee, if applicable, or its designee as a condition to the exercise of rights provided under this Article 12 to cure any default of Tenant not reasonably susceptible of being cured by such Leasehold Mortgagee or its designee as such susceptibility is reasonably determined solely by Landlord. The foregoing shall not be deemed to excuse any Leasehold Mortgagee from performing covenants relating to the condition of the Development on the Premises, operation in compliance with applicable Multi-family housing, or other similar matters requiring access control, or both of the Premises, from and after such time as such Leasehold Mortgagee acquires Tenant's interest in this Lease by foreclosure or otherwise.

Section 12.10 No Merger.

So long as any Leasehold Mortgage is in existence, unless all Leasehold Mortgagees shall otherwise expressly consent in writing, the fee title to the Premises and the leasehold estate of Tenant therein shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by any single owner, other than by termination of this Lease by Landlord in compliance with the provisions of this Article 12.

Section 12.11 Landlord's Fee to Remain Unsubordinated

Landlord and Tenant expressly acknowledge and agree that Landlord shall have no obligation under this Lease or otherwise to subordinate fee title of Landlord in the Premises or any rights of Landlord in this Lease to the leasehold estate of Tenant created by this Lease or to join any such mortgage or encumbrance or otherwise in any manner subordinate the fee title of Landlord in and to the Premises or interest of Landlord under this Lease.

Section 12.12 Sale of Premises

In the event of any sale or conveyance of the Premises by Landlord, any such sale or conveyance of all or any part of the Premises shall be subject to this Lease and all of the provisions hereof, and notice of such sale shall be provided each Leasehold Mortgagee.

ARTICLE 13 – MAINTENANCE AND REPAIR

Section 13.1 Tenant's Obligations

Tenant will, at its sole cost and expense, maintain or cause to be maintained the Premises and/or any future development (the "Developments"), reasonable wear and tear excepted, and make or cause to be made repairs, restorations, and replacements to the Developments, including without limitation the heating, ventilating, air conditioning, mechanical, electrical, elevator, and plumbing systems, structural roof, walls, and foundations, and the fixtures and appurtenances to the Developments as and when needed to preserve them in good working order and condition, and regardless of whether the repairs, restorations, and replacements are ordinary or extraordinary, foreseeable or unforeseeable, capital or non-capital, or the fault or not the fault of Tenant, its agents, employees, invitees, visitors, and contractors. All such repairs, restorations, and replacements of the Developments, as elected by Tenant, will be in quality and class either

equal to the original work or installations, or otherwise consistent with the standard then applicable to comparable residential projects within the Santa Fe Metropolitan Statistical Area at such time, but in no event of less quality or class than the any applicable regulatory agreement between Landlord and Tenant.

ARTICLE 14 – OWNERSHIP AND ALTERATIONS

Section 14.1 Ownership of Any Future Development Any future development shall be or become part of the Premises upon Substantial Completion of construction (regardless of whether the Premises and the Project are referred to separately in this Lease), and such future development and any and all subsequent additions, substitutions and/or fixtures therein shall be owned by Tenant until the expiration or earlier termination of the Term, and during the Term and for the years in which the Term begins and ends, the Tenant alone shall be entitled to any tax and amortization attributes thereof, including, but not limited to, depreciation deductions and, if applicable, any tax credits thereon for income taxes purposes. At the expiration or earlier termination of the Term or any portion thereof under any provision of this Lease, the Tenant shall peaceably leave, quit, and surrender the Premises and/or any future development, or the portion thereof so terminated, in accordance with Section 15.1 hereof.

Section 14.2 Alterations.

Tenant shall not make any future development such as any alterations, improvements or additions to the Premises having a cost greater than Two Hundred Thousand and 00/100 Dollars (\$200,000.00) or demolish any portion of the Premises as exist thereof, without first presenting to Landlord complete plans and specifications therefore and obtaining Landlord's consent thereto (which consent shall not unreasonably be withheld so long as, in Landlord's judgment, such alteration, Improvement, addition or demolition will not violate the Applicable Multi-family Housing Requirements or this Lease, or impair the value of the Premises). Any improvements made to the Premises by either party hereto shall be made only in a good and workmanlike manner, using new materials of the same general quality as the original improvements, and in accordance with all applicable building codes and the Applicable Multi-family Housing Requirements.

Section 14.3 No Liens.

Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons, firms, and corporations doing any work, furnishing any materials or supplies, or renting any equipment to the Tenant or any of its contractors or subcontractors in connection with the construction and/or demolition, furnishing, repair, maintenance, or operation of the Premises and/or any future development and in all events will bond or cause to be bonded, with surety companies reasonably satisfactory to the Landlord, or pay or cause to be paid in full forthwith, any lien, security interest, or other encumbrance incurred in connection therewith, whether due to the actions of the Tenant, or any person under control of the Tenant, against the Premises and/or any future development, other than a Permitted Encumbrance/Mortgage pursuant to Section 12.1 hereof.

Tenant shall have the right to contest any such lien or encumbrance by appropriate proceeding which shall prevent the collection of or other realization upon such lien, security interest, or encumbrance so contested, and the sale, forfeiture, or loss of the Premises and/or any future development to satisfy the same, provided that such contest shall not subject the Landlord to the risk of any criminal liability or civil penalty, and provided further that the Tenant shall give such reasonable security as may be requested by the Landlord to insure payment of such lien, security interest, or encumbrance, and to prevent any sale or forfeiture of the Premises and/or any future developments by reason of such nonpayment, and the Tenant hereby indemnifies the Landlord for any such liability or penalty. Upon the termination after final appeal of any proceeding relating to any amount contested by the Tenant pursuant to this Section 14.3, the Tenant shall immediately pay any amount determined in such proceeding to be due, and in the event the Tenant fails to make such payment, the Landlord shall have the right after five (5) days notice to Tenant to make any such payment on behalf of the Tenant and to charge the Tenant therefore.

Nothing contained in this Lease shall be construed as constitution the consent or request of the Landlord, express or implied, to or for the performance of any labor or services or the furnishing of any materials for construction, alteration, addition, repair, or demolition of or to the Premises and/or any future development, or any part thereof through or under the Tenant, and no liens, security interest, or encumbrance for any such labor, services, or materials, shall attach to or affect the interest of the Landlord in and to the Premises and/or any future development, or any part thereof.

Any such lien, security interest or other encumbrance that is not released or bonded within thirty (3) days of the date it becomes effective shall constitute an Event of Default under Section 17.2.

ARTICLE 15 – SURRENDER

Section 15.1 Expiration of Term

At the expiration or earlier termination of the Term or any portion thereof under any provision of this Lease, the Tenant shall peaceably leave, quit, and surrender the Premises and/or any future development, or the portion thereof so terminated, subject to the rights of subtenants in possession under leases with Tenant; provided that, subject to the rights of the subtenant under such subleases, such subtenant is not in default thereunder beyond any grace period provided therein, and attorney to Landlord as such subtenant's lessor. Subject to the rights of the Landlord, upon such expiration or termination, the Premises, the future development, and all portions thereof so terminated shall become the sole property of Landlord at no cost to the Landlord and shall be free of all liens and encumbrances and in good condition, subject only to reasonable wear and tear, and, in the event of casualty, to the provisions of Article 16 hereof. In connection with the foregoing, the Landlord shall be entitled to cause the fee interest in the Premises and the leasehold interest in the Premises to be separate, rather than have the two merged. Tenant may remove any movable equipments or furniture from any rental management office on the Premises, provided that no federal funds were used to acquire such furniture, equipment, or both.

ARTICLE 16 – CASUALTY, CONDEMNATION

Section 16.1 Damage or Destruction to Premises

Tenant shall give prompt written notice to Landlord after the occurrence of any fire, earthquake, act of God or other casualty to or in connection with the Premises, the Developments or any portion thereof. Subject to Section 16.2 below, if during the Term of this Lease, the Developments shall be damaged or destroyed by casualty, Tenant shall repair or restore the Developments so long as it is lawful, and all Leasehold Mortgagees agree that it is feasible to do so and adequate insurance proceeds are made available to Tenant to complete such repairs and restoration. Upon the occurrence of any such casualty, Tenant, promptly and with all due diligence, shall, apply for and collect all applicable insurance proceeds recoverable with respect to such casualty, for the benefit of any Leasehold Mortgagees, if applicable. In the event that more than twenty percent (20%) of the value of the Developments, the Premises, or both are damaged or destroyed, and Tenant shall determine, subject to the rights of the holders of any Leasehold Mortgage, if applicable, and shall notify Landlord in writing within thirty (30) days after receipt by Tenant of any such insurance proceeds, that it is not economically practical to restore the Premises to substantially the same condition in which they existed prior to the occurrence of such casualty, Tenant may terminate this Lease as of a date that is not less than thirty (30) days after the date of such notice. If Tenant terminates this Lease pursuant to this Section, Tenant shall surrender possession of the Premises to Landlord immediately and assign to Landlord (or, if same has already been received by Tenant, pay to Landlord) all of its right, title, and interest in and to the proceeds from Tenant's insurance upon the Premises, subject to the prior rights of any Leasehold Mortgagees, as referenced in Section 16.2 below.

Section 16.2 Distribution

In the event that this Lease is terminated (in whole or in part) pursuant to Section 16.1, the insurance proceeds received as the result of the subject casualty shall be distributed and disbursed as provided in applicable Multi-family housing regulations.

Section 16.3 Condemnation

(a) If, by exercise of the right of eminent domain or by conveyance made in response to the threat of the exercise of such right (in either case a "Taking"), all of the Premises are taken, or if so much of the Premises are taken that the Premises cannot be used by Tenant in a commercially reasonable manner for the purposes for which they were used immediately before the Taking, then this Lease shall, at Tenant's sole option, subject to the rights of any Leasehold Mortgagee, if applicable, terminate on the earlier of the vesting title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority.

(b) Landlord and Tenant agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to this Article, this Lease shall continue in effect as to the remainder of the Premises and any future development, and the net amounts owed or paid to the parties or to which either of the parties may be or become entitled by reason of any Taking pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the Parties in

collecting such award or payment (the "Net Condemnation Award") shall be distributed and disbursed as provided in applicable Multi-family housing laws and regulations. However, if the distribution is not covered by one or more of the preceding instruments, then as follows: (i) first to any Leasehold Mortgagee in an amount sufficient to satisfy the terms and conditions of the Leasehold Mortgage, if applicable, if required, and (ii) to the extent permitted by the foregoing instruments, in accordance with subsection (d) below. Notwithstanding the foregoing, to the extent permitted in any Leasehold Mortgage, if applicable, the Net Condemnation Award shall be used by Tenant to make the remainder of the Premises a complete, unified and efficient operating unit as nearly as reasonably possible to the condition existing prior to the Taking, subject to any applicable requirements of any Leasehold Mortgage, if applicable. However, Tenant is not obligated to expend any sums to restore the Premises that are in excess of the Net Condemnation Award made available to it for that purpose.

(c) If there shall be a temporary Taking with respect to all or any part of the Premises or of Tenant's interest in this Lease, then the Term shall not be reduced and Tenant shall continue to pay in full all Rent and other charges required herein except Operating Expenses attributable to the taken property, without reduction or abatement thereof at the times herein specified; provided, however, that Tenant shall not be required to perform such obligations that Tenant is prevented from performing by reason of such temporary Taking.

(d) If there is a Taking, whether whole or partial, Landlord (solely in its capacity as Landlord under this Lease and not in its capacity, if applicable, as maker of any loan to Tenant) and Tenant shall be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings, or as may be otherwise agreed, subject to the rights of any Leasehold Mortgagee, taking into consideration the fact that Landlord's interest in the Premises is limited to the land and the Development, for which Landlord shall have contributed an amount toward the construction thereof (the actual aggregate amount so contributed being referred to as the "Landlord's Contribution," as encumbered by this Lease, and a reversionary interest in the Premises and the Development upon the expiration of the Term. If the Premises shall be restored as is contemplated in subsection (b) above, Tenant shall be entitled to recover the costs and expenses incurred in such restoration out of any Net Condemnation Award. Thereafter, if the condemning authority does not make separate awards, the Parties agree that any Net Condemnation Award will be allocated between them on a proportionate basis, taking into account the relative percentage of the Development that consists of the Mixed Finance Housing Units and the portion of Landlord's Contribution that has not been repaid to Landlord. If the Parties are unable to agree as to the exact percentage of such allocation or if such allocation is no longer applicable because of the repayment of Landlord's Contribution, and the Parties are unable to agree as to the amounts that are to be allocated to the respective interests of each party, then each party shall select an independent M.A.I. real estate appraiser (an "Appraiser"). Each Appraiser shall separately determine the amount of the balance of the Net Condemnation Award allocated to each party. If the percentage allocated to Landlord by one Appraiser is within ten percent (10%) of the percentage allocated to Landlord by the other Appraiser, then the two percentage allocations shall be averaged and such average percentage shall be the percentage allocated to Landlord, with the remaining percentage of the balance of the Net Condemnation Award to be allocated to Tenant. If the percentage allocated to Landlord by an Appraiser is not within ten percent (10%) of that allocated to Landlord by the other Appraiser, then the two Appraisers shall

select a third appraiser, who shall independently determine the percentage of the balance of the Net Condemnation Award that should be allocated to each party, and the average of the percentages determined by the three Appraisers to be allocable to Landlord shall be the percentage that is allocated to Landlord and the remaining percentage of the balance of the Net Condemnation Award shall be allocated to Tenant.

(e) Landlord and Tenant agree that all then-existing Leasehold Mortgagees, to the extent permitted by law and to the extent their interests are affected by the Taking, shall be made a party to any Taking proceeding.

ARTICLE 17 – DEFAULT and REMEDIES

Section 17.1 Landlord's Right to Perform.

(a) Landlord's Option to terminate if Tenant does not receive LIHTC.

If Tenant does not obtain an award of Low Income Housing Tax Credits for the fiscal years 2013 or 2014 on or before August 31, 2014, then Landlord may immediately terminate the Lease. In the event Tenant is successful in obtaining an award, Tenant, at Tenant's sole expense, may obtain a market valuation/analysis of the value of this Lease and indicate on the application for the LIHTC that the value of this Lease will be donated to the LIHTC project to be developed on the Premises. Landlord also intends to make application for New Mexico Affordable Housing Tax Credits, and if Landlord is successful in its application for these additional tax credits, Landlord agrees to use the proceeds from the sale or other disposition of the Affordable Tax Credits for the sole purpose of development of the Premises for the purpose set forth herein.

(b) Landlord's Option if Tenant fails to pay when due amounts payable. If Tenant fails to pay when due amounts payable by Tenant in accordance with Tenant's obligations under this Lease, then Landlord, after ten (10) calendar days' prior written notice to Tenant and without waiving any of its rights under this Lease, may (but will not be required to) pay such amount, unless Tenant notifies Landlord in writing during such ten (10) calendar day period that Tenant is withholding the subject payment due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests. If Tenant fails to perform any of its other obligations under this Lease within the time permitted for its performance, then Landlord, after ten (10) calendar days' prior written notice to Tenant and without waiving any of its rights under this Lease, may (but will not be required to) perform such obligation, unless Tenant notifies Landlord in writing during such ten (10) day period that Tenant is withholding performance due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests or that Tenant has commenced the curing of such default within such ten (10) day period and continues to prosecute such cure in good faith until it has effected such cure.

(c) Additional Rent. All amounts which Tenant is obligated to pay pursuant to Article VI of this Lease, which if not paid may be paid by Landlord, and all reasonable costs and expenses incurred by Landlord in connection with the performance of any such Tenant obligations will be payable by Tenant to Landlord within ten (10) calendar days after Landlord has notified Tenant in writing of the amounts incurred by Landlord on its behalf and shall constitute "Additional Rent," with interest accrued thereon at the rate equal to two percent (2%) above the prime rate

then in effect, as published from time to time in the Wall Street Journal. Landlord shall provide Tenant with invoices and other reasonable evidence of the amounts paid or incurred by Landlord in connection with its exercise of its rights pursuant to this Article.

Section 17.2 Events of Default.

At the option of Landlord, the occurrence of any of the following events shall constitute and are defined as an "Event of Default" by Tenant:

(a) Tenant defaults in the due and punctual payment of any Base Rent or Additional Rent, and such default continues for fifteen (15) calendar days after written notice from Landlord, unless Tenant notifies Landlord in writing during such fifteen (15) calendar day period that Tenant is withholding the subject payment or performance due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests; or

(b) Tenant vacates (except by reason of casualty or condemnation) the Premises for a period of more than thirty (30) consecutive days, or abandons the Premises; or

(c) This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subjected to any attachment by any creditor of Tenant or claimant against Tenant, and such attachment is not discharged or bonded off within ninety (90) calendar days after its levy; or

(d) Tenant breaches any of the other agreements, terms, covenants, or conditions which this Lease requires Tenant to perform, including without limitation the provisions of Article 12 hereof, and such breach continues for a period of thirty (30) calendar days after notice by Landlord to Tenant; provided, however, if the nature of the breach is such that it cannot be cured by Tenant reasonably within the period of thirty (30) calendar days, Tenant shall not be deemed in default of this Lease if Tenant commences the curing of such default within such period of thirty (30) days and prosecutes in good faith the curing of same continuously thereafter until the same is, in fact, cured; or

(e) Tenant fails to complete construction of the Future Development by the completion date and in accordance with closing documents to be entered into by the Parties at a closing on the financing for the Development; or

(f) Tenants fails to operate and maintain the Multi-family mixed income rental properties in accordance with all Applicable Multi-family Housing Requirements; or

(g) A lien is placed on the Premises, with the exception of any Permitted Mortgages, if applicable, approved in writing by Landlord, that is not released or bonded no later than thirty (30) days of filing; or

(h) Tenant uses the Premises for uses other than the permitted use provided for in Section 9.1 herein; or

(i) Tenant makes any assignment in violation of this Lease.

Section 17.3 Remedy

If any one or more Events of Default set forth in Section 17.2 occurs, and continues beyond the applicable grace or cure periods, then Landlord may, at Landlord's sole and exclusive remedy, at law or in equity, but subject in all respects to the rights of any holder of a Permitted Mortgage, if applicable, as set forth in Article 12 hereof, terminate this Lease by written notice to Tenant of its intention to terminate this Lease on the date (including any cure period described above) specified in such notice, and, on the date specified in such notice, Tenant's right to possession of the Premises and the Development will cease and the estate conveyed by this Lease shall re-vest in Landlord.

Section 17.4 Tenant's Right to Perform.

(a) Right to Perform Covenants. If Landlord shall, at any time, fail to perform any of its obligations hereunder or be in breach of any of its representations and warranties herein, Tenant shall, except in the event of an emergency, provide Landlord will notice of such default, and if Landlord does not commence action to cure any such default within the time period specified below after the giving of such notice, or immediately, in the event of an emergency, then Tenant may, without any obligation so to do and without waiving or releasing any obligation of Landlord contained in this Lease, take such actions and make such payment as may be necessary or appropriate to fulfill Landlord's obligations or otherwise cure any default of Landlord hereunder. In case of emergency, Tenant shall nevertheless make every effort to provide notice of default to Landlord. Where no emergency exists, and after giving notice to Landlord, Tenant shall allow Landlord ten (10) calendar days to commence a cure, unless Tenant's interests would be jeopardized by such delay.

(b) Costs and Expenses. All reasonable sums so paid by Tenant and all reasonable and essential costs and expenses incurred by Tenant in connection with the performance of any of the obligations of Landlord hereunder, or on account of any breach by Landlord of its representations and warranties herein shall be payable by Landlord to Tenant, but only after Tenant provides Landlord with invoices and other evidence of the amounts paid and essential expenses incurred by Tenant in connection with its reasonable exercise of its rights pursuant to this Article. In the event Landlord does not pay Tenant the amounts set forth in such invoices, then Tenant may withhold such amounts from the next installment of rent due under this Lease, until paid in full.

Article 17.5 Excusable Delay

Any time deadline or limitation shall be subject to extension for any delay that arises from unforeseeable causes beyond the reasonable control and without the fault or negligence of Landlord or Tenant. Examples of such cause include, without limitation, (a) acts of God, or public enemy, (b) acts or failure to act of other governmental entity in either their sovereign or contractual capacity, to the extent action by other governmental entity is required hereunder, provided that the party hereunder seeking such action by other governmental entity properly requests same in a timely manner and thereafter diligently pursues same, (c) acts or failure to act of a contractor in the performance of a contract with Landlord or Tenant, provided that the party hereunder seeking such action by the contractor properly requests same in a timely manner and

thereafter diligently pursues same, (d) fires, (e) floods, (f) epidemics, (g) quarantine restrictions, (h) strikes or labor disputes, (i) freight embargoes, (j) unusually severe weather, (j) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the reasonable control and without the fault or negligence of Landlord or Tenant, as applicable, (l) delays caused by litigation commenced by someone other than Landlord, and Leasehold Mortgagees, and (m) unusual disruptions in financial markets.

ARTICLE 18 – MISCELLANEOUS

Section 18.1 No Brokers.

Landlord and Tenant each represents and warrants to the other that it has not dealt with any broker or finder with regard to the Premises or this Lease.

Section 18.2 Recordation

Landlord and Tenant shall record a Memorandum of this Lease #1 among the Land Records of the County in the form provided herein as Exhibit C. At the expiration of the Term of this Lease, Tenant shall execute a quitclaim termination of its interest in this Lease.

Section 18.3 Time of Essence

Subject to Section 17.5 herein, time is of the essence of each and every provision of this Lease.

Section 18.4 No Waiver.

No waiver of any condition or agreement in this Lease by either Landlord or Tenant will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Landlord or Landlord's agents during the Term of this Lease will be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender will be valid unless in writing signed by Landlord. Neither payment by Tenant, nor receipt from Landlord, of a lesser amount than the Base Rent and Additional Rent or other charges stipulated in this Lease will be deemed to be anything other than a payment on account of the earliest stipulated Base Rent and Additional Rent. No endorsement or statement on any check, or any letter accompanying any check or payment as Base Rent or Additional Rent, will be deemed an accord and satisfaction. Landlord will accept such check for payment without prejudice to Landlord's rights to recover the balance of such Base Rent or Additional Rent or to pursue any other remedy available to Landlord. If this Lease is assigned, or if the Premises or any parts of the Premises are sublet or occupied by anyone other than Tenant, Landlord may collect rent from the assignee, subtenant, or occupant and apply the net amount collected to the Base Rent and Additional Rent reserved in this Lease. No such collection will be deemed a waiver of the covenant in this Lease against assignment and subletting, or the acceptance of assignee, subtenant, or occupant of Tenant, or a release of Tenant from the complete performance by Tenant to its covenants in this Lease.

Section 18.5 Joint and Several Liability

The liability of Tenant under this Lease is limited to Tenant's interest in the Premises. Neither Tenant, nor any general or limited partner of Tenant, or any affiliate thereof, nor any officer, director, shareholder or employee of any of said entities, shall have any personal liability hereunder.

Section 18.6 Captions and Gender.

The captions are inserted in this Lease only for convenience of reference and do not define, limit, or describe the scope or intent of any provisions of this Lease. Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine, and neuter adjectives include one another.

Section 18.7 Entire Agreement

Except for those that specifically set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to one another with respect to this Lease.

Section 18.8 Amendment

This Lease can be amended only by a written document agreed to and signed by Landlord and Tenant, the approval of which both Landlord and Tenant mutually agree not to unreasonably withhold, delay or condition, and with the written approval of all Leasehold Mortgagees, if applicable, provided that no amendment shall impair the obligations of Tenant to develop and operate the Developments in accordance with the Applicable Multi-family Housing Requirements.

Section 18.9 Severability

If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as a part of this Lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, or enforceable provided such severability does not materially affect the basic understanding of the parties hereto as reflected in this Agreement.

Section 18.10 Notices.

Any notice, request, demand, consent, approval, or other communication required or permitted under this Lease shall be in writing and shall be deemed given when (i) received, if delivered by hand (ii) sent by registered or certified mail, return receipt requested, (iii) sent by recognized overnight delivery services such as Federal Express, or (iv) transmitted by facsimile or electronic mail, provided such notice is also sent simultaneously in the manner provided for in (i), (ii), or (iii) above, addressed as follows:

If to Tenant: Santa Fe Civic Housing Authority
664 Alta Vista Street
Santa Fe, New Mexico 87505
Attn: Ed Romero, Executive Director

With a copy to:

If to Landlord: City of Santa Fe
200 Lincoln Avenue
P.O. Box 909
Santa Fe, New Mexico 87504-0909
Attention: Alexandra Ladd

With a copy to: City Manager

A party may change its address or to whom a copy should be sent by giving written notice to the other Parties as specified herein. Landlord shall also provide written notice to any Leasehold Mortgagee, if applicable, in accordance with Section 12.3.

Section 18.11 Waiver of Jury Trial

Landlord and Tenant may waive trial by jury, by mutual consent, in any action, proceeding or counterclaim brought by one against the other on all matters arising out of this Lease or the use and occupancy of the Premises.

Section 18.12 Cooperation

Landlord and Tenant agree that they will reasonably cooperate with one another in furtherance of the development of the Premises with the Future Development. In particular, Landlord recognizes that the varied sources of funding make it extremely difficult to anticipate every potential provision that may be required in this Lease. From time to time, Tenant may request modifications to the Lease reasonably necessary to satisfy the requirements of financing sources, which financing sources include without limitation, private lenders, equity sources, and governmental agencies. Landlord to the extent reasonably necessary to advance the Future Development, will accommodate such requests, and will not unreasonably withhold or delay its approval and execution of such modifications to this Lease, provided that they do not materially and adversely to the interests of Landlord alter the basic terms hereof. Nothing herein shall impose upon Landlord any requirement to approve any modification or amendment to the Lease which would violate or contravene any applicable laws or any contract or agreement to which Landlord is a party or which is binding on Landlord. Landlord agrees that it will, upon request of Tenant, from time to time, but not more frequently than once a year, enter into an amended and restated lease combining into one document the entire Lease and all amendments and modifications theretofore entered into. In addition, Landlord or Tenant, as the case may be, shall execute, acknowledge and deliver to the other and/or to each Leasehold Mortgagee, promptly upon request, its certificate certifying (i) that the Lease is unmodified and in full force and effect, (or, if there have been modifications, that this Lease is in full force and effect, as modified, and

describing the modifications), (ii) the dates, if any, to which Base Rent and Additional Rent have been paid, (iii) whether there are the existing any charges, offsets or defenses against the enforcement by Landlord or Tenant to be performed or observed and, if so, specifying the same, (iv) whether there are then existing any defaults by Tenant or Landlord in the performance or observance by Tenant or Landlord of any agreement, covenant or condition hereof on the part of Tenant or Landlord to be performed or observed and whether any notice has been given to Tenant or Landlord of any default which has not been cured, and, if so, specifying the same, and (v) any other items reasonably requested by the Equity Investor or any Leasehold Mortgagee.

Section 18.13 Additional Releases, Utility Easements.

Landlord agrees that landlord shall not unreasonably withhold or delay Landlord's consent, and shall join with Tenant from time to time during the Term in the following (provided, however, Landlord is not subject to any cost, expenses or fee, or other liability, in connection therewith): (a) the granting of easements affecting the Premises and the Future Development which are for the purpose of providing utility services for the same; and (b) the dedication or conveyance, as required, of portions of the Premises for road, highway and other public purposes to provided access for the Future Development or to permit widening of existing roads or highways. As a condition precedent to the exercise by Tenant of any of the powers granted to Tenant in this Section 18.13, Tenant shall give written notice to Landlord of the action to be taken, shall certify in writing to Landlord that such action will not adversely affect either the value or the use of the Premises, the Future Development, or any part thereof, and shall deliver all instruments required of Tenant by Landlord, and any mortgagee of the Premises.

Section 18.14 Governing Law and Venue.

This Lease will be governed by and construed in accordance with the internal laws of the State of New Mexico, without regard to principles of conflicts of laws. However, federal law shall apply to provisions required by federal statutes, regulations or guidelines.

Section 18.15 Binding Effect

This Lease will inure to the benefit of, and will be binding upon, Landlord's successors and assigns except as otherwise provided in this Lease. This Lease will inure to the benefit of, and will be binding upon Tenant's successors and assigns so long as the succession or assignment is permitted pursuant to the terms of this Lease.

Section 18.16 Cumulative Rights.

Except, as expressly limited by the terms of this Lease, all rights, powers and privileges conferred hereunder shall be cumulative and not restrictive of those provided at law or in equity.

Section 18.17 Non-Merger

Except upon expiration of the Term or upon termination of this Lease pursuant to an express right of termination set forth herein, there shall be no merger of either this Lease or Tenant's estate created hereunder with the fee estate of the Premises or any part thereof by reason of the facts that the same person may acquire, own or hold, directly or indirectly, (i) this

Lease, Tenant's estate created hereunder or any interest in this Lease or Tenant's estate (including the Development), and (ii) the fee estate in the Premises or any part thereof or any interest in such fee estate (including the Development), unless and until all persons, including any assignee of Landlord, having an interest in (a) this Lease or Tenant's estate created hereunder, and (b) the fee estate in the Premises or any part thereof, shall join in a written instrument effecting such merger and shall duly record the same.

Section 18.18 No Third Party Beneficiary.

Nothing contained in this Lease or in any agreement or contract between the Parties, Landlord or Tenant be deemed or construed to create any relationship of third party beneficiary, principal and agent, limited or general partnership, joint venture or any association.

Section 18.19 Quiet Enjoyment

Tenant, upon paying the Base Rent and Additional Rent and keeping, observing and performing all of the terms, covenants, agreements, provisions, conditions and limitations of this Lease on Tenant's part to be kept, observed and performed, shall quietly have and enjoy the Premises during the Term of this Lease without hindrance or molestation by anyone lawfully claiming by, under or through Landlord, subject, however, to the Permitted Encumbrances, reservations and conditions of this Lease.

Section 18.20 Counterparts.

This Lease may be executed in counterparts and all such counterparts shall be deemed originals and together shall constitute but one and the same instrument.

Section 18.21 Litigation Fees.

If Landlord and Tenant litigate any provision of this Lease or the subject matter of this Lease, the unsuccessful litigant will pay to the successful litigant all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees and court costs, actually incurred by the successful litigant at trial and on any appeal.

Section 18.22 Limited Liability of Landlord

Tenant shall look solely to Landlord's interest in the Premises for the satisfaction of any claims against Landlord, or its employees, agents, or assigns for the satisfaction of any claims, if permitted by law, arising pursuant to this Lease.

Section 18.23 Access

Tenant agrees to grant a right of access to Landlord, or any of its authorized representatives, during regular business hours with respect to any books, documents, papers, or other records related to this Lease in order to make audits, examinations, excerpts, and transcripts.

Section 18.24 Disclaimer of Partnership Status

(a) Tenant and Landlord acknowledge that the proposed transfer to Tenant or to any other participating party in the Development, of Multi-family mixed income housing funds for the development and operation of the Premises covered under this Lease shall not be deemed to be an assignment of such funds. Accordingly, neither Landlord, nor any other participating party, shall succeed to any rights or benefits of Tenant. Tenant further agrees to include this disclaimer in each of its agreements or contracts with any partner, participating party, or any other party involving the use of said housing funds for the Developments.

(b) Nothing contained in in any agreement between Landlord and Tenant, nor any act of Landlord, shall be deemed or construed to create any relationship of third-party beneficiary, principal or agent, limited or general partnership, or joint venture involving the Landlord.

Section 18.26 Conflicts.

In the event of a conflict or inconsistency between any requirement contained in this Lease (or between any requirement contained in any document referred to in this Lease, including any Leasehold Mortgage, if applicable), and the Applicable Multi-family mixed income Housing Requirements, the Applicable Multi-family mixed income Housing Requirements shall in all instances be controlling.

IN WITNESS WHEREOF, this Lease has been executed as of the day and year first hereinabove written, with the specific intention that this Lease constitutes an instrument under seal.

WITNESSES:

LANDLORD

CITY OF SANTA a public body established pursuant to New Mexico Statutes

Print Name: _____

By: _____
David Coss, Mayor

Print Name: _____

Date Executed: _____, 2013

WITNESSES:

TENANT

SANTA FE CIVIC HOUSING AUTHORITY

Print Name: _____
Print Name: _____

By: _____

Date Executed: _____, 2013

CITY OF SANTA FE:

Attest:

Yolanda Y. Vigil, City Clerk *ccnty 6-12-13*

Approved as to Form:

Judith Amor
Geno Zamora, City Attorney *4/25/13*

Approved:

Finance Director

STATE OF NEW MEXICO
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by David Coss, Mayor, City of Santa Fe a public body established pursuant to New Mexico Statutes.

Notary Public, State of New Mexico

Print, Type or Stamp Name

Personally Known____ or Produced Identification ____
Type of Identification Produced _____

STATE OF NEW MEXICO
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2013 by Ed Romero, Executive Director of Santa Fe Civic Housing Authority.

Notary Public, State of New Mexico

Print, Type or Stamp Name

Personally Known____ or Produced Identification ____
Type of Identification Produced _____

EXHIBIT A

Legal Description

1237-1246 Senda del Valle & 1209-1219 Senda Lane:

Lots Nine (9) through Twenty (20), Block Three (3), Lots Eight (8) through Thirteen (13), Block Four (4), Lots Twelve (12) through Seventeen (17), Block Five (5), West View Subdivision, formerly known as Las Acequias, Phase 2, Unit 2, as shown on plat filed in the Office of the county Clerk, Santa Fe County, new Mexico on February 13, 1983, in Plat Book 195, page 031, as Document No. 670-659.

SUBJECT TO: Reservations, restrictions and easements of record and taxes for 1990 and subsequent years.

911 Agua Fria Street

Beginning at a point marked by an iron pipe, located on the northerly side of Agua Fria Street in the City of Santa Fe, New Mexico, from whence the southeasterly corner of the intersection of Oñate Street and Agua Fria Street bears S. $46^{\circ} 54'$ W., 92.4 feet distant; from said beginning point, thence S. $69^{\circ} 17'$ W., for a distance of 149.2 feet along the northerly side of said Agua Fria Street to a point marked by an iron pipe, this being the southwesterly corner of the tract herein described; thence leaving said Agua Fria Street, N. $20^{\circ} 26'$ W., for a distance of 216.6 feet to a point marked by an iron pipe; thence continuing N. $20^{\circ} 25'$ W., for a distance of 13.46 feet to a point on the southern boundary of Lot 13, all as shown by plat of survey of the Vincent F. Brown Subdivision. A copy of said plat being on file with The County Clerk of Santa Fe County, this said point being the northwesterly corner of the tract herein described; thence N. $76^{\circ} 05'$ E., for a distance of 31.14 feet to a point marked by an iron pipe this said point being the southeasterly corner of said lot 13; thence continuing N. $76^{\circ} 05'$ E., for a distance of 50.0 feet to a point marked by an iron pipe, this said point being the southeasterly corner of Lot 12; thence N. $81^{\circ} 41'$ E., for a distance of 106.2 feet to a point marked by an iron pipe; this said point being the northeasterly corner of the tract herein described.

1752-1788 Hopewell Street & 1750-1765 Mann Street

Beginning at the Southwest corner of the herein described tract marked by an iron pipe and being a point on the East boundary line of Capital Land & Townsite Addition and the West boundary of Zimmerman's Tract no. 296, from which a U.S.G.L.O. brass cap marking the one mile corner on the South boundary of the Santa Fe Grant bears South $07^{\circ} 38'$ East 3153.50 feet, and a similar U.S.G.L.O. brass cap marking the Southwest corner of the Santa Fe Grant bears South $57^{\circ} 26'$ West 5767.58 feet distant; thence from said beginning point and running along the East boundary line of Capital Land & Townsite Addition North $17^{\circ} 30'$ West 711.20 feet to the Northwest corner of the tract herein described, being a point identical with the Northwest corner of Zimmerman's Tract No. 236; thence North $81^{\circ} 30'$ East 2.3 feet; thence North $53^{\circ} 45'$ East 133.4 feet; thence North $57^{\circ} 47'$ East 20 feet; thence South $43^{\circ} 17'$ East 44.1 feet; thence South $17^{\circ} 30'$ East 74.90 feet; thence North $71^{\circ} 18'$ East 45.63 feet; thence North $85^{\circ} 50'$ East 55.56 feet; thence North $81^{\circ} 38'$ East 75.63 feet; thence North $63^{\circ} 10'$ East 131.41 feet to the Northeast corner of the tract herein described and being a point on the East boundary of Zimmerman's Tract no. 326; thence running along the East boundary of said Tract No. 326 south $7^{\circ} 45'$ East 508.98 feet to the Southeast corner of the tract herein described; thence South $52^{\circ} 31'$ West 409.67 feet to the place and point of beginning, being and intended to be a portion of Zimmerman's Tract no. 236, continuing 5.851 acres as shown on property line map Site "C" Alternate Revised Housing Authority of the City of Santa Fe, prepared by William E. Fields, Dated October 1962, Project no. (S) NM-9-A;

SUBJECT, HOWEVER, to the two following easements: (1) That certain easement in favor of Public Service Company of New Mexico, dated September 18, 1953, recorded in Book 84, at page 147 Miscellaneous Records of Santa Fe County, New Mexico; and (2) That certain easement in favor of City of Santa Fe for maintenance of a Santa Fe sanitary sewer line dated September 18, 1954, recorded in Book 114, at page 130 Miscellaneous Records of Santa Fe County, New Mexico.

1222-1265 Cerro Gordo Road

BEGINNING at the northwest corner of the tract herein described, a point on the southeasterly side of Cerro Gordo Road from whence H.C. No. 1 on the south boundary of the Salvador Gonzales Grant bears N. $31^{\circ} 28'$ W., 173.50 feet; thence from said point of beginning along the east side of Cerro Gordo Road S. $44^{\circ} 20'$ W., 58.30 feet to a point; thence S. $40^{\circ} 25'$ W., 26.75 feet to a point; thence S. $16^{\circ} 06'$ W., 88.40 feet to the southwest corner of the tract herein described which is a point at the east side of Cerro Gordo Road and the north side of a 14 foot access road; thence along the north side of said 14 foot access road S. $83^{\circ} 47'$ E., 478.30 feet to a point; thence S. $85^{\circ} 41'$ E., 155.95 feet to the southeast corner of the tract herein described which is a point at the north side of said 14 foot access road and the west side of South Armijo Lane; thence along the west side of South Armijo Lane N. $06^{\circ} 18'$ E., 363.80 feet to the northeast corner of the tract herein described which is a point on the west side of South Armijo lane and the south side of Cerro Gordo Road; thence along the south side of Cerro Gordo Road S. $72^{\circ} 26'$ W., 38.85 feet to a point; thence S. $56^{\circ} 57'$ W., 79.10 feet to a point; thence S. $55^{\circ} 57'$ W., 207.00 feet to a point; thence N. $86^{\circ} 17'$ W., 298.80 feet to a point; thence S. $71^{\circ} 43'$ W., 14.70 feet to the northwest corner, the point and place of beginning, containing 2.921 acres, more or less.

1227-1265 Gallegos Lane

Tract "A"

BEGINNING at the southeast corner of the tract herein described, a point on the north right-of-way of Rosina Street from whence the center of a sanitary sewer manhole No. B1A-4 at the intersection of Rosina and Maclovía Streets bears N. $85^{\circ} 21'$ E., 138.80 feet; thence from said point of beginning S. $71^{\circ} 07'$ W., 110.10 feet to the southwest corner of the tract herein described which is the northeast intersection of Rosina Street and Gallegos Lane; thence along the east right-of-way of Gallegos Lane and along a curve to the right whose radius is 10.0 feet for an arc length of 16.38 feet and whose chord is N. $62^{\circ} 03'$ W., 14.65 feet to a point; thence N. $15^{\circ} 06'$ W., 208.93 feet to a point; thence N. $09^{\circ} 19'$ W., 199.90 feet to a point; thence N. $14^{\circ} 50'$ W., 207.72 feet to a point; thence along a curve to the right whose radius is 10.0 feet for an arc length of 12.62 feet and whose chord is N. $21^{\circ} 19'$ E., 11.80 feet to the northwest corner of the tract herein described which is the southeast intersection of Gallegos Lane and Gallegos Drive; thence along the south right-of-way of Gallegos Drive N. $57^{\circ} 28'$ E., 83.11 feet to a point; thence along a curve to the right whose radius is 821.11 feet for an arc length of 181.05 feet and whose chord is N. $63^{\circ} 67'$ E., 180.68 feet to a point; thence N. $70^{\circ} 06'$ E., 21.64 feet to the northeast corner of the tract herein described; thence S. $00^{\circ} 02'$ E., 713.85 feet to the southeast corner, the point and place of beginning, containing 3.038 acres.

Tract "B"

BEGINNING at the northwest corner of the tract herein described, a point on the south right-of-way of Gallegos Drive from whence the center of a sanitary sewer manhole No. B1-9 bears N. $37^{\circ} 49'$ E., 100.50 feet; thence from said point of beginning and along the south right-of-way of Gallegos Drive along a curve to the left whose radius is 304.49 feet for an arc length of 48.04 feet and whose chord is N. $69^{\circ} 23'$ E., 47.85 feet to the northeast corner of the tract herein described, a point at the southwest intersection of Gallegos Drive and Gallegos Lane; thence along the west right-of-way of Gallegos Lane and along a curve to the right whose radius is 10.0 feet for an arc length of 16.95 feet and whose chord is S. $65^{\circ} 37'$ E., 14.70 feet to a point; thence S. $14^{\circ} 50'$ E., 186.94 feet to a point; thence S. $09^{\circ} 19'$ E., 130.90 feet to the southeast corner of the tract herein described; thence West 110.07 feet to the southwest corner of the tract herein described; thence N. $14^{\circ} 50'$ W., 202.00 feet to a point; thence N. $75^{\circ} 10'$ E., 60.00 feet to a point; thence N. $14^{\circ} 50'$ W., 91.54 feet to the northwest corner, the point and place of beginning, containing 0.701 acres.

With warranty covenants.

Exhibit B

Permitted Encumbrances

Current encumbrances upon the parcels include a Declaration of Trust (DOT) filed with HUD, entered into in accordance with Section 8 of the Annual Contributions Contract between HUD and the Santa Fe Civic Housing Authority, Inc. dated November 8, 1996, which restricts the leasing regulations of units located upon the property. It is not anticipated that any additional encumbrances will be identified as a result of a title search, scheduled for completion in May 2013. Future encumbrances will include restrictions on the use of the property as per the Low Income Housing Tax Credit program.

In the event Tenant is successful in obtaining an award of Low Income Housing Tax Credits, Tenant, at Tenant's sole expense, may obtain a market valuation/analysis of the value of this Lease and indicate on the application for the LIHTC that the value of this Lease will be donated to the LIHTC project to be developed on the Premises. Landlord also intends to make application for New Mexico Affordable Housing Tax Credits, and if Landlord is successful in its application for these additional tax credits, Landlord agrees to use the proceeds from the sale or other disposition of the Affordable Tax Credits for the sole purpose of development of the Premises for the purpose set forth herein.

EXHIBIT C

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE is dated as of _____ by and between the City of Santa Fe, a public body established pursuant to the laws of New Mexico ("Landlord") and Santa Fe Civic Housing Authority., ("Tenant").

WHEREAS, Landlord is leasing to Tenant the premises more particularly described in Exhibit A attached hereto (the "Property"), pursuant to the "Lease"; and

WHEREAS, the term of the Lease is from the Commencement Date (as set forth in the Lease) to the last day of the month during which the Ninety-ninth (99th) anniversary of the Commencement Date occurs, subject to earlier termination as contemplated in the Lease; and

WHEREAS, the interest of Landlord in the Property shall not be subject to liens for improvements made by Tenant; and

WHEREAS, Landlord and Tenant by their signatures below do hereby agree that the foregoing accurately describes the Lease entered into by them.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Landlord and Tenant have executed this Memorandum Ground Lease as of the date set forth above.

LANDLORD

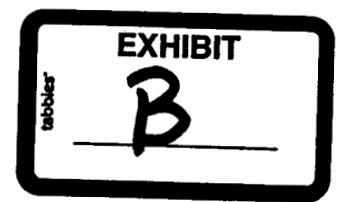
CITY OF SANTA FE, a public body established
pursuant New Mexico Statutes

By: _____

TENANT

SANTA FE CIVIC HOUSING AUTHORITY

By: _____



**LEASE 2 ALTA VISTA
BETWEEN
CITY OF SANTA FE
AND
SANTA FE CIVIC HOUSING AUTHORITY**

Basic Lease Information

EFFECTIVE DATE: As of _____, 2013

LANDLORD: CITY OF SANTA FE

TENANT: SANTA FE CIVIC HOUSING AUTHORITY

PREMISES: CERTAIN LAND SITUATED IN THE CITY OF
SANTA FE, COUNTY OF SANTA FE, AND
STATE OF NEW MEXICO, AS MORE
PARTICULARLY DESCRIBED IN EXHIBIT A

ANNUAL BASE RENT: DOLLARS (\$1.00)

**COMMENCEMENT
DATE:** AS PROVIDED IN SECTION 5.1

TERM: THE PERIOD BEGINNING ON THE
COMMENCEMENT DATE AND ENDING ON
THE NINETY NINTH ANNIVERSARY OF THE
COMMENCEMENT DATE

LANDLORD'S ADDRESS: CITY OF SANTA FE
200 Lincoln Avenue
Santa Fe, New Mexico 87501
Attn:

TENANT'S ADDRESS: SANTA FE CIVIC HOUSING AUTHORITY
664 Alta Vista Street,
Santa Fe, New Mexico 87505
Attn: Executive Director

The Basic Lease Information is part of the Lease; however, if any of the Basic Lease Information contradicts any provision of the Lease, then the provision of the Lease prevails.

LEASE #2

THIS AMENDED AND RESTATED GROUND LEASE #2 (this "Lease") dated as of _____, 2013 (the "Effective Date"), is by and between (i) CITY OF SANTA FE, ("Landlord"), whose address is 200 Lincoln Avenue, Santa Fe, New Mexico 87501; and (ii) Santa Fe Civic Housing Authority, a public body corporate and politic ("Tenant"), whose address is 664 Alta Vista Street, Santa Fe, New Mexico 87505. Landlord and Tenant are jointly referred to herein as the "Parties".

ARTICLE 1 - RECITALS

WHEREAS, Landlord is the owner of the real property on Exhibit A (the "Premises") which is comprised of all legal tracts of land associated with the Santa Fe Civic Housing Authority communities located in the City of Santa Fe, New Mexico, and as more particularly described on the attached Exhibit A (referred to herein as the "Premises"); and

WHEREAS, the Tenant currently operates and manages affordable housing units for low income residents which are distributed throughout the City of Santa Fe; and

NOW, THEREFORE, in consideration of these presents, and for One Dollar per year rent and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby enter into this Lease on the terms and conditions set forth herein.

ARTICLE 2 – INCORPORATION OF RECITALS

Section 2.1 Incorporation of Recitals

The Recitals are hereby incorporated into this Lease by reference and are made a part hereof.

Section 2.2 Leasehold Interest

(a) *Conditioned upon Tenant obtaining an award of Low Income Housing Tax Credits for the fiscal years 2013 or 2014 on or before August 31, 2014, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises and or any future developments that are in excess of \$50,000 and are in accordance with Article 14 herein, upon the terms and conditions stated herein, subject only to the Permitted Encumbrances described herein at Exhibit B and to any duties and/or encumbrances created under the Prior Lease which survives the execution of this Lease, if any. In the event Tenant is successful in obtaining an award of Low Income Housing Tax Credits, Tenant, at Tenant's sole expense, may obtain a market valuation/analysis of the value of this Lease and indicate on the application for the LIHTC that the value of this Lease will be donated to the LIHTC project to be developed on the Premises. Landlord also intends to make application for New Mexico Affordable Housing Tax Credits, and if Landlord is successful in its application for these additional tax credits, Landlord agrees to use the proceeds from the sale or other disposition of the Affordable Tax Credits for the sole purpose of development of the Premises for the purpose set forth herein.*

(b) Tenant shall have the right to pass and re-pass over all existing ways and public areas located on the Premises or providing public access thereto, and to connect to and use all utilities and service conduits and facilities that service the Premises, and to Tenant's compliance with the requirements of applicable law pertaining to any such use, including, without limitation, obtaining the approvals of any regulatory body with authority over such use and the payment of any fees therefore.

Section 3.2 Landlord Cooperation

Landlord agrees to cooperate with Tenant regarding the creation and/or extension of land use restrictions and other encumbrances on the Premises required by the RAD conversion project guidelines or the New Mexico housing credit agency responsible for administering the LIHTC program, and/or such other agencies providing financing for affordable housing development, subject to Landlord's duties in its capacity as a civic and permitting authority to protect the public interest and to ensure compliance with city ordinances.

Section 3.2 Compliance with Laws

Tenant agrees to undertake and carry out the RAD conversion project guidelines and to operate the Premises as Project Based Rental Assistance (PBRA), Citation 77, FR 43650-43855 in accordance with the requirements of all applicable laws, ordinances, codes, orders, rules and regulations of all governmental authorities, agencies or departments having jurisdiction over the Premises.

Section 3.3 Approvals, Permits and Licenses.

Tenant shall apply for, or cause to be applied for, and prosecuted, with reasonable diligence, all necessary approvals, permits and licenses required for the RAD Program, and/or the construction, development, use and occupancy of the Premises or future development of the Premises. Landlord shall cooperate with Tenant as may be reasonable necessary to facilitate Tenant's activities hereunder, subject always to Landlord's duties in its capacity as civic and permitting authority to protect the public interest and ensure compliance with city ordinances.

Section 3.4 Ownership of Development

Landlord and Tenant acknowledge and agree that Tenant, during the Term of this Lease, be the owner of the improvements comprising the Premises currently and any future development, and as such, Tenant shall be entitled to all depreciation deductions and low-income housing tax credits or other benefits for income tax purposes relating to any future development during such Term.

ARTICLE 4 – REPRESENTATIONS AND WARRANTIES

Section 4.1 Landlord's Representations and Warranties

Landlord hereby represents and warrants to the Tenant that:

(a) The Landlord owns, fee simple, good and marketable title to the Premises, free and clear of all liens, charges, encumbrances, encroachments, easements, restrictions, occupancies or agreements and other matters affecting title, subject to the Permitted Encumbrances listed at Exhibit B and to any covenants, restrictions, and/or other obligations imposed on Landlord by reason of the Prior Lease.

(b) As of the Commencement Date, there is no unpaid special assessment assessed by Landlord, or of which Landlord is otherwise aware, for sewer, sidewalk, water, paving, gas, electrical or utility improvements or other capital expenditures, matured or unmatured, affecting the Premises.

(c) The person signing this Lease on behalf of Landlord is authorized duly and validly to so sign.

Section 4.2 Tenant's Representations and Warranties Tenant hereby warrants and represents to Landlord that:

(a) Tenant is, and as of the Commencement Date will be, duly organized and lawfully existing under the laws of the State of New Mexico.

(b) Tenant has, and as of the Commencement Date will have the full right, power and authority to make, execute, deliver and perform this Lease.

(c) The person signing this Lease on behalf of Tenant is authorized duly and validly to so sign.

ARTICLE 5 – TERM

Section 5.1 Effective Date; Commencement Date

This Lease shall become effective on the date it is approved in writing by the City Council (the "Effective Date").

Section 5.2 Term of Lease

The term of this Lease ("Term") shall be for a period of Ninety-nine (99) years commencing upon the date this Lease shall become effective (the "Commencement Date"), and ending on the last day of the month during which the Ninety-ninth (99th) anniversary of the Commencement Date occurs, subject to earlier termination as contemplated herein.

ARTICLE 6 – RENT

Section 6.1 Annual Base Rent

The annual base rent ("Base Rent") shall be One Dollars (\$1.00) per annum. The parties acknowledge and agree that the rent for the entire Term equal to Nine Hundred Ninety Dollars (\$99.00) has been paid by Tenant to Landlord at the time of execution of this Lease, and that no rent shall be hereafter due, unless otherwise required hereunder.

Section 6.2 Additional Rent In order that the Base Rent shall be absolutely net to Landlord, Tenant covenants and agrees to pay, as Additional Rent, without notice or demand and without set-off, abatement, suspension or deduction, all taxes, payment in lieu of taxes, betterment assessments, water and sewer rents and charges, liens, insurance, maintenance, repairs, utilities charges, all other operating expenses, and all other customary costs, general and special, which are due and payable during the Term hereof at any time imposed or levied against the Premises and/or the Future Development, provided, however, that the term "Additional Rent" shall not include any income tax, capital levy, estate succession, inheritance, transfer or similar taxes of Landlord, or any franchise tax imposed upon Landlord, or any income, profits or revenue tax, assessment or charge imposed upon rent received by Landlord under this Lease by any governmental authority, Tenant will furnish to the Landlord, upon request once per year concurrently with the Landlord's annual receipt of Tenant's audited financial statements, proof of payment of all items referred to in this Section 6.2 which are payable by Tenant; provided, that Tenant will in addition furnish to the Landlord proof of payment of any taxes or payments in lieu thereof and proof of payment of insurance premiums promptly after demand therefore. Additional Rent includes Real Estate Impositions defined as: "payments in lieu of taxes thereof in accordance with the provisions of applicable New Mexico law, and thereafter each installment of all public, special or betterment assessments levied or assesses by or becoming payable to Santa Fe County or any governmental authority having jurisdiction of the Premises and/or any future development, for or in respect of the Premises and any future development including payments in lieu of taxes (PILOT) pursuant to a cooperation agreement "", as well as real estate taxes upon the expiration of the PILOT, and all of the foregoing taxes and installments of assessments such as taxes and installments of assessments. Tenant agrees to save Landlord harmless from all costs and expenses incurred on account of Tenant's participation in such proceedings or as a result of Tenant's failure to pay Real Estate Impositions and other related charges with respect to the Premises. Landlord, without obligating itself to incur any costs or expenses in connection with such proceedings, shall cooperate with Tenant with respect to such proceedings so far as reasonably necessary. Neither party shall discontinue any abatement proceedings begun by it without first giving the other party written notice of the discontinuing party's intent so to do and reasonable opportunity to be substituted in such proceedings. Landlord shall promptly furnish to Tenant a copy of any notice of any Real Estate Imposition received by Landlord. In the event the Tenant fails to make any payment referred to in this Section 6.2.1 when due, the Landlord shall have the right after 5 days notice to Tenant to make any such payment on behalf of the Tenant and charge the Tenant as Additional Rent therefore, plus the Base Interest Rate.

6.2.2 Utilities.

Tenant shall pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat or power, telephone or other service used, rendered or supplied to Tenant in connection with the Premises, and/or any future development and shall not contract for the same in Landlord's name.

6.2.3 Other

The Tenant covenants to pay and discharge, when the same shall become due, as Additional Rent, all other amounts, liabilities, and obligations which the Tenant assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may

be added for nonpayment or late payment thereof; and, in the event of any failure by the Tenant to pay or discharge the foregoing, the Landlord shall have all the rights, powers and remedies provided and as limited herein in the case of nonpayment of rent, and additionally. Landlord shall be entitled to pay the same, and collect the amount thereof from Tenant, as Additional Rent, plus the Base Interest Rate.

Section 6.2 Payments by Tenant upon Commencement of Construction of the Development.

Unless expressly set forth in this Lease otherwise, all costs, expenses, liabilities, charges or other deductions whatsoever with respect to the Premises and the construction, ownership, leasing, operation, maintenance, repair, rebuilding, use or occupation of the Premises or the Future Development shall be the responsibility of Tenant.

ARTICLE 7 – TAXES; OPERATING EXPENSES

Section 7.1 Taxes.

Tenant will pay or cause to be paid (i) any real estate taxes which are assessed against the Premises by Landlord or any other taxing authority during the Term, or (ii) any payments to the extent required by a cooperation agreement or amendment thereto providing for payments in lieu of taxes ("PILOT") which is entered into by Tenant with Landlord or any other taxing entity during the Term. Tenant will pay or cause to be paid all real estate recordation taxes incident to this Lease, if any.

Section 7.2 Project Operating Expenses

Tenant will pay or cause to be paid all costs and expenses attributable to or incurred in connection with the operation, maintenance and repair of the Premises and the Future Development (collectively, the "Operating Expenses") during the Term.

ARTICLE 8 – INSURANCE

Section 8.1 Tenant's Insurance.

Tenant will, at its sole expense, obtain and keep in force during the Term of this Lease, adequate insurance to protect Tenant and Landlord from loss as follows:

(a) "All Risk" Coverage. Tenant will, at its sole expense (but nevertheless as a portion of Operating Expenses) obtain and keep in force during the Term, "all-risk" coverage insurance on the Development naming Tenant and Landlord as the insured, as their interests may appear, in the customary form in the City for buildings and improvements of similar character. The amount of such insurance will be set forth on an "agreed amount endorsement" to the policy of such insurance and will not be less than 100% of the full replacement value of the improvements on the Premises, as determined from time to time.

(b) General Liability. Tenant will, at its sole expense (but nevertheless as a portion of Operating Expenses) obtain and keep in force during the Term general liability insurance with

limits of coverage in the maximum amount which the Landlord could be held liable under the New Mexico Tort Claims Act, for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring against any and all liability of Landlord and Tenant including, without limitation, coverage for contractual liability and broad property damage, with respect to the Premises or arising out of the maintenance, use or occupancy of the Development. Such insurance will insure the performance by Tenant of its indemnity obligations hereunder as to liability for injury to or death of persons and damage to property set forth in this Lease. Such insurance will not be noncontributing with any insurance that may be carried by Landlord and will contain a provision that Landlord, although named as an insured, will nevertheless be entitled to recover under the policy for any loss, injury, or damage to Landlord, its agents, and employees, or the property of such persons.

(c) Umbrella liability insurance coverage on an occurrence form, covering losses in excess of the primary general liability, auto liability and employer's liability coverage, in amounts of such insurance carried by owners of comparable properties in the City of Santa Fe, or such other amount as may reasonably be required by the Landlord. If part of a master program, subject to annual aggregate limits, the umbrella limit shall be on a per-location basis.

(d) Workers' compensation insurance at the statutory limits and as required by law in respect of any work performed by Tenant's employees on or about the Premises and/or the Project.

(e) (75%) of the Project at the Premises are occupied, rent loss insurance on an all-risk and agreed amount basis, with the amount being sufficient to recover at least the total estimated gross receipts from all sources of income for the Premises and/or Project, or any part thereof including, without limitation, rental income, for a twelve-month period.

(f) Tenant shall require any contractor (or subcontractor thereof) or professional to carry commercial general liability, auto liability, workers compensation insurance with the scope of coverage and other provisions as described above. Such general liability and auto liability coverage shall include the Tenant and Landlord as additional insured. Tenant shall obtain and keep on file certificates of insurance which show that the contractor or subcontractor is so insured.

(g) Tenant shall require any architect, engineer, or other person entity providing professional services to Tenant and/or employed in connection with the maintenance of the Premises and/or the Project, or in the construction of other improvements, to carry professional liability (errors and omissions) insurance and valuable papers coverage in amounts reasonably acceptable to Landlord. Tenant shall obtain and keep on file certificates of insurance which show that the architect, engineer or other such professional is so insured.

(h) Other Matters. All insurance required in this Article and all renewals of it, will be issued by companies authorized to transact business in the State of New Mexico, and rated at least A+ Class X by Best's Insurance Reports (property liability). In a certificate of insurance, all insurance policies will be expressly provide that such policies will not be cancelled or altered without thirty (30) days' prior written notice to Landlord, in the case of "all-risk" coverage insurance, and to Landlord, in the case of general liability insurance; will to the extent

obtainable, provide that no act or omission of Tenant which would otherwise result in forfeiture or reduction of the insurance will affect or limit the obligation of the insurance company to pay the amount of any loss sustained; and will, to the extent obtainable, contain a waiver by the insurer of its rights of subrogation against Landlord. Upon issuance, each insurance policy or a duplicate or certificate of such policy shall be delivered to Landlord. Tenant may satisfy its obligations under this paragraph by appropriate endorsements of its blanket insurance policies. All insurance required in this article and all renewals of it shall be written to become effective on the Commencement Date and shall be continued in full force and effect for the Term and shall contain terms providing that any loss covered by such insurance may be adjusted with the Tenant and Landlord, but shall be payable to the holder of any leasehold mortgage, who shall agree to receive and disburse all proceeds of such insurance. All such insurance shall contain such contingent liability endorsements as shall make such insurance congruent with the fire and extended coverage insurance required by this Section 8.1. The minimum coverages stated in this Section shall be reviewed annually by the Landlord and Tenant and shall be increased at such review if Landlord determines such increase is necessary to reflect inflation or changes in the nature or degree of risks insured.

(i) **Delivery of Evidence of Insurance.** Certificates of insurance for all insurance required of Tenant hereunder and evidence of the payment of all premiums of such policies shall be delivered to Landlord. All public liability, property damage liability, and casualty policies maintained by Tenant will be written as primary policies, not contributing with and not in excess of coverage that Landlord may carry. If Tenant fails to maintain such excess insurance, which failure continues for thirty (30) days after Landlord gives notice to Tenant of such failure, then Landlord, at its election, may procure such insurance as may be necessary to comply with the above requirements (but shall not be obligated to procure same), and Tenant shall reimburse to Landlord, as a Landlord reimbursement, any costs associated with procuring such insurance.

Section 8.2 Landlord's Insurance.

Landlord shall obtain and maintain, at its sole cost and expense, general liability insurance with respect to the Premises.

Section 8.3 Waivers of Insured Claims

Each of the Landlord and the Tenant hereby waives all rights of recovery against the other for loss or injury against which the waiving party is protected by insurance, but only to the extent of such insurance.

Section 8.4 Notification of Accidents of Loss

In addition to notifying Tenant's insurer(s) in accordance with each policy, Tenant shall provide prompt written notice to Landlord as soon as reasonably possible of any accident or loss relating to the Premises, the Project, or any part thereof, likely to exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00) in 2007 inflation adjusted dollars.

Section 8.5 Indemnity for Death, Injury, etc.

The Tenant agrees to pay and to defend, indemnify and hold harmless the Landlord, from and against any and all liabilities, losses, damages, causes of action, suits, claims, demands, judgments, costs and expenses of any kind or any nature whatsoever (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable expert's and attorney's fees and expenses), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by, or asserted or awarded against Landlord, or its respective employees, agents, officers, shareholders, directors or other persons serving in an advisory capacity to it (such as monitoring committee members) or against the Project and/or Premises or any portion thereof, arising from: (a) any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property on the Premises or within the Project or on adjoining sidewalks, streets or ways, in each case arising out of the use, possession, ownership, condition or occupation of the Premises, the Project or any part thereof (but not of any property not expressly referred to above), from and after the date hereof; (b) violation by the Tenant, the Tenant's employees, agents, or approved subtenants, or invitees, or any of them, of any obligation of Tenant under this Lease, any Permitted Mortgage, and/or any one or more of the Governing Documents, and/or any restriction, statute, law, ordinance or regulation. The Landlord shall give the Tenant prompt notice of any written claim made or suit instituted against Landlord, relating to any matter which would result in indemnification pursuant to this Section 8.5, but the Landlord's failure to give such prompt notice to the Tenant shall not release Tenant from performing Tenant's obligations under this Section 8.5. The obligations of the Tenant under this Section 8.5 shall survive the expiration or any earlier termination of the Term of this Lease. The foregoing indemnification shall not be construed as creating any rights in or conferring any rights to any third parties.

ARTICLE 9 – USE OF PREMISES, COMPLIANCE WITH LAWS, AND COVENANTS APPLICABLE TO MULTI-FAMILY UNITS

Section 9.1 Permitted Use.

Tenant shall throughout the Term continuously use and operate the Premises, and/or any future development only for the following uses and such other uses as are reasonably and customarily attendant to such uses: the leasing of Multi-family mixed income rental units, including but not limited to, development, marketing for lease and leasing of Section Eight housing and the RAD Program. The Tenant agrees to operate the Premises and/or any future development in a manner which strictly satisfies the requirements of this Lease and the Applicable Housing Requirements.

Section 9.2 Compliance with Laws

Tenant shall not use or occupy, or suffer or permit any portion of the Premises to be used or occupied in violation of any law, ordinance, order, rule, regulation, certificate of occupancy, or other governmental requirement. Tenant will comply with applicable laws and all rules, orders, regulations, and requirements of the board of fire underwriters or insurance service office, or any other similar body, having jurisdiction over the Premises.

ARTICLE 10 – ENVIRONMENTAL CONDITIONS

Section 10.1 Tenant's Environmental Covenants.

Tenant acknowledges and agrees that it originally entered upon the Premises to construct the Existing Improvements in 1963 and 1964 and has occupied the Premises continuously thereafter. Except for claims relating to environmental matters that existed prior to such entry of Tenant upon the Premises, or that are attributable to the negligence of Landlord thereafter ("Excluded Claims"), Tenant agrees that, by the execution of this Lease, Tenant releases the Landlord of any claims it may have against the Landlord pursuant to applicable Environmental Laws, as the same are defined in Section 10.4(a) hereof, with respect to the Premises, the Existing Improvements, the Future Development, and all parts thereof. Subject only to the Excluded Claims, Tenant further acknowledges and agrees that in consideration of the rights and benefits granted to Tenant under this Lease, Tenant shall be responsible for carrying out in accordance with the requirements of such Environmental Laws any remediation required pursuant thereto of the Premises, the Existing Improvements, and the Future Development, and all parts thereof, at Tenant's sole expense, without recourse to the Landlord, and inclusive of the indemnification obligations of Tenant set forth hereunder. Except with respect to the Excluded Claims, Tenant hereby waives any right, remedy, or recourse against Landlord in regard to any environmental matters arising in regard to the Premises, the Existing Improvements, the Future Development, and all parts thereof. No representations, warranties or other covenants are made by the Landlord in regard to the condition of the Premises, and/or the Existing Improvements, and the Premises and the Existing Improvements are being provided to the Tenant hereunder in "AS IS", "WHERE IS", AND "WITH ALL FAULTS" condition. Tenant hereby waives any right, remedy, or recourse against the Landlord with respect to any environmental matters arising in regard to the Premises, the Existing Improvements, the Future Development, and all parts thereof Project. Without limitation of any of Tenant's other covenants, agreements, obligations, and indemnifications under this Lease, Tenant hereby specifically covenants and agrees to fulfill the responsibilities set forth below with respect to environmental matters and Hazardous Materials or Prohibited Substances (as hereinafter defined):

(a) Tenant, its agents, employees, and contractors shall comply with all applicable provisions of all Environmental Laws applicable to the Premises, the Existing Improvements, the Future Development, and Tenant's use of the Premises from the time it first entered upon the Premises to construct the Existing Improvements and under this Lease. All required governmental permits and licenses issued to Tenant, its agents, employees, and contractors and associated with the Premises, the Existing Improvements, and/or the Future Development shall remain in effect or shall be renewed in a timely manner, and Tenant, its agents, employees and contractors shall comply therewith.

(b) Tenant shall not itself, and Tenant shall not permit any other person, including, but not limited to, third parties with whom Tenant contracts in regard to this Lease, to bring onto the Premises any (i) asbestos or asbestos-containing material or polychlorinated biphenyl material, or (ii) hazardous substances or hazardous waste as defined under any federal, state or local law, that may require remediation under applicable law (other than quantities or such substances, including gasoline, diesel fuel and the like as are customary and necessary to prosecute construction and occupancy of the Development on the Premises), or (iii) soil

containing volatile organic compounds, polyaromatic hydrocarbons ("PAH"), lead, arsenic, or other compounds in concentrations that pursuant to applicable Environmental Laws may pose a significant risk to public health and/or safety (collectively (i)-(iii) are the "Prohibited Substances"). Tenant shall be liable for the consequences of, and responsible for removal and lawful disposal, at its sole expense, of any Hazardous Materials, Prohibited Substances, or both brought onto the Premises, resulting from a default under this Section. All soils brought onto the site for fill should be tested prior to acceptance/use.

(c) Tenant shall immediately notify Landlord, in writing and provide Landlord with copies of all forms, notices and other information received by or on behalf of Tenant, its agents, employees, and contractors concerning any releases, spills or other incidents relating to Hazardous Materials, Prohibited Substances, or both, or any violations of Environmental Laws at or relating to the Premises when and as supplied to any government agency. Tenant shall also comply with all laws, ordinances, regulations and orders of all governmental, regulatory and other public and quasi-public agencies, authorities and entities having jurisdiction over the same with respect thereto.

Section 10.2 Landlord's Environmental Covenants.

Without limitation of any of Landlord's other covenants, agreements and obligations under this Lease, Landlord hereby specifically covenants and agrees to provide Tenant with copies of all forms, notices and other information received by or on behalf of Landlord concerning any releases, spills or other incidents relating to Hazardous Materials or Prohibited Substances, or any violations of Environmental Laws at or related to the Premises when and as supplied to any governmental agency.

Section 10.3 Tenant's Environmental Indemnity.

Tenant covenants and agrees to indemnify, defend and hold Landlord free and harmless from and against any and all losses, liabilities, penalties, claims, fines, litigation, demands, costs, judgments, suits, proceedings, damages, disbursements or expenses (including reasonable attorneys' fees and expenses) which may at any time be imposed upon, reasonably incurred by or asserted or awarded against Landlord in connection with or arising from:

(a) Any Hazardous Materials, Prohibited Substances, or both which are first placed on, in, or under all or any portion of the Premises during the period defined herein as the Term, or during the period preceding the Term when Tenant occupied the Premises, with the exception of any Hazardous Materials, Prohibited Substances or both which are placed on, in, or under all or any portion of the Premises by Landlord, its agents, employees and contractors; or

(b) Any violation of any Environmental Laws by Tenant, its agents, employees, and contractors at or relating to the Premises, the Existing Improvements, the Future Development, and all parts thereof, which is not a condition existing prior to the original entry upon the Premises by the Tenant to construct the Existing Improvements.

Section 10.4 Environmental Definitions.

For the purpose of this Lease, the following definitions shall apply:

(a) "Environmental Laws" means any present or future federal, state or local law, ordinance, rule, regulation, permit, license or binding determination of any governmental authority relating to, imposing liability or standards concerning, or otherwise addressing the environment, health or safety, including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. ("CERCLA"); the Resource Conservation and Recovery Act, 42, U.S.C. Section 6901 et seq. ("RCRA"); the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq. ("TOSCA"); the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the Clean Water Act, 33 U.S.C. Section 1251 et seq. and any so-called "Superfund" or "Superlien" law; and the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq. ("OSHA"), as each is from time to time amended and hereafter in effect.

(b) "Hazardous Materials" means:

- 1) "Hazardous substances" as defined by CERCLA;
- 2) "Hazardous wastes," as defined as RCRA;
- 3) Any hazardous, dangerous or toxic chemical, waste, pollutant, containment or substance ("pollutant") within the meaning of any Environmental Law prohibiting limited or otherwise regulating the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal or recycling of such pollutant;
- 4) Petroleum crude oil or fraction thereof;
- 5) Any radioactive material, including any source, special nuclear or by-product material as defined in 42 U.S.C. Section 2011 et seq. and amendments thereto and reauthorizations thereof; or
- 6) Asbestos-containing materials in any form or condition, or polychlorinated biphenyls in any form or condition.

Section 10.5 Survival

The agreements, representations and warranties of Landlord and Tenant respectively in this Article 10 shall survive the expiration or early termination of this Lease.

ARTICLE 11 – ASSIGNMENTS, SUBLEASES AND TRANSFERS

Section 11.1 Consent Required.

(a) Assignment of Tenant's Interest(s). Tenant hereby acknowledges that Landlord has entered into this Lease because of Tenant's financial strength, goodwill, ability and expertise and that, accordingly, this Lease is one which is personal to Tenant, and Tenant agrees for itself and Tenant's successors and permitted assigns in interest hereunder that Tenant will not, other than by a Permitted Encumbrance/Mortgage, Exhibit B, directly or indirectly, transfer or assign this Lease or any of Tenant's rights or interest therein, to all or any part of the Premises or the Future Development, without the prior written consent of Landlord. Notwithstanding the foregoing, by Landlord's execution of this Lease, Landlord is deemed to have approved, subject to any applicable law, regulation, ordinance, or agreement between the parties hereto, (i) a transfer to a single-purpose Owner Entity created in order to finance the Future Development,

provided that the Tenant is a general partner or otherwise exercises control of such Owner Entity; (ii) a transfer by Tenant to a mortgage under a Permitted Encumbrance/Mortgage in compliance herewith; (iii) an assignment or other transfer by such mortgage to a third-party purchaser in connection with a foreclosure sale under any such Permitted Encumbrance/Mortgage, or acceptance by the mortgagee or its designee of a deed in lieu of foreclosure under the Permitted Encumbrance/Mortgage; and/or (iv) the lease to any Multi-family mixed income residential housing tenant or other qualified tenant of a unit in the Premises, or, any future development. Upon the granting of any Landlord consent, whether deemed or otherwise evidenced in writing, with respect to any transfer or assignment by Tenant, this Lease shall be binding upon and inure to the benefit of the Landlord and Tenant, and their respective successors, assigns, legal representatives, mortgagees under Permitted Encumbrance/Mortgages, and other transferees and, upon the assumption of all the assignor's obligations by the assignee or transferee, the assignor shall be released from any liability hereunder from and after the date of such transfer, and upon the written request of the assignor, Landlord shall execute and deliver to the assignor a release agreement in a form reasonably acceptable to the Landlord and assignor to evidence such release. Notwithstanding the foregoing, however, the assignor shall remain fully and conditionally liable for all obligations of assignor to have been performed under this Lease on or prior to the date of any such assignment or transfer; to the fullest extent that assignor would have been liable under this Lease if such assignment or transfer has not occurred. The provisions of this Section 11.1(a) shall survive each such transfer and the termination of this Lease.

(b) Any person to whom any assignment or transfer is made without such consent shall have no claim, right or remedy, whatsoever hereunder against Landlord and Landlord shall have no duty to recognize any person claiming under or through the same.

Section 11.2 Subsequent Assignment

In cases where Landlord's consent is required such consent to any one assignment will not constitute a waiver of the requirement that the Tenant obtain consent to any subsequent assignment.

Section 11.3 Request for Consent

If Tenant requests Landlord's consent to any assignment hereunder, Tenant shall provide to Landlord such information as Landlord may decide to reasonably require whether to grant such consent.

Section 11.4 Transfer by Landlord

(a) Landlord shall not transfer all or any part of its interest in the Premises without the prior written consent of the Tenant, which shall not be unreasonably withheld, subject only to the requirements of applicable law, regulation, ordinance, or public exigency, and otherwise to the terms of this Lease. Upon any such approved transfer, the transferee shall assume all of Landlord's obligations under this Lease. Landlord shall not transfer all or any portion of its interest in the Premises if the same would cause (i) a violation of any applicable laws or regulations, any material terms of this Lease, or any agreement or contract with respect to the

Premises and/or any future development which is reasonably necessary to carry out Tenant's obligations hereunder or under applicable law and to which Tenant is a party or by which Tenant is bound, and of which Landlord has prior written notice, or (ii) a reduction in Tenant's receipt of operating subsidy for the Premises, unless such reduction is, or causes, a default by Tenant of its obligations hereunder, or otherwise under applicable law.

ARTICLE 12 – LEASEHOLD FINANCING

Section 12.1 Right to Mortgage

Subject to Landlord's consent, if required, and to the terms and conditions of this Lease, Tenant shall have the right from time to time to grant one or more mortgages of its interest in the Premises, and/or any future development (each, once approved, a "Permitted Encumbrance/Mortgage") as the same may reasonably be necessary to carry out, complete, operate, and/or maintain the same. Each such mortgage shall be subject to this Lease. The Tenant shall give prior written notice to Landlord of its intention to enter into any such mortgage, and shall provide Landlord with any such information as it may determine reasonably require whether to consent thereto. In no event shall Landlord ever be required to execute any such mortgage or any note secured thereby or any other obligation securing any such note, or to subordinate Landlord's fee interest in the Premises or any part thereof to any such mortgage. Tenant shall identify the name of each mortgagee ("Permitted Leasehold Mortgagee") for such portion of the Premises and the address (es) to which notices to the Leasehold Mortgagee are to be sent. Landlord agrees to execute any additional documents or further assurances as may be reasonably be requested by any Leasehold Mortgagee in connection with any Leasehold Mortgage permitted by this Article 12.

Section 12.2 Consent Required for Termination and Amendments.

No termination, cancellation, surrender, or material modification of this Lease by agreement between Landlord and Tenant shall be effective unless and until consented to in writing by such Permitted Leasehold Mortgagee, provided that such consent shall not be unreasonably withheld.

Section 12.3 Default Notice and Notice Provisions.

Landlord, upon providing Tenant with any notice of default under this Lease, shall at the same time send a copy of such notice to every Permitted Leasehold Mortgagee, provided, however, that the failure to provide such additional notices shall not invalidate any duly delivered notice to Tenant. From and after such notice has been given to the Permitted Leasehold Mortgagee, such Permitted Leasehold Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or causing the same to be remedied, as is given Tenant after the giving of such notice to Tenant, plus in each instance, the additional periods of time specified in Sections 12.4 and 12.5 to remedy, commence remedying or cause to be remedied the defaults specified in any such notice. Landlord shall accept such performance by or at the instigation of the Permitted Leasehold Mortgagee as if the same had been done by Tenant.

Section 12.4 Notice to Permitted Leasehold Mortgagee

Anything contained in this Lease to the contrary notwithstanding, if any default shall occur and remain uncured beyond all applicable grace or cure periods of this Lease, which entitles Landlord to terminate this Lease as to all or any portion of the Premises to take any other remedial action against Tenant, Landlord shall have no right to terminate this Lease or take such remedial action unless, following the expiration of the period of time given Tenant to cure such default, Landlord shall notify each Permitted Leasehold Mortgagee, if applicable, to the extent of Landlord's actual knowledge of their existence, of Landlord's intent to so terminate at least thirty (30) calendar days in advance of the proposed effective date of such termination, if such default is capable of being cured by the payment of money, and at least forty-five (45) calendar days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money. The provisions of Section 12.5 shall apply if, during such thirty (30) or forty-five (45) calendar day notice period, any Permitted Leasehold Mortgagee:

(a) Notifies Landlord of such Permitted Leasehold Mortgagee's desire to nullify such notice; and

(b) Pays or causes to be paid all Additional Rent and other payments then due and in arrears applicable to the subject portion(s) of the Premises, as specified in the notice given to such Permitted Leasehold Mortgagee and which becomes due during such thirty (30) or forty-five (45) day period; and

(c) Complies or in good faith, with reasonable efforts, commences to comply with any non-monetary requirements of this Lease applicable to the subject portion(s) of the Premises then in default and except as provided in the following sentence, reasonably susceptible of being complied with by such Permitted Leasehold Mortgagee.

No Permitted Leasehold Mortgagee shall be required during such thirty (30) day or forty-five (45) day period to cure or commence to cure any default consisting of Tenant's failure to satisfy and discharge any lien, charge or encumbrance against Tenant's interest in this Lease or any part thereof which is (a) authorized by this Lease, and (b) junior in priority to the lien of the Permitted Leasehold Mortgage, if applicable, held by such Permitted Leasehold Mortgagee.

Section 12.5 Procedure on Default

If Landlord shall elect to terminate this Lease by reason of any default of Tenant, which default has not been cured within the applicable cure period, and the Permitted Leasehold Mortgagee, if applicable, shall have proceeded in the manner provided for by Section 12.4, the specified date for such termination as fixed by Landlord in its notice given pursuant to Section 12.4 shall be extended for a period of six (6) months, provided that the Leasehold Mortgagee shall be permitted to avail itself of additional cure periods as described at Section 12.4 and 12.5 provided that such Permitted Leasehold Mortgagee shall, during such six-month period:

(a) Pay or cause to be paid, the Additional Rent and any other monetary obligations of Tenant under this Lease, as the same become due, and continue its good faith efforts to perform all of Tenant's other obligations under this Lease, excepting (i) obligations of Tenant to satisfy or otherwise discharge any lien, charge or encumbrance against Tenant's interest in this

Lease or any part thereof which is junior in priority to the lien of the Permitted Leasehold Mortgage, if applicable, held by such Permitted Leasehold Mortgagee, and (ii) past non-monetary obligations then in default and not reasonably susceptible of being cured by such Permitted Leasehold Mortgagee; and

(b) Except to the extent enjoined and stayed, take steps to acquire or sell Tenant's interest in this Lease, by foreclosure of such Permitted Leasehold Mortgagee, or other appropriate means and prosecute the same to completion with reasonable efforts.

Section 12.6 Extension of Cure Period

If at the end of the six-month period specified in Section 12.5, such Leasehold Mortgagee, if applicable, is complying with Section 12.5(a), and provided that any Leasehold Mortgagee shall be permitted to avail itself of additional cure periods as described at Section 12.4 and 12.5, and the time for completion by such Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Tenant's interest in this Lease, by foreclosure of its Leasehold Mortgage or by other appropriate means with reasonable efforts. Nothing in this Article 12, however, shall be construed to extend this Lease beyond the Term. If any Leasehold Mortgagee is complying with Section 12.5, upon the acquisition of Tenant's interest in this Lease by such Leasehold Mortgagee or its designee, or any other purchaser at a foreclosure sale or otherwise and the discharge, by operation of law or otherwise, of any lien, charge or encumbrance against Tenant's interest in this Lease or any part thereof which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee and which Tenant is obligated to satisfy and discharge by the terms of this Lease, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease.

Section 12.7 Right to New Lease

In the event that the Lease is terminated by Landlord, Landlord shall, if requested by Leasehold Mortgagee, if applicable, grant to the Leasehold Mortgagee a new lease on the following terms and conditions:

(a) In the event of the termination of this Lease prior to its stated expiration date, Landlord agrees that it will enter into a new lease of the Premises with any Leasehold Mortgagee, if necessary, including but not limited to a corporation or other entity formed by or on behalf of such Leasehold Mortgagee, for the remainder of the Term of this Lease effective as of the date of such termination, at the Base Rent and Additional Rent and upon the same covenants, agreements, terms, provisions, and limitations herein contained, provided (i) such Leasehold Mortgagee makes written request upon Landlord for such new lease within thirty (30) days from the date Landlord notifies such Leasehold Mortgagee of such termination and such written request is accompanied by payment to Landlord of all amounts then due to Landlord under this Lease but for such termination, (ii) such Leasehold Mortgagee pays or causes to be paid to Landlord at the time of the execution and delivery of such new lease any and all sums which would at the time of the execution and delivery thereof be due under this Lease but for such termination and pays or causes to be paid any and all expenses, including reasonable counsel fees, court costs, and costs and disbursements incurred by Landlord in connection with

any such termination and in connection with the execution and delivery of such new lease and (iii) such Leasehold Mortgagee agrees to reinstate the lien and take the Premises subject to the loan of any other Leasehold Mortgagee which held a lien senior in priority to the lien of such Leasehold Mortgagee if such senior Leasehold Mortgagee had also requested a new lease and tendered the required payments(s).

(b) Any new lease made pursuant to this Section 12.7 shall have the same priority as this Lease (except with respect to any non-electing Leasehold Mortgagee) and shall be prior to any mortgage or any lien, charge or encumbrance of the fee of the Premises created by Landlord, except the Declaration of Restrictive Covenants, for a term of years equal to the balance of the Term of this Lease.

(c) Any permitted mortgage or deed of trust upon Landlord's interest in the Premises and any action by such mortgagee or trustee or beneficiary of such deed of trust by way of receivership, foreclosure, exercise or power of sale, or deed in lieu thereof shall be subject to this Lease and to the new lease to be given pursuant to this Section 12.7 and any mortgagee or holder of such mortgage or the beneficiary and trustee of any such deed of trust must recognize this Lease and any new lease and all rights of Tenant and each Leasehold Mortgagee hereunder and thereunder.

(d) The provisions of this Section 12.7 shall be self-operative and require no further action by the mortgagee of any mortgage or beneficiary and trustees of any deed of trust encumbering Landlord's interest in the Premises, the Development, or both, but upon request by Tenant or the Leasehold Mortgagee electing under Section 12.7(a), Landlord agrees to obtain from such mortgagee or beneficiary and trustees an instrument duly executed and acknowledged confirming the priority of such new lease.

Section 12.8 Assumption of Tenant's Obligations

For purposes of Articles 11 and 12, the making of a Leasehold Mortgage, if applicable, shall not be deemed to constitute an assignment or transfer of this Lease or Tenant's interest created hereby, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Lease or of Tenant's interests under this Lease so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of Tenant to be performed hereunder, but a Leasehold Mortgagee may become the holder of Tenant's leasehold estate and succeed to Tenant's interest in this Lease by foreclosure of its Leasehold Mortgage or as a result of the assignment of this Lease in lieu of foreclosure, and any purchaser at any sale of Tenant's interest under this Lease in any proceeding for the foreclosure of any mortgage or the assignee or transferee of Tenant's interest in this Lease under any instrument of assignment or transfer in lieu of the foreclosure of any mortgage shall be deemed to be an assignee or transferee approved by Landlord and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of Tenant to be performed hereunder, but only for so long as such purchaser or assignee is the owner of Tenant's interest in this Lease.

Section 12.9 Non-Curable Defaults.

Nothing in this Article 12 shall require any Leasehold Mortgagee, if applicable, or its designee as a condition to the exercise of rights provided under this Article 12 to cure any default of Tenant not reasonably susceptible of being cured by such Leasehold Mortgagee or its designee as such susceptibility is reasonably determined solely by Landlord. The foregoing shall not be deemed to excuse any Leasehold Mortgagee from performing covenants relating to the condition of the Development on the Premises, operation in compliance with applicable Multi-family housing, or other similar matters requiring access control, or both of the Premises, from and after such time as such Leasehold Mortgagee acquires Tenant's interest in this Lease by foreclosure or otherwise.

Section 12.10 No Merger.

So long as any Leasehold Mortgage is in existence, unless all Leasehold Mortgagees shall otherwise expressly consent in writing, the fee title to the Premises and the leasehold estate of Tenant therein shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by any single owner, other than by termination of this Lease by Landlord in compliance with the provisions of this Article 12.

Section 12.11 Landlord's Fee to Remain Unsubordinated

Landlord and Tenant expressly acknowledge and agree that Landlord shall have no obligation under this Lease or otherwise to subordinate fee title of Landlord in the Premises or any rights of Landlord in this Lease to the leasehold estate of Tenant created by this Lease or to join any such mortgage or encumbrance or otherwise in any manner subordinate the fee title of Landlord in and to the Premises or interest of Landlord under this Lease.

Section 12.12 Sale of Premises

In the event of any sale or conveyance of the Premises by Landlord, any such sale or conveyance of all or any part of the Premises shall be subject to this Lease and all of the provisions hereof, and notice of such sale shall be provided each Leasehold Mortgagee.

ARTICLE 13 – MAINTENANCE AND REPAIR

Section 13.1 Tenant's Obligations

Tenant will, at its sole cost and expense, maintain or cause to be maintained the Premises and/or any future development (the "Developments"), reasonable wear and tear excepted, and make or cause to be made repairs, restorations, and replacements to the Developments, including without limitation the heating, ventilating, air conditioning, mechanical, electrical, elevator, and plumbing systems, structural roof, walls, and foundations, and the fixtures and appurtenances to the Developments as and when needed to preserve them in good working order and condition, and regardless of whether the repairs, restorations, and replacements are ordinary or extraordinary, foreseeable or unforeseeable, capital or non-capital, or the fault or not the fault of Tenant, its agents, employees, invitees, visitors, and contractors. All such repairs, restorations, and replacements of the Developments, as elected by Tenant, will be in quality and class either

equal to the original work or installations, or otherwise consistent with the standard then applicable to comparable residential projects within the Santa Fe Metropolitan Statistical Area at such time, but in no event of less quality or class than the any applicable regulatory agreement between Landlord and Tenant.

ARTICLE 14 – OWNERSHIP AND ALTERATIONS

Section 14.1 Ownership of Any Future Development Any future development shall be or become part of the Premises upon Substantial Completion of construction (regardless of whether the Premises and the Project are referred to separately in this Lease), and such future development and any and all subsequent additions, substitutions and/or fixtures therein shall be owned by Tenant until the expiration or earlier termination of the Term, and during the Term and for the years in which the Term begins and ends, the Tenant alone shall be entitled to any tax and amortization attributes thereof, including, but not limited to, depreciation deductions and, if applicable, any tax credits thereon for income taxes purposes. At the expiration or earlier termination of the Term or any portion thereof under any provision of this Lease, the Tenant shall peaceably leave, quit, and surrender the Premises and/or any future development, or the portion thereof so terminated, in accordance with Section 15.1 hereof.

Section 14.2 Alterations.

Tenant shall not make any future development such as any alterations, improvements or additions to the Premises having a cost greater than Two Hundred Thousand and 00/100 Dollars (\$200,000.00) or demolish any portion of the Premises as exist thereof, without first presenting to Landlord complete plans and specifications therefore and obtaining Landlord's consent thereto (which consent shall not unreasonably be withheld so long as, in Landlord's judgment, such alteration, Improvement, addition or demolition will not violate the Applicable Multi-family Housing Requirements or this Lease, or impair the value of the Premises). Any improvements made to the Premises by either party hereto shall be made only in a good and workmanlike manner, using new materials of the same general quality as the original improvements, and in accordance with all applicable building codes and the Applicable Multi-family Housing Requirements.

Section 14.3 No Liens.

Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons, firms, and corporations doing any work, furnishing any materials or supplies, or renting any equipment to the Tenant or any of its contractors or subcontractors in connection with the construction and/or demolition, furnishing, repair, maintenance, or operation of the Premises and/or any future development and in all events will bond or cause to be bonded, with surety companies reasonably satisfactory to the Landlord, or pay or cause to be paid in full forthwith, any lien, security interest, or other encumbrance incurred in connection therewith, whether due to the actions of the Tenant, or any person under control of the Tenant, against the Premises and/or any future development, other than a Permitted Encumbrance/Mortgage pursuant to Section 12.1 hereof.

Tenant shall have the right to contest any such lien or encumbrance by appropriate proceeding which shall prevent the collection of or other realization upon such lien, security interest, or encumbrance so contested, and the sale, forfeiture, or loss of the Premises and/or any future development to satisfy the same, provided that such contest shall not subject the Landlord to the risk of any criminal liability or civil penalty, and provided further that the Tenant shall give such reasonable security as may be requested by the Landlord to insure payment of such lien, security interest, or encumbrance, and to prevent any sale or forfeiture of the Premises and/or any future developments by reason of such nonpayment, and the Tenant hereby indemnifies the Landlord for any such liability or penalty. Upon the termination after final appeal of any proceeding relating to any amount contested by the Tenant pursuant to this Section 14.3, the Tenant shall immediately pay any amount determined in such proceeding to be due, and in the event the Tenant fails to make such payment, the Landlord shall have the right after five (5) days notice to Tenant to make any such payment on behalf of the Tenant and to charge the Tenant therefore.

Nothing contained in this Lease shall be construed as constituting the consent or request of the Landlord, express or implied, to or for the performance of any labor or services or the furnishing of any materials for construction, alteration, addition, repair, or demolition of or to the Premises and/or any future development, or any part thereof through or under the Tenant, and no liens, security interest, or encumbrance for any such labor, services, or materials, shall attach to or affect the interest of the Landlord in and to the Premises and/or any future development, or any part thereof.

Any such lien, security interest or other encumbrance that is not released or bonded within thirty (3) days of the date it becomes effective shall constitute an Event of Default under Section 17.2.

ARTICLE 15 – SURRENDER

Section 15.1 Expiration of Term

At the expiration or earlier termination of the Term or any portion thereof under any provision of this Lease, the Tenant shall peaceably leave, quit, and surrender the Premises and/or any future development, or the portion thereof so terminated, subject to the rights of subtenants in possession under leases with Tenant; provided that, subject to the rights of the subtenant under such subleases, such subtenant is not in default thereunder beyond any grace period provided therein, and attorney to Landlord as such subtenant's lessor. Subject to the rights of the Landlord, upon such expiration or termination, the Premises, the future development, and all portions thereof so terminated shall become the sole property of Landlord at no cost to the Landlord and shall be free of all liens and encumbrances and in good condition, subject only to reasonable wear and tear, and, in the event of casualty, to the provisions of Article 16 hereof. In connection with the foregoing, the Landlord shall be entitled to cause the fee interest in the Premises and the leasehold interest in the Premises to be separate, rather than have the two merged. Tenant may remove any movable equipments or furniture from any rental management office on the Premises, provided that no federal funds were used to acquire such furniture, equipment, or both.

ARTICLE 16 – CASUALTY, CONDEMNATION

Section 16.1 Damage or Destruction to Premises

Tenant shall give prompt written notice to Landlord after the occurrence of any fire, earthquake, act of God or other casualty to or in connection with the Premises, the Developments or any portion thereof. Subject to Section 16.2 below, if during the Term of this Lease, the Developments shall be damaged or destroyed by casualty, Tenant shall repair or restore the Developments so long as it is lawful, and all Leasehold Mortgagees agree that it is feasible to do so and adequate insurance proceeds are made available to Tenant to complete such repairs and restoration. Upon the occurrence of any such casualty, Tenant, promptly and with all due diligence, shall, apply for and collect all applicable insurance proceeds recoverable with respect to such casualty, for the benefit of any Leasehold Mortgagees, if applicable. In the event that more than twenty percent (20%) of the value of the Developments, the Premises, or both are damaged or destroyed, and Tenant shall determine, subject to the rights of the holders of any Leasehold Mortgage, if applicable, and shall notify Landlord in writing within thirty (30) days after receipt by Tenant of any such insurance proceeds, that it is not economically practical to restore the Premises to substantially the same condition in which they existed prior to the occurrence of such casualty, Tenant may terminate this Lease as of a date that is not less than thirty (30) days after the date of such notice. If Tenant terminates this Lease pursuant to this Section, Tenant shall surrender possession of the Premises to Landlord immediately and assign to Landlord (or, if same has already been received by Tenant, pay to Landlord) all of its right, title, and interest in and to the proceeds from Tenant's insurance upon the Premises, subject to the prior rights of any Leasehold Mortgagees, as referenced in Section 16.2 below.

Section 16.2 Distribution

In the event that this Lease is terminated (in whole or in part) pursuant to Section 16.1, the insurance proceeds received as the result of the subject casualty shall be distributed and disbursed as provided in applicable Multi-family housing regulations.

Section 16.3 Condemnation

(a) If, by exercise of the right of eminent domain or by conveyance made in response to the threat of the exercise of such right (in either case a "Taking"), all of the Premises are taken, or if so much of the Premises are taken that the Premises cannot be used by Tenant in a commercially reasonable manner for the purposes for which they were used immediately before the Taking, then this Lease shall, at Tenant's sole option, subject to the rights of any Leasehold Mortgagee, if applicable, terminate on the earlier of the vesting title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority.

(b) Landlord and Tenant agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to this Article, this Lease shall continue in effect as to the remainder of the Premises and any future development, and the net amounts owed or paid to the parties or to which either of the parties may be or become entitled by reason of any Taking pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the Parties in

collecting such award or payment (the "Net Condemnation Award") shall be distributed and disbursed as provided in applicable Multi-family housing laws and regulations. However, if the distribution is not covered by one or more of the preceding instruments, then as follows: (i) first to any Leasehold Mortgagee in an amount sufficient to satisfy the terms and conditions of the Leasehold Mortgage, if applicable, if required, and (ii) to the extent permitted by the foregoing instruments, in accordance with subsection (d) below. Notwithstanding the foregoing, to the extent permitted in any Leasehold Mortgage, if applicable, the Net Condemnation Award shall be used by Tenant to make the remainder of the Premises a complete, unified and efficient operating unit as nearly as reasonably possible to the condition existing prior to the Taking, subject to any applicable requirements of any Leasehold Mortgage, if applicable. However, Tenant is not obligated to expend any sums to restore the Premises that are in excess of the Net Condemnation Award made available to it for that purpose.

(c) If there shall be a temporary Taking with respect to all or any part of the Premises or of Tenant's interest in this Lease, then the Term shall not be reduced and Tenant shall continue to pay in full all Rent and other charges required herein except Operating Expenses attributable to the taken property, without reduction or abatement thereof at the times herein specified; provided, however, that Tenant shall not be required to perform such obligations that Tenant is prevented from performing by reason of such temporary Taking.

(d) If there is a Taking, whether whole or partial, Landlord (solely in its capacity as Landlord under this Lease and not in its capacity, if applicable, as maker of any loan to Tenant) and Tenant shall be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings, or as may be otherwise agreed, subject to the rights of any Leasehold Mortgagee, taking into consideration the fact that Landlord's interest in the Premises is limited to the land and the Development, for which Landlord shall have contributed an amount toward the construction thereof (the actual aggregate amount so contributed being referred to as the "Landlord's Contribution,"") as encumbered by this Lease, and a reversionary interest in the Premises and the Development upon the expiration of the Term. If the Premises shall be restored as is contemplated in subsection (b) above, Tenant shall be entitled to recover the costs and expenses incurred in such restoration out of any Net Condemnation Award. Thereafter, if the condemning authority does not make separate awards, the Parties agree that any Net Condemnation Award will be allocated between them on a proportionate basis, taking into account the relative percentage of the Development that consists of the Mixed Finance Housing Units and the portion of Landlord's Contribution that has not been repaid to Landlord. If the Parties are unable to agree as to the exact percentage of such allocation or if such allocation is no longer applicable because of the repayment of Landlord's Contribution, and the Parties are unable to agree as to the amounts that are to be allocated to the respective interests of each party, then each party shall select an independent M.A.I. real estate appraiser (an "Appraiser"). Each Appraiser shall separately determine the amount of the balance of the Net Condemnation Award allocated to each party. If the percentage allocated to Landlord by one Appraiser is within ten percent (10%) of the percentage allocated to Landlord by the other Appraiser, then the two percentage allocations shall be averaged and such average percentage shall be the percentage allocated to Landlord, with the remaining percentage of the balance of the Net Condemnation Award to be allocated to Tenant. If the percentage allocated to Landlord by an Appraiser is not within ten percent (10%) of that allocated to Landlord by the other Appraiser, then the two Appraisers shall

select a third appraiser, who shall independently determine the percentage of the balance of the Net Condemnation Award that should be allocated to each party, and the average of the percentages determined by the three Appraisers to be allocable to Landlord shall be the percentage that is allocated to Landlord and the remaining percentage of the balance of the Net Condemnation Award shall be allocated to Tenant.

(e) Landlord and Tenant agree that all then-existing Leasehold Mortgagees, to the extent permitted by law and to the extent their interests are affected by the Taking, shall be made a party to any Taking proceeding.

ARTICLE 17 – DEFAULT and REMEDIES

Section 17.1 Landlord's Right to Perform.

(a) Landlord's Option to terminate if Tenant does not receive LIHTC.

If Tenant does not obtain an award of Low Income Housing Tax Credits for the fiscal years 2013 or 2014 on or before August 31, 2014, then Landlord may immediately terminate the Lease. In the event Tenant is successful in obtaining an award, Tenant, at Tenant's sole expense, may obtain a market valuation/analysis of the value of this Lease and indicate on the application for the LIHTC that the value of this Lease will be donated to the LIHTC project to be developed on the Premises. Landlord also intends to make application for New Mexico Affordable Housing Tax Credits, and if Landlord is successful in its application for these additional tax credits, Landlord agrees to use the proceeds from the sale or other disposition of the Affordable Tax Credits for the sole purpose of development of the Premises for the purpose set forth herein.

(b) Landlord's Option if Tenant fails to pay when due amounts payable. If Tenant fails to pay when due amounts payable by Tenant in accordance with Tenant's obligations under this Lease, then Landlord, after ten (10) calendar days' prior written notice to Tenant and without waiving any of its rights under this Lease, may (but will not be required to) pay such amount, unless Tenant notifies Landlord in writing during such ten (10) calendar day period that Tenant is withholding the subject payment due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests. If Tenant fails to perform any of its other obligations under this Lease within the time permitted for its performance, then Landlord, after ten (10) calendar days' prior written notice to Tenant and without waiving any of its rights under this Lease, may (but will not be required to) perform such obligation, unless Tenant notifies Landlord in writing during such ten (10) day period that Tenant is withholding performance due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests or that Tenant has commenced the curing of such default within such ten (10) day period and continues to prosecute such cure in good faith until it has effected such cure.

(c) Additional Rent. All amounts which Tenant is obligated to pay pursuant to Article VI of this Lease, which if not paid may be paid by Landlord, and all reasonable costs and expenses incurred by Landlord in connection with the performance of any such Tenant obligations will be payable by Tenant to Landlord within ten (10) calendar days after Landlord has notified Tenant in writing of the amounts incurred by Landlord on its behalf and shall constitute "Additional Rent," with interest accrued thereon at the rate equal to two percent (2%) above the prime rate

then in effect, as published from time to time in the Wall Street Journal. Landlord shall provide Tenant with invoices and other reasonable evidence of the amounts paid or incurred by Landlord in connection with its exercise of its rights pursuant to this Article.

Section 17.2 Events of Default.

At the option of Landlord, the occurrence of any of the following events shall constitute and are defined as an "Event of Default" by Tenant:

(a) Tenant defaults in the due and punctual payment of any Base Rent or Additional Rent, and such default continues for fifteen (15) calendar days after written notice from Landlord, unless Tenant notifies Landlord in writing during such fifteen (15) calendar day period that Tenant is withholding the subject payment or performance due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests; or

(b) Tenant vacates (except by reason of casualty or condemnation) the Premises for a period of more than thirty (30) consecutive days, or abandons the Premises; or

(c) This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subjected to any attachment by any creditor of Tenant or claimant against Tenant, and such attachment is not discharged or bonded off within ninety (90) calendar days after its levy; or

(d) Tenant breaches any of the other agreements, terms, covenants, or conditions which this Lease requires Tenant to perform, including without limitation the provisions of Article 12 hereof, and such breach continues for a period of thirty (30) calendar days after notice by Landlord to Tenant; provided, however, if the nature of the breach is such that it cannot be cured by Tenant reasonably within the period of thirty (30) calendar days, Tenant shall not be deemed in default of this Lease if Tenant commences the curing of such default within such period of thirty (30) days and prosecutes in good faith the curing of same continuously thereafter until the same is, in fact, cured; or

(e) Tenant fails to complete construction of the Future Development by the completion date and in accordance with closing documents to be entered into by the Parties at a closing on the financing for the Development; or

(f) Tenants fails to operate and maintain the Multi-family mixed income rental properties in accordance with all Applicable Multi-family Housing Requirements; or

(g) A lien is placed on the Premises, with the exception of any Permitted Mortgages, if applicable, approved in writing by Landlord, that is not released or bonded no later than thirty (30) days of filing; or

(h) Tenant uses the Premises for uses other than the permitted use provided for in Section 9.1 herein; or

(i) Tenant makes any assignment in violation of this Lease.

Section 17.3 Remedy

If any one or more Events of Default set forth in Section 17.2 occurs, and continues beyond the applicable grace or cure periods, then Landlord may, at Landlord's sole and exclusive remedy, at law or in equity, but subject in all respects to the rights of any holder of a Permitted Mortgage, if applicable, as set forth in Article 12 hereof, terminate this Lease by written notice to Tenant of its intention to terminate this Lease on the date (including any cure period described above) specified in such notice, and, on the date specified in such notice, Tenant's right to possession of the Premises and the Development will cease and the estate conveyed by this Lease shall re-vest in Landlord.

Section 17.4 Tenant's Right to Perform.

(a) Right to Perform Covenants. If Landlord shall, at any time, fail to perform any of its obligations hereunder or be in breach of any of its representations and warranties herein, Tenant shall, except in the event of an emergency, provide Landlord with notice of such default, and if Landlord does not commence action to cure any such default within the time period specified below after the giving of such notice, or immediately, in the event of an emergency, then Tenant may, without any obligation so to do and without waiving or releasing any obligation of Landlord contained in this Lease, take such actions and make such payment as may be necessary or appropriate to fulfill Landlord's obligations or otherwise cure any default of Landlord hereunder. In case of emergency, Tenant shall nevertheless make every effort to provide notice of default to Landlord. Where no emergency exists, and after giving notice to Landlord, Tenant shall allow Landlord ten (10) calendar days to commence a cure, unless Tenant's interests would be jeopardized by such delay.

(b) Costs and Expenses. All reasonable sums so paid by Tenant and all reasonable and essential costs and expenses incurred by Tenant in connection with the performance of any of the obligations of Landlord hereunder, or on account of any breach by Landlord of its representations and warranties herein shall be payable by Landlord to Tenant, but only after Tenant provides Landlord with invoices and other evidence of the amounts paid and essential expenses incurred by Tenant in connection with its reasonable exercise of its rights pursuant to this Article. In the event Landlord does not pay Tenant the amounts set forth in such invoices, then Tenant may withhold such amounts from the next installment of rent due under this Lease, until paid in full.

Article 17.5 Excusable Delay

Any time deadline or limitation shall be subject to extension for any delay that arises from unforeseeable causes beyond the reasonable control and without the fault or negligence of Landlord or Tenant. Examples of such cause include, without limitation, (a) acts of God, or public enemy, (b) acts or failure to act of other governmental entity in either their sovereign or contractual capacity, to the extent action by other governmental entity is required hereunder, provided that the party hereunder seeking such action by other governmental entity properly requests same in a timely manner and thereafter diligently pursues same, (c) acts or failure to act of a contractor in the performance of a contract with Landlord or Tenant, provided that the party hereunder seeking such action by the contractor properly requests same in a timely manner and

thereafter diligently pursues same, (d) fires, (e) floods, (f) epidemics, (g) quarantine restrictions, (h) strikes or labor disputes, (i) freight embargoes, (j) unusually severe weather, (j) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the reasonable control and without the fault or negligence of Landlord or Tenant, as applicable, (l) delays caused by litigation commenced by someone other than Landlord, and Leasehold Mortgagees, and (m) unusual disruptions in financial markets.

ARTICLE 18 – MISCELLANEOUS

Section 18.1 No Brokers.

Landlord and Tenant each represents and warrants to the other that it has not dealt with any broker or finder with regard to the Premises or this Lease.

Section 18.2 Recordation

Landlord and Tenant shall record a Memorandum of this Lease #2 among the Land Records of the County in the form provided herein as Exhibit C. At the expiration of the Term of this Lease, Tenant shall execute a quitclaim termination of its interest in this Lease.

Section 18.3 Time of Essence

Subject to Section 17.5 herein, time is of the essence of each and every provision of this Lease.

Section 18.4 No Waiver.

No waiver of any condition or agreement in this Lease by either Landlord or Tenant will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Landlord or Landlord's agents during the Term of this Lease will be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender will be valid unless in writing signed by Landlord. Neither payment by Tenant, nor receipt from Landlord, of a lesser amount than the Base Rent and Additional Rent or other charges stipulated in this Lease will be deemed to be anything other than a payment on account of the earliest stipulated Base Rent and Additional Rent. No endorsement or statement on any check, or any letter accompanying any check or payment as Base Rent or Additional Rent, will be deemed an accord and satisfaction. Landlord will accept such check for payment without prejudice to Landlord's rights to recover the balance of such Base Rent or Additional Rent or to pursue any other remedy available to Landlord. If this Lease is assigned, or if the Premises or any parts of the Premises are sublet or occupied by anyone other than Tenant, Landlord may collect rent from the assignee, subtenant, or occupant and apply the net amount collected to the Base Rent and Additional Rent reserved in this Lease. No such collection will be deemed a waiver of the covenant in this Lease against assignment and subletting, or the acceptance of assignee, subtenant, or occupant of Tenant, or a release of Tenant from the complete performance by Tenant to its covenants in this Lease.

Section 18.5 Joint and Several Liability

The liability of Tenant under this Lease is limited to Tenant's interest in the Premises. Neither Tenant, nor any general or limited partner of Tenant, or any affiliate thereof, nor any officer, director, shareholder or employee of any of said entities, shall have any personal liability hereunder.

Section 18.6 Captions and Gender.

The captions are inserted in this Lease only for convenience of reference and do not define, limit, or describe the scope or intent of any provisions of this Lease. Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine, and neuter adjectives include one another.

Section 18.7 Entire Agreement

Except for those that specifically set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to one another with respect to this Lease.

Section 18.8 Amendment

This Lease can be amended only by a written document agreed to and signed by Landlord and Tenant, the approval of which both Landlord and Tenant mutually agree not to unreasonably withhold, delay or condition, and with the written approval of all Leasehold Mortgagees, if applicable, provided that no amendment shall impair the obligations of Tenant to develop and operate the Developments in accordance with the Applicable Multi-family Housing Requirements.

Section 18.9 Severability

If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as a part of this Lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, or enforceable provided such severability does not materially affect the basic understanding of the parties hereto as reflected in this Agreement.

Section 18.10 Notices.

Any notice, request, demand, consent, approval, or other communication required or permitted under this Lease shall be in writing and shall be deemed given when (i) received, if delivered by hand (ii) sent by registered or certified mail, return receipt requested, (iii) sent by recognized overnight delivery services such as Federal Express, or (iv) transmitted by facsimile or electronic mail, provided such notice is also sent simultaneously in the manner provided for in (i), (ii), or (iii) above, addressed as follows:

If to Tenant: Santa Fe Civic Housing Authority
664 Alta Vista Street
Santa Fe, New Mexico 87505
Attn: Ed Romero, Executive Director

With a copy to:

If to Landlord: City of Santa Fe
200 Lincoln Avenue
P.O. Box 909
Santa Fe, New Mexico 87504-0909
Attention: Alexandra Ladd

With a copy to: City Manager

A party may change its address or to whom a copy should be sent by giving written notice to the other Parties as specified herein. Landlord shall also provide written notice to any Leasehold Mortgagee, if applicable, in accordance with Section 12.3.

Section 18.11 Waiver of Jury Trial

Landlord and Tenant may waive trial by jury, by mutual consent, in any action, proceeding or counterclaim brought by one against the other on all matters arising out of this Lease or the use and occupancy of the Premises.

Section 18.12 Cooperation

Landlord and Tenant agree that they will reasonably cooperate with one another in furtherance of the development of the Premises with the Future Development. In particular, Landlord recognizes that the varied sources of funding make it extremely difficult to anticipate every potential provision that may be required in this Lease. From time to time, Tenant may request modifications to the Lease reasonably necessary to satisfy the requirements of financing sources, which financing sources include without limitation, private lenders, equity sources, and governmental agencies. Landlord to the extent reasonably necessary to advance the Future Development, will accommodate such requests, and will not unreasonably withhold or delay its approval and execution of such modifications to this Lease, provided that they do not materially and adversely to the interests of Landlord alter the basic terms hereof. Nothing herein shall impose upon Landlord any requirement to approve any modification or amendment to the Lease which would violate or contravene any applicable laws or any contract or agreement to which Landlord is a party or which is binding on Landlord. Landlord agrees that it will, upon request of Tenant, from time to time, but not more frequently than once a year, enter into an amended and restated lease combining into one document the entire Lease and all amendments and modifications theretofore entered into. In addition, Landlord or Tenant, as the case may be, shall execute, acknowledge and deliver to the other and/or to each Leasehold Mortgagee, promptly upon request, its certificate certifying (i) that the Lease is unmodified and in full force and effect, (or, if there have been modifications, that this Lease is in full force and effect, as modified, and

describing the modifications), (ii) the dates, if any, to which Base Rent and Additional Rent have been paid, (iii) whether there are the existing any charges, offsets or defenses against the enforcement by Landlord or Tenant to be performed or observed and, if so, specifying the same, (iv) whether there are then existing any defaults by Tenant or Landlord in the performance or observance by Tenant or Landlord of any agreement, covenant or condition hereof on the part of Tenant or Landlord to be performed or observed and whether any notice has been given to Tenant or Landlord of any default which has not been cured, and, if so, specifying the same, and (v) any other items reasonably requested by the Equity Investor or any Leasehold Mortgagee.

Section 18.13 Additional Releases, Utility Easements.

Landlord agrees that landlord shall not unreasonably withhold or delay Landlord's consent, and shall join with Tenant from time to time during the Term in the following (provided, however, Landlord is not subject to any cost, expenses or fee, or other liability, in connection therewith): (a) the granting of easements affecting the Premises and the Future Development which are for the purpose of providing utility services for the same; and (b) the dedication or conveyance, as required, of portions of the Premises for road, highway and other public purposes to provided access for the Future Development or to permit widening of existing roads or highways. As a condition precedent to the exercise by Tenant of any of the powers granted to Tenant in this Section 18.13, Tenant shall give written notice to Landlord of the action to be taken, shall certify in writing to Landlord that such action will not adversely affect either the value or the use of the Premises, the Future Development, or any part thereof, and shall deliver all instruments required of Tenant by Landlord, and any mortgagee of the Premises.

Section 18.14 Governing Law and Venue.

This Lease will be governed by and construed in accordance with the internal laws of the State of New Mexico, without regard to principles of conflicts of laws. However, federal law shall apply to provisions required by federal statutes, regulations or guidelines.

Section 18.15 Binding Effect

This Lease will inure to the benefit of, and will be binding upon, Landlord's successors and assigns except as otherwise provided in this Lease. This Lease will inure to the benefit of, and will be binding upon Tenant's successors and assigns so long as the succession or assignment is permitted pursuant to the terms of this Lease.

Section 18.16 Cumulative Rights.

Except, as expressly limited by the terms of this Lease, all rights, powers and privileges conferred hereunder shall be cumulative and not restrictive of those provided at law or in equity.

Section 18.17 Non-Merger

Except upon expiration of the Term or upon termination of this Lease pursuant to an express right of termination set forth herein, there shall be no merger of either this Lease or

Tenant's estate created hereunder with the fee estate of the Premises or any part thereof by reason of the facts that the same person may acquire, own or hold, directly or indirectly, (i) this Lease, Tenant's estate created hereunder or any interest in this Lease or Tenant's estate (including the Development), and (ii) the fee estate in the Premises or any part thereof or any interest in such fee estate (including the Development), unless and until all persons, including any assignee of Landlord, having an interest in (a) this Lease or Tenant's estate created hereunder, and (b) the fee estate in the Premises or any part thereof, shall join in a written instrument effecting such merger and shall duly record the same.

Section 18.18 No Third Party Beneficiary.

Nothing contained in this Lease or in any agreement or contract between the Parties, Landlord or Tenant be deemed or construed to create any relationship of third party beneficiary, principal and agent, limited or general partnership, joint venture or any association.

Section 18.19 Quiet Enjoyment

Tenant, upon paying the Base Rent and Additional Rent and keeping, observing and performing all of the terms, covenants, agreements, provisions, conditions and limitations of this Lease on Tenant's part to be kept, observed and performed, shall quietly have and enjoy the Premises during the Term of this Lease without hindrance or molestation by anyone lawfully claiming by, under or through Landlord, subject, however, to the Permitted Encumbrances, reservations and conditions of this Lease.

Section 18.20 Counterparts.

This Lease may be executed in counterparts and all such counterparts shall be deemed originals and together shall constitute but one and the same instrument.

Section 18.21 Litigation Fees.

If Landlord and Tenant litigate any provision of this Lease or the subject matter of this Lease, the unsuccessful litigant will pay to the successful litigant all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees and court costs, actually incurred by the successful litigant at trial and on any appeal.

Section 18.22 Limited Liability of Landlord

Tenant shall look solely to Landlord's interest in the Premises for the satisfaction of any claims against Landlord, or its employees, agents, or assigns for the satisfaction of any claims, if permitted by law, arising pursuant to this Lease.

Section 18.23 Access

Tenant agrees to grant a right of access to Landlord, or any of its authorized representatives, during regular business hours with respect to any books, documents, papers, or other records related to this Lease in order to make audits, examinations, excerpts, and transcripts.

Section 18.24 Disclaimer of Partnership Status

(a) Tenant and Landlord acknowledge that the proposed transfer to Tenant or to any other participating party in the Development, of Multi-family mixed income housing funds for the development and operation of the Premises covered under this Lease shall not be deemed to be an assignment of such funds. Accordingly, neither Landlord, nor any other participating party, shall succeed to any rights or benefits of Tenant. Tenant further agrees to include this disclaimer in each of its agreements or contracts with any partner, participating party, or any other party involving the use of said housing funds for the Developments.

(b) Nothing contained in in any agreement between Landlord and Tenant, nor any act of Landlord, shall be deemed or construed to create any relationship of third-party beneficiary, principal or agent, limited or general partnership, or joint venture involving the Landlord.

Section 18.26 Conflicts.

In the event of a conflict or inconsistency between any requirement contained in this Lease (or between any requirement contained in any document referred to in this Lease, including any Leasehold Mortgage, if applicable), and the Applicable Multi-family mixed income Housing Requirements, the Applicable Multi-family mixed income Housing Requirements shall in all instances be controlling.

IN WITNESS WHEREOF, this Lease has been executed as of the day and year first hereinabove written, with the specific intention that this Lease constitutes an instrument under seal.

WITNESSES:

LANDLORD

CITY OF SANTA a public body established pursuant to New Mexico Statutes

Print Name: _____

By: _____
David Coss, Mayor

Print Name: _____

Date Executed: _____, 2013

WITNESSES:

TENANT

SANTA FE CIVIC HOUSING AUTHORITY

Print Name: _____

By: _____

Print Name: _____

Date Executed: _____, 2013

CITY OF SANTA FE:

Attest:

Yolanda Y. Vigil, City Clerk

ccmtg 6-12-12

Approved as to Form:

Geno Zamora, City Attorney

Judith Arner for
4/25/13

Approved:

Finance Director

STATE OF NEW MEXICO

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by David Coss, Mayor, City of Santa Fe a public body established pursuant to New Mexico Statutes.

Notary Public, State of New Mexico

Print, Type or Stamp Name

Personally Known____ or Produced Identification ____
Type of Identification Produced _____

STATE OF NEW MEXICO

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2013 by Ed Romero, Executive Director of Santa Fe Civic Housing Authority.

Notary Public, State of New Mexico

Print, Type or Stamp Name

Personally Known____ or Produced Identification ____
Type of Identification Produced _____

EXHIBIT A

Property Description

664-670 Alta Vista Street

Real Estate situated in the City and County of Santa Fe, State of New Mexico:

Beginning at a point from whence the center of sanitary sewer manhole No. C11A-8 located in Alta Vista Street bears S. $73^{\circ} 24'$ E., 175.1 feet to a point; thence S. $76^{\circ} 29'$ E., 116.8 feet to a point, being the center of a sanitary sewer manhole No. C11A-8; thence from said point and place of beginning; S. $16^{\circ} 36'$ W., 819.6 feet to a point; thence N. $84^{\circ} 34'$ W., 182.6 feet to a point; thence N. $9^{\circ} 03'$ E., 143.43 feet to a point; thence N. $79^{\circ} 29'$ W., 425.68 feet to a point; thence North along the arc of a curve, the chord of which bears N. $18^{\circ} 23'$ E., 513.3 feet, and the radius of which is 2790.0 feet, being highway row marker sta. 41 + 39.94; thence N. $23^{\circ} 53'$ E., 44.6 feet to a point; thence S. $73^{\circ} 24'$ E., 599.72 feet to a point, being the point and place of beginning, containing 8.00 acres, more or less.

Being a part of Tract "B" as shown on that certain plat of survey prepared by Jack G. Horne, P.E. & L.S. No. 889 from survey made by him on 21 October 1969. Which plat of survey is entitled "Survey for Santa Fe Board of Education Adm., Bldg., Tract-610 Alta Vista Street, Santa Fe, New Mexico".

Subject to Reservations, Restrictions and Easements of Record and to Taxes for the year 1975 and subsequent years.

Exhibit B

Permitted Encumbrances

Current encumbrances upon the parcels include a Declaration of Trust (DOT) filed with HUD, entered into in accordance with Section 8 of the Annual Contributions Contract between HUD and the Santa Fe Civic Housing Authority, Inc. dated November 8, 1996, which restricts the leasing regulations of units located upon the property. It is not anticipated that any additional encumbrances will be identified as a result of a title search, scheduled for completion in May 2013. Future encumbrances will include restrictions on the use of the property as per the Low Income Housing Tax Credit program.

In the event Tenant is successful in obtaining an award of Low Income Housing Tax Credits, Tenant, at Tenant's sole expense, may obtain a market valuation/analysis of the value of this Lease and indicate on the application for the LIHTC that the value of this Lease will be donated to the LIHTC project to be developed on the Premises. Landlord also intends to make application for New Mexico Affordable Housing Tax Credits, and if Landlord is successful in its application for these additional tax credits, Landlord agrees to use the proceeds from the sale or other disposition of the Affordable Tax Credits for the sole purpose of development of the Premises for the purpose set forth herein.

EXHIBIT C

MEMORANDUM OF GROUND LEASE #2

THIS MEMORANDUM OF GROUND LEASE #2 is dated as of _____ by and between the City of Santa Fe, a public body established pursuant to the laws of New Mexico ("Landlord") and Santa Fe Civic Housing Authority., ("Tenant").

WHEREAS, Landlord is leasing to Tenant the premises more particularly described in Exhibit A attached hereto (the "Property"), pursuant to the "Lease"; and

WHEREAS, the term of the Lease is from the Commencement Date (as set forth in the Lease) to the last day of the month during which the Ninety-ninth (99th) anniversary of the Commencement Date occurs, subject to earlier termination as contemplated in the Lease; and

WHEREAS, the interest of Landlord in the Property shall not be subject to liens for improvements made by Tenant; and

WHEREAS, Landlord and Tenant by their signatures below do hereby agree that the foregoing accurately describes the Lease entered into by them.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Landlord and Tenant have executed this Memorandum Ground Lease #2 as of the date set forth above.

LANDLORD

CITY OF SANTA FE, a public body established
pursuant New Mexico Statutes

By: _____

TENANT

SANTA FE CIVIC HOUSING AUTHORITY

By: _____



**LEASE 3 LUISA
BETWEEN
CITY OF SANTA FE
AND
SANTA FE CIVIC HOUSING AUTHORITY**

Basic Lease Information

EFFECTIVE DATE: As of _____, 2013

LANDLORD: CITY OF SANTA FE

TENANT: SANTA FE CIVIC HOUSING AUTHORITY

PREMISES: CERTAIN LAND SITUATED IN THE CITY OF
SANTA FE, COUNTY OF SANTA FE, AND
STATE OF NEW MEXICO, AS MORE
PARTICULARLY DESCRIBED IN EXHIBIT A

ANNUAL BASE RENT: DOLLARS (\$1.00)

**COMMENCEMENT
DATE:** AS PROVIDED IN SECTION 5.1

TERM: THE PERIOD BEGINNING ON THE
COMMENCEMENT DATE AND ENDING ON
THE NINETY NINTH ANNIVERSARY OF THE
COMMENCEMENT DATE

LANDLORD'S ADDRESS: CITY OF SANTA FE
200 Lincoln Avenue
Santa Fe, New Mexico 87501
Attn:

TENANT'S ADDRESS: SANTA FE CIVIC HOUSING AUTHORITY
664 Alta Vista Street,
Santa Fe, New Mexico 87505
Attn: Executive Director

The Basic Lease Information is part of the Lease; however, if any of the Basic Lease Information contradicts any provision of the Lease, then the provision of the Lease prevails.

LEASE #3

THIS AMENDED AND RESTATED GROUND LEASE #3 LUISA (this "Lease") dated as of _____, 2013 (the "Effective Date"), is by and between (i) CITY OF SANTA FE, ("Landlord"), whose address is 200 Lincoln Avenue, Santa Fe, New Mexico 87501; and (ii) Santa Fe Civic Housing Authority, a public body corporate and politic ("Tenant"), whose address is 664 Alta Vista Street, Santa Fe, New Mexico 87505. Landlord and Tenant are jointly referred to herein as the "Parties".

ARTICLE 1 - RECITALS

WHEREAS, Landlord is the owner of the real property on Exhibit A (the "Premises") which is comprised of all legal tracts of land associated with the Santa Fe Civic Housing Authority communities located in the City of Santa Fe, New Mexico, and as more particularly described on the attached Exhibit A (referred to herein as the "Premises"); and

WHEREAS, the Tenant currently operates and manages affordable housing units for low income residents which are distributed throughout the City of Santa Fe; and

NOW, THEREFORE, in consideration of these presents, and for One Dollar per year rent and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby enter into this Lease on the terms and conditions set forth herein.

ARTICLE 2 – INCORPORATION OF RECITALS

Section 2.1 Incorporation of Recitals

The Recitals are hereby incorporated into this Lease by reference and are made a part hereof.

Section 2.2 Leasehold Interest

(a) *Conditioned upon Tenant obtaining an award of Low Income Housing Tax Credits for the fiscal years 2013 or 2014 on or before August 31, 2014, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises and or any future developments that are in excess of \$50,000 and are in accordance with Article 14 herein, upon the terms and conditions stated herein, subject only to the Permitted Encumbrances described herein at Exhibit B and to any duties and/or encumbrances created under the Prior Lease which survives the execution of this Lease, if any. In the event Tenant is successful in obtaining an award of Low Income Housing Tax Credits, Tenant, at Tenant's sole expense, may obtain a market valuation/analysis of the value of this Lease and indicate on the application for the LIHTC that the value of this Lease will be donated to the LIHTC project to be developed on the Premises. Landlord also intends to make application for New Mexico Affordable Housing Tax Credits, and if Landlord is successful in its application for these additional tax credits, Landlord agrees to use the proceeds from the sale or other disposition of the Affordable Tax Credits for the sole purpose of development of the Premises for the purpose set forth herein.*

(b) Tenant shall have the right to pass and re-pass over all existing ways and public areas located on the Premises or providing public access thereto, and to connect to and use all utilities and service conduits and facilities that service the Premises, and to Tenant's compliance with the requirements of applicable law pertaining to any such use, including, without limitation, obtaining the approvals of any regulatory body with authority over such use and the payment of any fees therefore.

Section 3.2 Landlord Cooperation

Landlord agrees to cooperate with Tenant regarding the creation and/or extension of land use restrictions and other encumbrances on the Premises required by the RAD conversion project guidelines or the New Mexico housing credit agency responsible for administering the LIHTC program, and/or such other agencies providing financing for affordable housing development, subject to Landlord's duties in its capacity as a civic and permitting authority to protect the public interest and to ensure compliance with city ordinances.

Section 3.2 Compliance with Laws

Tenant agrees to undertake and carry out the RAD conversion project guidelines and to operate the Premises as Project Based Rental Assistance (PBRA), Citation 77, FR 43650-43855 in accordance with the requirements of all applicable laws, ordinances, codes, orders, rules and regulations of all governmental authorities, agencies or departments having jurisdiction over the Premises.

Section 3.3 Approvals, Permits and Licenses.

Tenant shall apply for, or cause to be applied for, and prosecuted, with reasonable diligence, all necessary approvals, permits and licenses required for the RAD Program, and/or the construction, development, use and occupancy of the Premises or future development of the Premises. Landlord shall cooperate with Tenant as may be reasonable necessary to facilitate Tenant's activities hereunder, subject always to Landlord's duties in its capacity as civic and permitting authority to protect the public interest and ensure compliance with city ordinances.

Section 3.4 Ownership of Development

Landlord and Tenant acknowledge and agree that Tenant, during the Term of this Lease, be the owner of the improvements comprising the Premises currently and any future development, and as such, Tenant shall be entitled to all depreciation deductions and low-income housing tax credits or other benefits for income tax purposes relating to any future development during such Term.

ARTICLE 4 – REPRESENTATIONS AND WARRANTIES

Section 4.1 Landlord's Representations and Warranties

Landlord hereby represents and warrants to the Tenant that:

(a) The Landlord owns, fee simple, good and marketable title to the Premises, free and clear of all liens, charges, encumbrances, encroachments, easements, restrictions, occupancies or agreements and other matters affecting title, subject to the Permitted Encumbrances listed at Exhibit B and to any covenants, restrictions, and/or other obligations imposed on Landlord by reason of the Prior Lease.

(b) As of the Commencement Date, there is no unpaid special assessment assessed by Landlord, or of which Landlord is otherwise aware, for sewer, sidewalk, water, paving, gas, electrical or utility improvements or other capital expenditures, matured or unmatured, affecting the Premises.

(c) The person signing this Lease on behalf of Landlord is authorized duly and validly to so sign.

Section 4.2 Tenant's Representations and Warranties Tenant hereby warrants and represents to Landlord that:

(a) Tenant is, and as of the Commencement Date will be, duly organized and lawfully existing under the laws of the State of New Mexico.

(b) Tenant has, and as of the Commencement Date will have the full right, power and authority to make, execute, deliver and perform this Lease.

(c) The person signing this Lease on behalf of Tenant is authorized duly and validly to so sign.

ARTICLE 5 – TERM

Section 5.1 Effective Date; Commencement Date

This Lease shall become effective on the date it is approved in writing by the City Council (the "Effective Date").

Section 5.2 Term of Lease

The term of this Lease ("Term") shall be for a period of Ninety-nine (99) years commencing upon the date this Lease shall become effective (the "Commencement Date"), and ending on the last day of the month during which the Ninety-ninth (99th) anniversary of the Commencement Date occurs, subject to earlier termination as contemplated herein.

ARTICLE 6 – RENT

Section 6.1 Annual Base Rent

The annual base rent ("Base Rent") shall be One Dollars (\$1.00) per annum. The parties acknowledge and agree that the rent for the entire Term equal to Nine Hundred Ninety Dollars (\$99.00) has been paid by Tenant to Landlord at the time of execution of this Lease, and that no rent shall be hereafter due, unless otherwise required hereunder.

Section 6.2 Additional Rent In order that the Base Rent shall be absolutely net to Landlord, Tenant covenants and agrees to pay, as Additional Rent, without notice or demand and without set-off, abatement, suspension or deduction, all taxes, payment in lieu of taxes, betterment assessments, water and sewer rents and charges, liens, insurance, maintenance, repairs, utilities charges, all other operating expenses, and all other customary costs, general and special, which are due and payable during the Term hereof at any time imposed or levied against the Premises and/or the Future Development, provided, however, that the term "Additional Rent" shall not include any income tax, capital levy, estate succession, inheritance, transfer or similar taxes of Landlord, or any franchise tax imposed upon Landlord, or any income, profits or revenue tax, assessment or charge imposed upon rent received by Landlord under this Lease by any governmental authority, Tenant will furnish to the Landlord, upon request once per year concurrently with the Landlord's annual receipt of Tenant's audited financial statements, proof of payment of all items referred to in this Section 6.2 which are payable by Tenant; provided, that Tenant will in addition furnish to the Landlord proof of payment of any taxes or payments in lieu thereof and proof of payment of insurance premiums promptly after demand therefore. Additional Rent includes Real Estate Impositions defined as: "payments in lieu of taxes thereof in accordance with the provisions of applicable New Mexico law, and thereafter each installment of all public, special or betterment assessments levied or assessed by or becoming payable to Santa Fe County or any governmental authority having jurisdiction of the Premises and/or any future development, for or in respect of the Premises and any future development including payments in lieu of taxes (PILOT) pursuant to a cooperation agreement "", as well as real estate taxes upon the expiration of the PILOT, and all of the foregoing taxes and installments of assessments such as taxes and installments of assessments. Tenant agrees to save Landlord harmless from all costs and expenses incurred on account of Tenant's participation in such proceedings or as a result of Tenant's failure to pay Real Estate Impositions and other related charges with respect to the Premises. Landlord, without obligating itself to incur any costs or expenses in connection with such proceedings, shall cooperate with Tenant with respect to such proceedings so far as reasonably necessary. Neither party shall discontinue any abatement proceedings begun by it without first giving the other party written notice of the discontinuing party's intent so to do and reasonable opportunity to be substituted in such proceedings. Landlord shall promptly furnish to Tenant a copy of any notice of any Real Estate Imposition received by Landlord. In the event the Tenant fails to make any payment referred to in this Section 6.2.1 when due, the Landlord shall have the right after 5 days notice to Tenant to make any such payment on behalf of the Tenant and charge the Tenant as Additional Rent therefore, plus the Base Interest Rate.

6.2.2 Utilities.

Tenant shall pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat or power, telephone or other service used, rendered or supplied to Tenant in connection with the Premises, and/or any future development and shall not contract for the same in Landlord's name.

6.2.3 Other

The Tenant covenants to pay and discharge, when the same shall become due, as Additional Rent, all other amounts, liabilities, and obligations which the Tenant assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may

be added for nonpayment or late payment thereof; and, in the event of any failure by the Tenant to pay or discharge the foregoing, the Landlord shall have all the rights, powers and remedies provided and as limited herein in the case of nonpayment of rent, and additionally. Landlord shall be entitled to pay the same, and collect the amount thereof from Tenant, as Additional Rent, plus the Base Interest Rate.

Section 6.2 Payments by Tenant upon Commencement of Construction of the Development.

Unless expressly set forth in this Lease otherwise, all costs, expenses, liabilities, charges or other deductions whatsoever with respect to the Premises and the construction, ownership, leasing, operation, maintenance, repair, rebuilding, use or occupation of the Premises or the Future Development shall be the responsibility of Tenant.

ARTICLE 7 – TAXES; OPERATING EXPENSES

Section 7.1 Taxes.

Tenant will pay or cause to be paid (i) any real estate taxes which are assessed against the Premises by Landlord or any other taxing authority during the Term, or (ii) any payments to the extent required by a cooperation agreement or amendment thereto providing for payments in lieu of taxes (“PILOT”) which is entered into by Tenant with Landlord or any other taxing entity during the Term. Tenant will pay or cause to be paid all real estate recordation taxes incident to this Lease, if any.

Section 7.2 Project Operating Expenses

Tenant will pay or cause to be paid all costs and expenses attributable to or incurred in connection with the operation, maintenance and repair of the Premises and the Future Development (collectively, the “Operating Expenses”) during the Term.

ARTICLE 8 – INSURANCE

Section 8.1 Tenant’s Insurance.

Tenant will, at its sole expense, obtain and keep in force during the Term of this Lease, adequate insurance to protect Tenant and Landlord from loss as follows:

(a) “All Risk” Coverage. Tenant will, at its sole expense (but nevertheless as a portion of Operating Expenses) obtain and keep in force during the Term, “all-risk” coverage insurance on the Development naming Tenant and Landlord as the insured, as their interests may appear, in the customary form in the City for buildings and improvements of similar character. The amount of such insurance will be set forth on an “agreed amount endorsement” to the policy of such insurance and will not be less than 100% of the full replacement value of the improvements on the Premises, as determined from time to time.

(b) General Liability. Tenant will, at its sole expense (but nevertheless as a portion of Operating Expenses) obtain and keep in force during the Term general liability insurance with

limits of coverage in the maximum amount which the Landlord could be held liable under the New Mexico Tort Claims Act, for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring against any and all liability of Landlord and Tenant including, without limitation, coverage for contractual liability and broad property damage, with respect to the Premises or arising out of the maintenance, use or occupancy of the Development. Such insurance will insure the performance by Tenant of its indemnity obligations hereunder as to liability for injury to or death of persons and damage to property set forth in this Lease. Such insurance will not be noncontributing with any insurance that may be carried by Landlord and will contain a provision that Landlord, although named as an insured, will nevertheless be entitled to recover under the policy for any loss, injury, or damage to Landlord, its agents, and employees, or the property of such persons.

(c) Umbrella liability insurance coverage on an occurrence form, covering losses in excess of the primary general liability, auto liability and employer's liability coverage, in amounts of such insurance carried by owners of comparable properties in the City of Santa Fe, or such other amount as may reasonably be required by the Landlord. If part of a master program, subject to annual aggregate limits, the umbrella limit shall be on a per-location basis.

(d) Workers' compensation insurance at the statutory limits and as required by law in respect of any work performed by Tenant's employees on or about the Premises and/or the Project.

(e) (75%) of the Project at the Premises are occupied, rent loss insurance on an all-risk and agreed amount basis, with the amount being sufficient to recover at least the total estimated gross receipts from all sources of income for the Premises and/or Project, or any part thereof including, without limitation, rental income, for a twelve-month period.

(f) Tenant shall require any contractor (or subcontractor thereof) or professional to carry commercial general liability, auto liability, workers compensation insurance with the scope of coverage and other provisions as described above. Such general liability and auto liability coverage shall include the Tenant and Landlord as additional insured. Tenant shall obtain and keep on file certificates of insurance which show that the contractor or subcontractor is so insured.

(g) Tenant shall require any architect, engineer, or other person entity providing professional services to Tenant and/or employed in connection with the maintenance of the Premises and/or the Project, or in the construction of other improvements, to carry professional liability (errors and omissions) insurance and valuable papers coverage in amounts reasonably acceptable to Landlord. Tenant shall obtain and keep on file certificates of insurance which show that the architect, engineer or other such professional is so insured.

(h) Other Matters. All insurance required in this Article and all renewals of it, will be issued by companies authorized to transact business in the State of New Mexico, and rated at least A+ Class X by Best's Insurance Reports (property liability). In a certificate of insurance, all insurance policies will be expressly provide that such policies will not be cancelled or altered without thirty (30) days' prior written notice to Landlord, in the case of "all-risk" coverage insurance, and to Landlord, in the case of general liability insurance; will to the extent

obtainable, provide that no act or omission of Tenant which would otherwise result in forfeiture or reduction of the insurance will affect or limit the obligation of the insurance company to pay the amount of any loss sustained; and will, to the extent obtainable, contain a waiver by the insurer of its rights of subrogation against Landlord. Upon issuance, each insurance policy or a duplicate or certificate of such policy shall be delivered to Landlord. Tenant may satisfy its obligations under this paragraph by appropriate endorsements of its blanket insurance policies. All insurance required in this article and all renewals of it shall be written to become effective on the Commencement Date and shall be continued in full force and effect for the Term and shall contain terms providing that any loss covered by such insurance may be adjusted with the Tenant and Landlord, but shall be payable to the holder of any leasehold mortgage, who shall agree to receive and disburse all proceeds of such insurance. All such insurance shall contain such contingent liability endorsements as shall make such insurance congruent with the fire and extended coverage insurance required by this Section 8.1. The minimum coverages stated in this Section shall be reviewed annually by the Landlord and Tenant and shall be increased at such review if Landlord determines such increase is necessary to reflect inflation or changes in the nature or degree of risks insured.

(i) **Delivery of Evidence of Insurance.** Certificates of insurance for all insurance required of Tenant hereunder and evidence of the payment of all premiums of such policies shall be delivered to Landlord. All public liability, property damage liability, and casualty policies maintained by Tenant will be written as primary policies, not contributing with and not in excess of coverage that Landlord may carry. If Tenant fails to maintain such excess insurance, which failure continues for thirty (30) days after Landlord gives notice to Tenant of such failure, then Landlord, at its election, may procure such insurance as may be necessary to comply with the above requirements (but shall not be obligated to procure same), and Tenant shall reimburse to Landlord, as a Landlord reimbursement, any costs associated with procuring such insurance.

Section 8.2 Landlord's Insurance.

Landlord shall obtain and maintain, at its sole cost and expense, general liability insurance with respect to the Premises.

Section 8.3 Waivers of Insured Claims

Each of the Landlord and the Tenant hereby waives all rights of recovery against the other for loss or injury against which the waiving party is protected by insurance, but only to the extent of such insurance.

Section 8.4 Notification of Accidents of Loss

In addition to notifying Tenant's insurer(s) in accordance with each policy, Tenant shall provide prompt written notice to Landlord as soon as reasonably possible of any accident or loss relating to the Premises, the Project, or any part thereof, likely to exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00) in 2007 inflation adjusted dollars.

Section 8.5 Indemnity for Death, Injury, etc.

The Tenant agrees to pay and to defend, indemnify and hold harmless the Landlord, from and against any and all liabilities, losses, damages, causes of action, suits, claims, demands, judgments, costs and expenses of any kind or any nature whatsoever (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable expert's and attorney's fees and expenses), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by, or asserted or awarded against Landlord, or its respective employees, agents, officers, shareholders, directors or other persons serving in an advisory capacity to it (such as monitoring committee members) or against the Project and/or Premises or any portion thereof, arising from: (a) any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property on the Premises or within the Project or on adjoining sidewalks, streets or ways, in each case arising out of the use, possession, ownership, condition or occupation of the Premises, the Project or any part thereof (but not of any property not expressly referred to above), from and after the date hereof; (b) violation by the Tenant, the Tenant's employees, agents, or approved subtenants, or invitees, or any of them, of any obligation of Tenant under this Lease, any Permitted Mortgage, and/or any one or more of the Governing Documents, and/or any restriction, statute, law, ordinance or regulation. The Landlord shall give the Tenant prompt notice of any written claim made or suit instituted against Landlord, relating to any matter which would result in indemnification pursuant to this Section 8.5, but the Landlord's failure to give such prompt notice to the Tenant shall not release Tenant from performing Tenant's obligations under this Section 8.5. The obligations of the Tenant under this Section 8.5 shall survive the expiration or any earlier termination of the Term of this Lease. The foregoing indemnification shall not be construed as creating any rights in or conferring any rights to any third parties.

ARTICLE 9 – USE OF PREMISES, COMPLIANCE WITH LAWS, AND COVENANTS **APPLICABLE TO MULTI-FAMILY UNITS**

Section 9.1 Permitted Use.

Tenant shall throughout the Term continuously use and operate the Premises, and/or any future development only for the following uses and such other uses as are reasonably and customarily attendant to such uses: the leasing of Multi-family mixed income rental units, including but not limited to, development, marketing for lease and leasing of Section Eight housing and the RAD Program. The Tenant agrees to operate the Premises and/or any future development in a manner which strictly satisfies the requirements of this Lease and the Applicable Housing Requirements.

Section 9.2 Compliance with Laws

Tenant shall not use or occupy, or suffer or permit any portion of the Premises to be used or occupied in violation of any law, ordinance, order, rule, regulation, certificate of occupancy, or other governmental requirement. Tenant will comply with applicable laws and all rules, orders, regulations, and requirements of the board of fire underwriters or insurance service office, or any other similar body, having jurisdiction over the Premises.

ARTICLE 10 – ENVIRONMENTAL CONDITIONS

Section 10.1 Tenant's Environmental Covenants.

Tenant acknowledges and agrees that it originally entered upon the Premises to construct the Existing Improvements in 1963 and 1964 and has occupied the Premises continuously thereafter. Except for claims relating to environmental matters that existed prior to such entry of Tenant upon the Premises, or that are attributable to the negligence of Landlord thereafter ("Excluded Claims"), Tenant agrees that, by the execution of this Lease, Tenant releases the Landlord of any claims it may have against the Landlord pursuant to applicable Environmental Laws, as the same are defined in Section 10.4(a) hereof, with respect to the Premises, the Existing Improvements, the Future Development, and all parts thereof. Subject only to the Excluded Claims, Tenant further acknowledges and agrees that in consideration of the rights and benefits granted to Tenant under this Lease, Tenant shall be responsible for carrying out in accordance with the requirements of such Environmental Laws any remediation required pursuant thereto of the Premises, the Existing Improvements, and the Future Development, and all parts thereof, at Tenant's sole expense, without recourse to the Landlord, and inclusive of the indemnification obligations of Tenant set forth hereunder. Except with respect to the Excluded Claims, Tenant hereby waives any right, remedy, or recourse against Landlord in regard to any environmental matters arising in regard to the Premises, the Existing Improvements, the Future Development, and all parts thereof. No representations, warranties or other covenants are made by the Landlord in regard to the condition of the Premises, and/or the Existing Improvements, and the Premises and the Existing Improvements are being provided to the Tenant hereunder in "AS IS", "WHERE IS", AND "WITH ALL FAULTS" condition. Tenant hereby waives any right, remedy, or recourse against the Landlord with respect to any environmental matters arising in regard to the Premises, the Existing Improvements, the Future Development, and all parts thereof Project. Without limitation of any of Tenant's other covenants, agreements, obligations, and indemnifications under this Lease, Tenant hereby specifically covenants and agrees to fulfill the responsibilities set forth below with respect to environmental matters and Hazardous Materials or Prohibited Substances (as hereinafter defined):

(a) Tenant, its agents, employees, and contractors shall comply with all applicable provisions of all Environmental Laws applicable to the Premises, the Existing Improvements, the Future Development, and Tenant's use of the Premises from the time it first entered upon the Premises to construct the Existing Improvements and under this Lease. All required governmental permits and licenses issued to Tenant, its agents, employees, and contractors and associated with the Premises, the Existing Improvements, and/or the Future Development shall remain in effect or shall be renewed in a timely manner, and Tenant, its agents, employees and contractors shall comply therewith.

(b) Tenant shall not itself, and Tenant shall not permit any other person, including, but not limited to, third parties with whom Tenant contracts in regard to this Lease, to bring onto the Premises any (i) asbestos or asbestos-containing material or polychlorinated biphenyl material, or (ii) hazardous substances or hazardous waste as defined under any federal, state or local law, that may require remediation under applicable law (other than quantities or such substances, including gasoline, diesel fuel and the like as are customary and necessary to prosecute construction and occupancy of the Development on the Premises), or (iii) soil

containing volatile organic compounds, polyaromatic hydrocarbons ("PAH"), lead, arsenic, or other compounds in concentrations that pursuant to applicable Environmental Laws may pose a significant risk to public health and/or safety (collectively (i)-(iii) are the "Prohibited Substances"). Tenant shall be liable for the consequences of, and responsible for removal and lawful disposal, at its sole expense, of any Hazardous Materials, Prohibited Substances, or both brought onto the Premises, resulting from a default under this Section. All soils brought onto the site for fill should be tested prior to acceptance/use.

(c) Tenant shall immediately notify Landlord, in writing and provide Landlord with copies of all forms, notices and other information received by or on behalf of Tenant, its agents, employees, and contractors concerning any releases, spills or other incidents relating to Hazardous Materials, Prohibited Substances, or both, or any violations of Environmental Laws at or relating to the Premises when and as supplied to any government agency. Tenant shall also comply with all laws, ordinances, regulations and orders of all governmental, regulatory and other public and quasi-public agencies, authorities and entities having jurisdiction over the same with respect thereto.

Section 10.2 Landlord's Environmental Covenants.

Without limitation of any of Landlord's other covenants, agreements and obligations under this Lease, Landlord hereby specifically covenants and agrees to provide Tenant with copies of all forms, notices and other information received by or on behalf of Landlord concerning any releases, spills or other incidents relating to Hazardous Materials or Prohibited Substances, or any violations of Environmental Laws at or related to the Premises when and as supplied to any governmental agency.

Section 10.3 Tenant's Environmental Indemnity.

Tenant covenants and agrees to indemnify, defend and hold Landlord free and harmless from and against any and all losses, liabilities, penalties, claims, fines, litigation, demands, costs, judgments, suits, proceedings, damages, disbursements or expenses (including reasonable attorneys' fees and expenses) which may at any time be imposed upon, reasonably incurred by or asserted or awarded against Landlord in connection with or arising from:

(a) Any Hazardous Materials, Prohibited Substances, or both which are first placed on, in, or under all or any portion of the Premises during the period defined herein as the Term, or during the period preceding the Term when Tenant occupied the Premises, with the exception of any Hazardous Materials, Prohibited Substances or both which are placed on, in, or under all or any portion of the Premises by Landlord, its agents, employees and contractors; or

(b) Any violation of any Environmental Laws by Tenant, its agents, employees, and contractors at or relating to the Premises, the Existing Improvements, the Future Development, and all parts thereof, which is not a condition existing prior to the original entry upon the Premises by the Tenant to construct the Existing Improvements.

(a) "Environmental Laws" means any present or future federal, state or local law, ordinance, rule, regulation, permit, license or binding determination of any governmental authority relating to, imposing liability or standards concerning, or otherwise addressing the environment, health or safety, including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. ("CERCLA"); the Resource Conservation and Recovery Act, 42, U.S.C. Section 6901 et seq. ("RCRA"); the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq. ("TOSCA"); the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the Clean Water Act, 33 U.S.C. Section 1251 et seq. and any so-called "Superfund" or "Superlien" law; and the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq. ("OSHA"), as each is from time to time amended and hereafter in effect.

(b) "Hazardous Materials" means:

- 1) "Hazardous substances" as defined by CERCLA;
- 2) "Hazardous wastes," as defined as RCRA;
- 3) Any hazardous, dangerous or toxic chemical, waste, pollutant, containment or substance ("pollutant") within the meaning of any Environmental Law prohibiting limited or otherwise regulating the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal or recycling of such pollutant;
- 4) Petroleum crude oil or fraction thereof;
- 5) Any radioactive material, including any source, special nuclear or by-product material as defined in 42 U.S.C. Section 2011 et seq. and amendments thereto and reauthorizations thereof; or
- 6) Asbestos-containing materials in any form or condition, or polychlorinated biphenyls in any form or condition.

Section 10.5 Survival

The agreements, representations and warranties of Landlord and Tenant respectively in this Article 10 shall survive the expiration or early termination of this Lease.

ARTICLE 11 – ASSIGNMENTS, SUBLEASES AND TRANSFERS

Section 11.1 Consent Required.

(a) Assignment of Tenant's Interest(s). Tenant hereby acknowledges that Landlord has entered into this Lease because of Tenant's financial strength, goodwill, ability and expertise and that, accordingly, this Lease is one which is personal to Tenant, and Tenant agrees for itself and Tenant's successors and permitted assigns in interest hereunder that Tenant will not, other than by a Permitted Encumbrance/Mortgage, Exhibit B, directly or indirectly, transfer or assign this Lease or any of Tenant's rights or interest therein, to all or any part of the Premises or the Future Development, without the prior written consent of Landlord. Notwithstanding the foregoing, by Landlord's execution of this Lease, Landlord is deemed to have approved, subject to any applicable law, regulation, ordinance, or agreement between the parties hereto, (i) a transfer to a single-purpose Owner Entity created in order to finance the Future Development,

foregoing, by Landlord's execution of this Lease, Landlord is deemed to have approved, subject to any applicable law, regulation, ordinance, or agreement between the parties hereto, (i) a transfer to a single-purpose Owner Entity created in order to finance the Future Development, provided that the Tenant is a general partner or otherwise exercises control of such Owner Entity; (ii) a transfer by Tenant to a mortgage under a Permitted Encumbrance/Mortgage in compliance herewith; (iii) an assignment or other transfer by such mortgage to a third-party purchaser in connection with a foreclosure sale under any such Permitted Encumbrance/Mortgage, or acceptance by the mortgagee or its designee of a deed in lieu of foreclosure under the Permitted Encumbrance/Mortgage; and/or (iv) the lease to any Multi-family mixed income residential housing tenant or other qualified tenant of a unit in the Premises, or, any future development. Upon the granting of any Landlord consent, whether deemed or otherwise evidenced in writing, with respect to any transfer or assignment by Tenant, this Lease shall be binding upon and inure to the benefit of the Landlord and Tenant, and their respective successors, assigns, legal representatives, mortgagees under Permitted Encumbrance/Mortgages, and other transferees and, upon the assumption of all the assignor's obligations by the assignee or transferee, the assignor shall be released from any liability hereunder from and after the date of such transfer, and upon the written request of the assignor, Landlord shall execute and deliver to the assignor a release agreement in a form reasonably acceptable to the Landlord and assignor to evidence such release. Notwithstanding the foregoing, however, the assignor shall remain fully and conditionally liable for all obligations of assignor to have been performed under this Lease on or prior to the date of any such assignment or transfer; to the fullest extent that assignor would have been liable under this Lease if such assignment or transfer has not occurred. The provisions of this Section 11.1(a) shall survive each such transfer and the termination of this Lease.

(b) Any person to whom any assignment or transfer is made without such consent shall have no claim, right or remedy, whatsoever hereunder against Landlord and Landlord shall have no duty to recognize any person claiming under or through the same.

Section 11.2 Subsequent Assignment

In cases where Landlord's consent is required such consent to any one assignment will not constitute a waiver of the requirement that the Tenant obtain consent to any subsequent assignment.

Section 11.3 Request for Consent

If Tenant requests Landlord's consent to any assignment hereunder, Tenant shall provide to Landlord such information as Landlord may decide to reasonably require whether to grant such consent.

Section 11.4 Transfer by Landlord

(a) Landlord shall not transfer all or any part of its interest in the Premises without the prior written consent of the Tenant, which shall not be unreasonably withheld, subject only to the requirements of applicable law, regulation, ordinance, or public exigency, and otherwise to the terms of this Lease. Upon any such approved transfer, the transferee shall assume all of

Landlord's obligations under this Lease. Landlord shall not transfer all or any portion of its interest in the Premises if the same would cause (i) a violation of any applicable laws or regulations, any material terms of this Lease, or any agreement or contract with respect to the Premises and/or any future development which is reasonably necessary to carry out Tenant's obligations hereunder or under applicable law and to which Tenant is a party or by which Tenant is bound, and of which Landlord has prior written notice, or (ii) a reduction in Tenant's receipt of operating subsidy for the Premises, unless such reduction is, or causes, a default by Tenant of its obligations hereunder, or otherwise under applicable law.

ARTICLE 12 – LEASEHOLD FINANCING

Section 12.1 Right to Mortgage

Subject to Landlord's consent, if required, and to the terms and conditions of this Lease, Tenant shall have the right from time to time to grant one or more mortgages of its interest in the Premises, and/or any future development (each, once approved, a "Permitted Encumbrance/Mortgage") as the same may reasonably be necessary to carry out, complete, operate, and/or maintain the same. Each such mortgage shall be subject to this Lease. The Tenant shall give prior written notice to Landlord of its intention to enter into any such mortgage, and shall provide Landlord with any such information as it may determine reasonably require whether to consent thereto. In no event shall Landlord ever be required to execute any such mortgage or any note secured thereby or any other obligation securing any such note, or to subordinate Landlord's fee interest in the Premises or any part thereof to any such mortgage. Tenant shall identify the name of each mortgagee ("Permitted Leasehold Mortgagee") for such portion of the Premises and the address (es) to which notices to the Leasehold Mortgagee are to be sent. Landlord agrees to execute any additional documents or further assurances as may be reasonably be requested by any Leasehold Mortgagee in connection with any Leasehold Mortgage permitted by this Article 12.

Section 12.2 Consent Required for Termination and Amendments.

No termination, cancellation, surrender, or material modification of this Lease by agreement between Landlord and Tenant shall be effective unless and until consented to in writing by such Permitted Leasehold Mortgagee, provided that such consent shall not be unreasonably withheld.

Section 12.3 Default Notice and Notice Provisions.

Landlord, upon providing Tenant with any notice of default under this Lease, shall at the same time send a copy of such notice to every Permitted Leasehold Mortgagee, provided, however, that the failure to provide such additional notices shall not invalidate any duly delivered notice to Tenant. From and after such notice has been given to the Permitted Leasehold Mortgagee, such Permitted Leasehold Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or causing the same to be remedied, as is given Tenant after the giving of such notice to Tenant, plus in each instance, the additional periods of time specified in Sections 12.4 and 12.5 to remedy, commence remedying or cause to be remedied the defaults specified in any such notice. Landlord shall accept such performance

by or at the instigation of the Permitted Leasehold Mortgagee as if the same had been done by Tenant.

Section 12.4 Notice to Permitted Leasehold Mortgagee

Anything contained in this Lease to the contrary notwithstanding, if any default shall occur and remain uncured beyond all applicable grace or cure periods of this Lease, which entitles Landlord to terminate this Lease as to all or any portion of the Premises to take any other remedial action against Tenant, Landlord shall have no right to terminate this Lease or take such remedial action unless, following the expiration of the period of time given Tenant to cure such default, Landlord shall notify each Permitted Leasehold Mortgagee, if applicable, to the extent of Landlord's actual knowledge of their existence, of Landlord's intent to so terminate at least thirty (30) calendar days in advance of the proposed effective date of such termination, if such default is capable of being cured by the payment of money, and at least forty-five (45) calendar days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money. The provisions of Section 12.5 shall apply if, during such thirty (30) or forty-five (45) calendar day notice period, any Permitted Leasehold Mortgagee:

(a) Notifies Landlord of such Permitted Leasehold Mortgagee's desire to nullify such notice; and

(b) Pays or causes to be paid all Additional Rent and other payments then due and in arrears applicable to the subject portion(s) of the Premises, as specified in the notice given to such Permitted Leasehold Mortgagee and which becomes due during such thirty (30) or forty-five (45) day period; and

(c) Complies or in good faith, with reasonable efforts, commences to comply with any non-monetary requirements of this Lease applicable to the subject portion(s) of the Premises then in default and except as provided in the following sentence, reasonably susceptible of being complied with by such Permitted Leasehold Mortgagee.

No Permitted Leasehold Mortgagee shall be required during such thirty (30) day or forty-five (45) day period to cure or commence to cure any default consisting of Tenant's failure to satisfy and discharge any lien, charge or encumbrance against Tenant's interest in this Lease or any part thereof which is (a) authorized by this Lease, and (b) junior in priority to the lien of the Permitted Leasehold Mortgage, if applicable, held by such Permitted Leasehold Mortgagee.

Section 12.5 Procedure on Default

If Landlord shall elect to terminate this Lease by reason of any default of Tenant, which default has not been cured within the applicable cure period, and the Permitted Leasehold Mortgagee, if applicable, shall have proceeded in the manner provided for by Section 12.4, the specified date for such termination as fixed by Landlord in its notice given pursuant to Section 12.4 shall be extended for a period of six (6) months, provided that the Leasehold Mortgagee shall be permitted to avail itself of additional cure periods as described at Section 12.4 and 12.5 provided that such Permitted Leasehold Mortgagee shall, during such six-month period:

(a) Pay or cause to be paid, the Additional Rent and any other monetary obligations of Tenant under this Lease, as the same become due, and continue its good faith efforts to perform all of Tenant's other obligations under this Lease, excepting (i) obligations of Tenant to satisfy or otherwise discharge any lien, charge or encumbrance against Tenant's interest in this Lease or any part thereof which is junior in priority to the lien of the Permitted Leasehold Mortgage, if applicable, held by such Permitted Leasehold Mortgagee, and (ii) past non-monetary obligations then in default and not reasonably susceptible of being cured by such Permitted Leasehold Mortgagee; and

(b) Except to the extent enjoined and stayed, take steps to acquire or sell Tenant's interest in this Lease, by foreclosure of such Permitted Leasehold Mortgagee, or other appropriate means and prosecute the same to completion with reasonable efforts.

Section 12.6 Extension of Cure Period

If at the end of the six-month period specified in Section 12.5, such Leasehold Mortgagee, if applicable, is complying with Section 12.5(a), and provided that any Leasehold Mortgagee shall be permitted to avail itself of additional cure periods as described at Section 12.4 and 12.5, and the time for completion by such Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Tenant's interest in this Lease, by foreclosure of its Leasehold Mortgage or by other appropriate means with reasonable efforts. Nothing in this Article 12, however, shall be construed to extend this Lease beyond the Term. If any Leasehold Mortgagee is complying with Section 12.5, upon the acquisition of Tenant's interest in this Lease by such Leasehold Mortgagee or its designee, or any other purchaser at a foreclosure sale or otherwise and the discharge, by operation of law or otherwise, of any lien, charge or encumbrance against Tenant's interest in this Lease or any part thereof which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee and which Tenant is obligated to satisfy and discharge by the terms of this Lease, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease.

Section 12.7 Right to New Lease

In the event that the Lease is terminated by Landlord, Landlord shall, if requested by Leasehold Mortgagee, if applicable, grant to the Leasehold Mortgagee a new lease on the following terms and conditions:

(a) In the event of the termination of this Lease prior to its stated expiration date, Landlord agrees that it will enter into a new lease of the Premises with any Leasehold Mortgagee, if necessary, including but not limited to a corporation or other entity formed by or on behalf of such Leasehold Mortgagee, for the remainder of the Term of this Lease effective as of the date of such termination, at the Base Rent and Additional Rent and upon the same covenants, agreements, terms, provisions, and limitations herein contained, provided (i) such Leasehold Mortgagee makes written request upon Landlord for such new lease within thirty (30) days from the date Landlord notifies such Leasehold Mortgagee of such termination and such written request is accompanied by payment to Landlord of all amounts then due to Landlord under this Lease but for such termination, (ii) such Leasehold Mortgagee pays or causes to be

paid to Landlord at the time of the execution and delivery of such new lease any and all sums which would at the time of the execution and delivery thereof be due under this Lease but for such termination and pays or causes to be paid any and all expenses, including reasonable counsel fees, court costs, and costs and disbursements incurred by Landlord in connection with any such termination and in connection with the execution and delivery of such new lease and (iii) such Leasehold Mortgagee agrees to reinstate the lien and take the Premises subject to the loan of any other Leasehold Mortgagee which held a lien senior in priority to the lien of such Leasehold Mortgagee if such senior Leasehold Mortgagee had also requested a new lease and tendered the required payments(s).

(b) Any new lease made pursuant to this Section 12.7 shall have the same priority as this Lease (except with respect to any non-electing Leasehold Mortgagee) and shall be prior to any mortgage or any lien, charge or encumbrance of the fee of the Premises created by Landlord, except the Declaration of Restrictive Covenants, for a term of years equal to the balance of the Term of this Lease.

(c) Any permitted mortgage or deed of trust upon Landlord's interest in the Premises and any action by such mortgagee or trustee or beneficiary of such deed of trust by way of receivership, foreclosure, exercise or power of sale, or deed in lieu thereof shall be subject to this Lease and to the new lease to be given pursuant to this Section 12.7 and any mortgagee or holder of such mortgage or the beneficiary and trustee of any such deed of trust must recognize this Lease and any new lease and all rights of Tenant and each Leasehold Mortgagee hereunder and thereunder.

(d) The provisions of this Section 12.7 shall be self-operative and require no further action by the mortgagee of any mortgage or beneficiary and trustees of any deed of trust encumbering Landlord's interest in the Premises, the Development, or both, but upon request by Tenant or the Leasehold Mortgagee electing under Section 12.7(a), Landlord agrees to obtain from such mortgagee or beneficiary and trustees an instrument duly executed and acknowledged confirming the priority of such new lease.

Section 12.8 Assumption of Tenant's Obligations

For purposes of Articles 11 and 12, the making of a Leasehold Mortgage, if applicable, shall not be deemed to constitute an assignment or transfer of this Lease or Tenant's interest created hereby, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Lease or of Tenant's interests under this Lease so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of Tenant to be performed hereunder, but a Leasehold Mortgagee may become the holder of Tenant's leasehold estate and succeed to Tenant's interest in this Lease by foreclosure of its Leasehold Mortgage or as a result of the assignment of this Lease in lieu of foreclosure, and any purchaser at any sale of Tenant's interest under this Lease in any proceeding for the foreclosure of any mortgage or the assignee or transferee of Tenant's interest in this Lease under any instrument of assignment or transfer in lieu of the foreclosure of any mortgage shall be deemed to be an assignee or transferee approved by Landlord and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of Tenant to be

performed hereunder, but only for so long as such purchaser or assignee is the owner of Tenant's interest in this Lease.

Section 12.9 Non-Curable Defaults.

Nothing in this Article 12 shall require any Leasehold Mortgagee, if applicable, or its designee as a condition to the exercise of rights provided under this Article 12 to cure any default of Tenant not reasonably susceptible of being cured by such Leasehold Mortgagee or its designee as such susceptibility is reasonably determined solely by Landlord. The foregoing shall not be deemed to excuse any Leasehold Mortgagee from performing covenants relating to the condition of the Development on the Premises, operation in compliance with applicable Multi-family housing, or other similar matters requiring access control, or both of the Premises, from and after such time as such Leasehold Mortgagee acquires Tenant's interest in this Lease by foreclosure or otherwise.

Section 12.10 No Merger.

So long as any Leasehold Mortgage is in existence, unless all Leasehold Mortgagees shall otherwise expressly consent in writing, the fee title to the Premises and the leasehold estate of Tenant therein shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by any single owner, other than by termination of this Lease by Landlord in compliance with the provisions of this Article 12.

Section 12.11 Landlord's Fee to Remain Unsubordinated

Landlord and Tenant expressly acknowledge and agree that Landlord shall have no obligation under this Lease or otherwise to subordinate fee title of Landlord in the Premises or any rights of Landlord in this Lease to the leasehold estate of Tenant created by this Lease or to join any such mortgage or encumbrance or otherwise in any manner subordinate the fee title of Landlord in and to the Premises or interest of Landlord under this Lease.

Section 12.12 Sale of Premises

In the event of any sale or conveyance of the Premises by Landlord, any such sale or conveyance of all or any part of the Premises shall be subject to this Lease and all of the provisions hereof, and notice of such sale shall be provided each Leasehold Mortgagee.

ARTICLE 13 – MAINTENANCE AND REPAIR

Section 13.1 Tenant's Obligations

Tenant will, at its sole cost and expense, maintain or cause to be maintained the Premises and/or any future development (the "Developments"), reasonable wear and tear excepted, and make or cause to be made repairs, restorations, and replacements to the Developments, including without limitation the heating, ventilating, air conditioning, mechanical, electrical, elevator, and plumbing systems, structural roof, walls, and foundations, and the fixtures and appurtenances to the Developments as and when needed to preserve them in good working order and condition, and regardless of whether the repairs, restorations, and replacements are ordinary or

extraordinary, foreseeable or unforeseeable, capital or non-capital, or the fault or not the fault of Tenant, its agents, employees, invitees, visitors, and contractors. All such repairs, restorations, and replacements of the Developments, as elected by Tenant, will be in quality and class either equal to the original work or installations, or otherwise consistent with the standard then applicable to comparable residential projects within the Santa Fe Metropolitan Statistical Area at such time, but in no event of less quality or class than the any applicable regulatory agreement between Landlord and Tenant.

ARTICLE 14 – OWNERSHIP AND ALTERATIONS

Section 14.1 Ownership of Any Future Development Any future development shall be or become part of the Premises upon Substantial Completion of construction (regardless of whether the Premises and the Project are referred to separately in this Lease), and such future development and any and all subsequent additions, substitutions and/or fixtures therein shall be owned by Tenant until the expiration or earlier termination of the Term, and during the Term and for the years in which the Term begins and ends, the Tenant alone shall be entitled to any tax and amortization attributes thereof, including, but not limited to, depreciation deductions and, if applicable, any tax credits thereon for income taxes purposes. At the expiration or earlier termination of the Term or any portion thereof under any provision of this Lease, the Tenant shall peaceably leave, quit, and surrender the Premises and/or any future development, or the portion thereof so terminated, in accordance with Section 15.1 hereof.

Section 14.2 Alterations.

Tenant shall not make any future development such as any alterations, improvements or additions to the Premises having a cost greater than Two Hundred Thousand and 00/100 Dollars (\$200,000.00) or demolish any portion of the Premises as exist thereof, without first presenting to Landlord complete plans and specifications therefore and obtaining Landlord's consent thereto (which consent shall not unreasonably be withheld so long as, in Landlord's judgment, such alteration, Improvement, addition or demolition will not violate the Applicable Multi-family Housing Requirements or this Lease, or impair the value of the Premises). Any improvements made to the Premises by either party hereto shall be made only in a good and workmanlike manner, using new materials of the same general quality as the original improvements, and in accordance with all applicable building codes and the Applicable Multi-family Housing Requirements.

Section 14.3 No Liens.

Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons, firms, and corporations doing any work, furnishing any materials or supplies, or renting any equipment to the Tenant or any of its contractors or subcontractors in connection with the construction and/or demolition, furnishing, repair, maintenance, or operation of the Premises and/or any future development and in all events will bond or cause to be bonded, with surety companies reasonably satisfactory to the Landlord, or pay or cause to be paid in full forthwith, any lien, security interest, or other encumbrance incurred in connection therewith, whether due to the actions of the Tenant, or any person under control of the Tenant, against the

Premises and/or any future development, other than a Permitted Encumbrance/Mortgage pursuant to Section 12.1 hereof.

Tenant shall have the right to contest any such lien or encumbrance by appropriate proceeding which shall prevent the collection of or other realization upon such lien, security interest, or encumbrance so contested, and the sale, forfeiture, or loss of the Premises and/or any future development to satisfy the same, provided that such contest shall not subject the Landlord to the risk of any criminal liability or civil penalty, and provided further that the Tenant shall give such reasonable security as may be requested by the Landlord to insure payment of such lien, security interest, or encumbrance, and to prevent any sale or forfeiture of the Premises and/or any future developments by reason of such nonpayment, and the Tenant hereby indemnifies the Landlord for any such liability or penalty. Upon the termination after final appeal of any proceeding relating to any amount contested by the Tenant pursuant to this Section 14.3, the Tenant shall immediately pay any amount determined in such proceeding to be due, and in the event the Tenant fails to make such payment, the Landlord shall have the right after five (5) days notice to Tenant to make any such payment on behalf of the Tenant and to charge the Tenant therefore.

Nothing contained in this Lease shall be construed as constituting the consent or request of the Landlord, express or implied, to or for the performance of any labor or services or the furnishing of any materials for construction, alteration, addition, repair, or demolition of or to the Premises and/or any future development, or any part thereof through or under the Tenant, and no liens, security interest, or encumbrance for any such labor, services, or materials, shall attach to or affect the interest of the Landlord in and to the Premises and/or any future development, or any part thereof.

Any such lien, security interest or other encumbrance that is not released or bonded within thirty (3) days of the date it becomes effective shall constitute an Event of Default under Section 17.2.

ARTICLE 15 – SURRENDER

Section 15.1 Expiration of Term

At the expiration or earlier termination of the Term or any portion thereof under any provision of this Lease, the Tenant shall peaceably leave, quit, and surrender the Premises and/or any future development, or the portion thereof so terminated, subject to the rights of subtenants in possession under leases with Tenant; provided that, subject to the rights of the subtenant under such subleases, such subtenant is not in default thereunder beyond any grace period provided therein, and attorney to Landlord as such subtenant's lessor. Subject to the rights of the Landlord, upon such expiration or termination, the Premises, the future development, and all portions thereof so terminated shall become the sole property of Landlord at no cost to the Landlord and shall be free of all liens and encumbrances and in good condition, subject only to reasonable wear and tear, and, in the event of casualty, to the provisions of Article 16 hereof. In connection with the foregoing, the Landlord shall be entitled to cause the fee interest in the Premises and the leasehold interest in the Premises to be separate, rather than have the two merged. Tenant may remove any movable equipments or furniture from any rental management

office on the Premises, provided that no federal funds were used to acquire such furniture, equipment, or both.

ARTICLE 16 – CASUALTY, CONDEMNATION

Section 16.1 Damage or Destruction to Premises

Tenant shall give prompt written notice to Landlord after the occurrence of any fire, earthquake, act of God or other casualty to or in connection with the Premises, the Developments or any portion thereof. Subject to Section 16.2 below, if during the Term of this Lease, the Developments shall be damaged or destroyed by casualty, Tenant shall repair or restore the Developments so long as it is lawful, and all Leasehold Mortgagees agree that it is feasible to do so and adequate insurance proceeds are made available to Tenant to complete such repairs and restoration. Upon the occurrence of any such casualty, Tenant, promptly and with all due diligence, shall, apply for and collect all applicable insurance proceeds recoverable with respect to such casualty, for the benefit of any Leasehold Mortgagees, if applicable. In the event that more than twenty percent (20%) of the value of the Developments, the Premises, or both are damaged or destroyed, and Tenant shall determine, subject to the rights of the holders of any Leasehold Mortgage, if applicable, and shall notify Landlord in writing within thirty (30) days after receipt by Tenant of any such insurance proceeds, that it is not economically practical to restore the Premises to substantially the same condition in which they existed prior to the occurrence of such casualty, Tenant may terminate this Lease as of a date that is not less than thirty (30) days after the date of such notice. If Tenant terminates this Lease pursuant to this Section, Tenant shall surrender possession of the Premises to Landlord immediately and assign to Landlord (or, if same has already been received by Tenant, pay to Landlord) all of its right, title, and interest in and to the proceeds from Tenant's insurance upon the Premises, subject to the prior rights of any Leasehold Mortgagees, as referenced in Section 16.2 below.

Section 16.2 Distribution

In the event that this Lease is terminated (in whole or in part) pursuant to Section 16.1, the insurance proceeds received as the result of the subject casualty shall be distributed and disbursed as provided in applicable Multi-family housing regulations.

Section 16.3 Condemnation

(a) If, by exercise of the right of eminent domain or by conveyance made in response to the threat of the exercise of such right (in either case a "Taking"), all of the Premises are taken, or if so much of the Premises are taken that the Premises cannot be used by Tenant in a commercially reasonable manner for the purposes for which they were used immediately before the Taking, then this Lease shall, at Tenant's sole option, subject to the rights of any Leasehold Mortgagee, if applicable, terminate on the earlier of the vesting title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority.

(b) Landlord and Tenant agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to this Article, this Lease shall continue in effect as to the remainder of the Premises and any future development, and the net amounts owed or paid to the parties or to which either of the parties may be or become entitled by reason of any Taking

pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the Parties in collecting such award or payment (the "Net Condemnation Award") shall be distributed and disbursed as provided in applicable Multi-family housing laws and regulations. However, if the distribution is not covered by one or more of the preceding instruments, then as follows: (i) first to any Leasehold Mortgagee in an amount sufficient to satisfy the terms and conditions of the Leasehold Mortgage, if applicable, if required, and (ii) to the extent permitted by the foregoing instruments, in accordance with subsection (d) below. Notwithstanding the foregoing, to the extent permitted in any Leasehold Mortgage, if applicable, the Net Condemnation Award shall be used by Tenant to make the remainder of the Premises a complete, unified and efficient operating unit as nearly as reasonably possible to the condition existing prior to the Taking, subject to any applicable requirements of any Leasehold Mortgage, if applicable. However, Tenant is not obligated to expend any sums to restore the Premises that are in excess of the Net Condemnation Award made available to it for that purpose.

(c) If there shall be a temporary Taking with respect to all or any part of the Premises or of Tenant's interest in this Lease, then the Term shall not be reduced and Tenant shall continue to pay in full all Rent and other charges required herein except Operating Expenses attributable to the taken property, without reduction or abatement thereof at the times herein specified; provided, however, that Tenant shall not be required to perform such obligations that Tenant is prevented from performing by reason of such temporary Taking.

(d) If there is a Taking, whether whole or partial, Landlord (solely in its capacity as Landlord under this Lease and not in its capacity, if applicable, as maker of any loan to Tenant) and Tenant shall be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings, or as may be otherwise agreed, subject to the rights of any Leasehold Mortgagee, taking into consideration the fact that Landlord's interest in the Premises is limited to the land and the Development, for which Landlord shall have contributed an amount toward the construction thereof (the actual aggregate amount so contributed being referred to as the "Landlord's Contribution,") as encumbered by this Lease, and a reversionary interest in the Premises and the Development upon the expiration of the Term. If the Premises shall be restored as is contemplated in subsection (b) above, Tenant shall be entitled to recover the costs and expenses incurred in such restoration out of any Net Condemnation Award. Thereafter, if the condemning authority does not make separate awards, the Parties agree that any Net Condemnation Award will be allocated between them on a proportionate basis, taking into account the relative percentage of the Development that consists of the Mixed Finance Housing Units and the portion of Landlord's Contribution that has not been repaid to Landlord. If the Parties are unable to agree as to the exact percentage of such allocation or if such allocation is no longer applicable because of the repayment of Landlord's Contribution, and the Parties are unable to agree as to the amounts that are to be allocated to the respective interests of each party, then each party shall select an independent M.A.I. real estate appraiser (an "Appraiser"). Each Appraiser shall separately determine the amount of the balance of the Net Condemnation Award allocated to each party. If the percentage allocated to Landlord by one Appraiser is within ten percent (10%) of the percentage allocated to Landlord by the other Appraiser, then the two percentage allocations shall be averaged and such average percentage shall be the percentage allocated to Landlord, with the remaining percentage of the balance of the Net Condemnation Award to be

allocated to Tenant. If the percentage allocated to Landlord by an Appraiser is not within ten percent (10%) of that allocated to Landlord by the other Appraiser, then the two Appraisers shall select a third appraiser, who shall independently determine the percentage of the balance of the Net Condemnation Award that should be allocated to each party, and the average of the percentages determined by the three Appraisers to be allocable to Landlord shall be the percentage that is allocated to Landlord and the remaining percentage of the balance of the Net Condemnation Award shall be allocated to Tenant.

(e) Landlord and Tenant agree that all then-existing Leasehold Mortgagees, to the extent permitted by law and to the extent their interests are affected by the Taking, shall be made a party to any Taking proceeding.

ARTICLE 17 – DEFAULT and REMEDIES

Section 17.1 Landlord's Right to Perform.

(a) Landlord's Option to terminate if Tenant does not receive LIHTC.

If Tenant does not obtain an award of Low Income Housing Tax Credits for the fiscal years 2013 or 2014 on or before August 31, 2014, then Landlord may immediately terminate the Lease. In the event Tenant is successful in obtaining an award, Tenant, at Tenant's sole expense, may obtain a market valuation/analysis of the value of this Lease and indicate on the application for the LIHTC that the value of this Lease will be donated to the LIHTC project to be developed on the Premises. Landlord also intends to make application for New Mexico Affordable Housing Tax Credits, and if Landlord is successful in its application for these additional tax credits, Landlord agrees to use the proceeds from the sale or other disposition of the Affordable Tax Credits for the sole purpose of development of the Premises for the purpose set forth herein.

(b) Landlord's Option if Tenant fails to pay when due amounts payable. If Tenant fails to pay when due amounts payable by Tenant in accordance with Tenant's obligations under this Lease, then Landlord, after ten (10) calendar days' prior written notice to Tenant and without waiving any of its rights under this Lease, may (but will not be required to) pay such amount, unless Tenant notifies Landlord in writing during such ten (10) calendar day period that Tenant is withholding the subject payment due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests. If Tenant fails to perform any of its other obligations under this Lease within the time permitted for its performance, then Landlord, after ten (10) calendar days' prior written notice to Tenant and without waiving any of its rights under this Lease, may (but will not be required to) perform such obligation, unless Tenant notifies Landlord in writing during such ten (10) day period that Tenant is withholding performance due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests or that Tenant has commenced the curing of such default within such ten (10) day period and continues to prosecute such cure in good faith until it has effected such cure.

(c) Additional Rent. All amounts which Tenant is obligated to pay pursuant to Article VI of this Lease, which if not paid may be paid by Landlord, and all reasonable costs and expenses incurred by Landlord in connection with the performance of any such Tenant obligations will be payable by Tenant to Landlord within ten (10) calendar days after Landlord has notified Tenant

in writing of the amounts incurred by Landlord on its behalf and shall constitute "Additional Rent," with interest accrued thereon at the rate equal to two percent (2%) above the prime rate then in effect, as published from time to time in the Wall Street Journal. Landlord shall provide Tenant with invoices and other reasonable evidence of the amounts paid or incurred by Landlord in connection with its exercise of its rights pursuant to this Article.

Section 17.2 Events of Default.

At the option of Landlord, the occurrence of any of the following events shall constitute and are defined as an "Event of Default" by Tenant:

(a) Tenant defaults in the due and punctual payment of any Base Rent or Additional Rent, and such default continues for fifteen (15) calendar days after written notice from Landlord, unless Tenant notifies Landlord in writing during such fifteen (15) calendar day period that Tenant is withholding the subject payment or performance due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests; or

(b) Tenant vacates (except by reason of casualty or condemnation) the Premises for a period of more than thirty (30) consecutive days, or abandons the Premises; or

(c) This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subjected to any attachment by any creditor of Tenant or claimant against Tenant, and such attachment is not discharged or bonded off within ninety (90) calendar days after its levy; or

(d) Tenant breaches any of the other agreements, terms, covenants, or conditions which this Lease requires Tenant to perform, including without limitation the provisions of Article 12 hereof, and such breach continues for a period of thirty (30) calendar days after notice by Landlord to Tenant; provided, however, if the nature of the breach is such that it cannot be cured by Tenant reasonably within the period of thirty (30) calendar days, Tenant shall not be deemed in default of this Lease if Tenant commences the curing of such default within such period of thirty (30) days and prosecutes in good faith the curing of same continuously thereafter until the same is, in fact, cured; or

(e) Tenant fails to complete construction of the Future Development by the completion date and in accordance with closing documents to be entered into by the Parties at a closing on the financing for the Development; or

(f) Tenants fails to operate and maintain the Multi-family mixed income rental properties in accordance with all Applicable Multi-family Housing Requirements; or

(g) A lien is placed on the Premises, with the exception of any Permitted Mortgages, if applicable, approved in writing by Landlord, that is not released or bonded no later than thirty (30) days of filing; or

(h) Tenant uses the Premises for uses other than the permitted use provided for in Section 9.1 herein; or

- (i) Tenant makes any assignment in violation of this Lease.

Section 17.3 Remedy

If any one or more Events of Default set forth in Section 17.2 occurs, and continues beyond the applicable grace or cure periods, then Landlord may, at Landlord's sole and exclusive remedy, at law or in equity, but subject in all respects to the rights of any holder of a Permitted Mortgage, if applicable, as set forth in Article 12 hereof, terminate this Lease by written notice to Tenant of its intention to terminate this Lease on the date (including any cure period described above) specified in such notice, and, on the date specified in such notice, Tenant's right to possession of the Premises and the Development will cease and the estate conveyed by this Lease shall re-vest in Landlord.

Section 17.4 Tenant's Right to Perform.

(a) Right to Perform Covenants. If Landlord shall, at any time, fail to perform any of its obligations hereunder or be in breach of any of its representations and warranties herein, Tenant shall, except in the event of an emergency, provide Landlord will notice of such default, and if Landlord does not commence action to cure any such default within the time period specified below after the giving of such notice, or immediately, in the event of an emergency, then Tenant may, without any obligation so to do and without waiving or releasing any obligation of Landlord contained in this Lease, take such actions and make such payment as may be necessary or appropriate to fulfill Landlord's obligations or otherwise cure any default of Landlord hereunder. In case of emergency, Tenant shall nevertheless make every effort to provide notice of default to Landlord. Where no emergency exists, and after giving notice to Landlord, Tenant shall allow Landlord ten (10) calendar days to commence a cure, unless Tenant's interests would be jeopardized by such delay.

(b) Costs and Expenses. All reasonable sums so paid by Tenant and all reasonable and essential costs and expenses incurred by Tenant in connection with the performance of any of the obligations of Landlord hereunder, or on account of any breach by Landlord of its representations and warranties herein shall be payable by Landlord to Tenant, but only after Tenant provides Landlord with invoices and other evidence of the amounts paid and essential expenses incurred by Tenant in connection with its reasonable exercise of its rights pursuant to this Article. In the event Landlord does not pay Tenant the amounts set forth in such invoices, then Tenant may withhold such amounts from the next installment of rent due under this Lease, until paid in full.

Article 17.5 Excusable Delay

Any time deadline or limitation shall be subject to extension for any delay that arises from unforeseeable causes beyond the reasonable control and without the fault or negligence of Landlord or Tenant. Examples of such cause include, without limitation, (a) acts of God, or public enemy, (b) acts or failure to act of other governmental entity in either their sovereign or contractual capacity, to the extent action by other governmental entity is required hereunder, provided that the party hereunder seeking such action by other governmental entity properly requests same in a timely manner and thereafter diligently pursues same, (c) acts or failure to act

of a contractor in the performance of a contract with Landlord or Tenant, provided that the party hereunder seeking such action by the contractor properly requests same in a timely manner and thereafter diligently pursues same, (d) fires, (e) floods, (f) epidemics, (g) quarantine restrictions, (h) strikes or labor disputes, (i) freight embargoes, (j) unusually severe weather, (k) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the reasonable control and without the fault or negligence of Landlord or Tenant, as applicable, (l) delays caused by litigation commenced by someone other than Landlord, and Leasehold Mortgagees, and (m) unusual disruptions in financial markets.

ARTICLE 18 – MISCELLANEOUS

Section 18.1 No Brokers.

Landlord and Tenant each represents and warrants to the other that it has not dealt with any broker or finder with regard to the Premises or this Lease.

Section 18.2 Recordation

Landlord and Tenant shall record a Memorandum of this Lease #3 among the Land Records of the County in the form provided herein as Exhibit C. At the expiration of the Term of this Lease, Tenant shall execute a quitclaim termination of its interest in this Lease.

Section 18.3 Time of Essence

Subject to Section 17.5 herein, time is of the essence of each and every provision of this Lease.

Section 18.4 No Waiver.

No waiver of any condition or agreement in this Lease by either Landlord or Tenant will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Landlord or Landlord's agents during the Term of this Lease will be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender will be valid unless in writing signed by Landlord. Neither payment by Tenant, nor receipt from Landlord, of a lesser amount than the Base Rent and Additional Rent or other charges stipulated in this Lease will be deemed to be anything other than a payment on account of the earliest stipulated Base Rent and Additional Rent. No endorsement or statement on any check, or any letter accompanying any check or payment as Base Rent or Additional Rent, will be deemed an accord and satisfaction. Landlord will accept such check for payment without prejudice to Landlord's rights to recover the balance of such Base Rent or Additional Rent or to pursue any other remedy available to Landlord. If this Lease is assigned, or if the Premises or any parts of the Premises are sublet or occupied by anyone other than Tenant, Landlord may collect rent from the assignee, subtenant, or occupant and apply the net amount collected to the Base Rent and Additional Rent reserved in this Lease. No such collection will be deemed a waiver of the covenant in this Lease against assignment and subletting, or the acceptance of assignee, subtenant, or occupant of Tenant, or a release of Tenant from the complete performance by Tenant to its covenants in this Lease.

Section 18.5 Joint and Several Liability

The liability of Tenant under this Lease is limited to Tenant's interest in the Premises. Neither Tenant, nor any general or limited partner of Tenant, or any affiliate thereof, nor any officer, director, shareholder or employee of any of said entities, shall have any personal liability hereunder.

Section 18.6 Captions and Gender.

The captions are inserted in this Lease only for convenience of reference and do not define, limit, or describe the scope or intent of any provisions of this Lease. Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine, and neuter adjectives include one another.

Section 18.7 Entire Agreement

Except for those that specifically set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to one another with respect to this Lease.

Section 18.8 Amendment

This Lease can be amended only by a written document agreed to and signed by Landlord and Tenant, the approval of which both Landlord and Tenant mutually agree not to unreasonably withhold, delay or condition, and with the written approval of all Leasehold Mortgagees, if applicable, provided that no amendment shall impair the obligations of Tenant to develop and operate the Developments in accordance with the Applicable Multi-family Housing Requirements.

Section 18.9 Severability

If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as a part of this Lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, or enforceable provided such severability does not materially affect the basic understanding of the parties hereto as reflected in this Agreement.

Section 18.10 Notices.

Any notice, request, demand, consent, approval, or other communication required or permitted under this Lease shall be in writing and shall be deemed given when (i) received, if delivered by hand (ii) sent by registered or certified mail, return receipt requested, (iii) sent by recognized overnight delivery services such as Federal Express, or (iv) transmitted by facsimile or electronic mail, provided such notice is also sent simultaneously in the manner provided for in (i), (ii), or (iii) above, addressed as follows:

If to Tenant: Santa Fe Civic Housing Authority
664 Alta Vista Street
Santa Fe, New Mexico 87505
Attn: Ed Romero, Executive Director

With a copy to:

If to Landlord: City of Santa Fe
200 Lincoln Avenue
P.O. Box 909
Santa Fe, New Mexico 87504-0909
Attention: Alexandra Ladd

With a copy to: City Manager

A party may change its address or to whom a copy should be sent by giving written notice to the other Parties as specified herein. Landlord shall also provide written notice to any Leasehold Mortgagee, if applicable, in accordance with Section 12.3.

Section 18.11 Waiver of Jury Trial

Landlord and Tenant may waive trial by jury, by mutual consent, in any action, proceeding or counterclaim brought by one against the other on all matters arising out of this Lease or the use and occupancy of the Premises.

Section 18.12 Cooperation

Landlord and Tenant agree that they will reasonably cooperate with one another in furtherance of the development of the Premises with the Future Development. In particular, Landlord recognizes that the varied sources of funding make it extremely difficult to anticipate every potential provision that may be required in this Lease. From time to time, Tenant may request modifications to the Lease reasonably necessary to satisfy the requirements of financing sources, which financing sources include without limitation, private lenders, equity sources, and governmental agencies. Landlord to the extent reasonably necessary to advance the Future Development, will accommodate such requests, and will not unreasonably withhold or delay its approval and execution of such modifications to this Lease, provided that they do not materially and adversely to the interests of Landlord alter the basic terms hereof. Nothing herein shall impose upon Landlord any requirement to approve any modification or amendment to the Lease which would violate or contravene any applicable laws or any contract or agreement to which Landlord is a party or which is binding on Landlord. Landlord agrees that it will, upon request of Tenant, from time to time, but not more frequently than once a year, enter into an amended and restated lease combining into one document the entire Lease and all amendments and modifications theretofore entered into. In addition, Landlord or Tenant, as the case may be, shall execute, acknowledge and deliver to the other and/or to each Leasehold Mortgagee, promptly upon request, its certificate certifying (i) that the Lease is unmodified and in full force and effect, (or, if there have been modifications, that this Lease is in full force and effect, as modified, and

describing the modifications), (ii) the dates, if any, to which Base Rent and Additional Rent have been paid, (iii) whether there are the existing any charges, offsets or defenses against the enforcement by Landlord or Tenant to be performed or observed and, if so, specifying the same, (iv) whether there are then existing any defaults by Tenant or Landlord in the performance or observance by Tenant or Landlord of any agreement, covenant or condition hereof on the part of Tenant or Landlord to be performed or observed and whether any notice has been given to Tenant or Landlord of any default which has not been cured, and, if so, specifying the same, and (v) any other items reasonably requested by the Equity Investor or any Leasehold Mortgagee.

Section 18.13 Additional Releases, Utility Easements.

Landlord agrees that landlord shall not unreasonably withhold or delay Landlord's consent, and shall join with Tenant from time to time during the Term in the following (provided, however, Landlord is not subject to any cost, expenses or fee, or other liability, in connection therewith): (a) the granting of easements affecting the Premises and the Future Development which are for the purpose of providing utility services for the same; and (b) the dedication or conveyance, as required, of portions of the Premises for road, highway and other public purposes to provided access for the Future Development or to permit widening of existing roads or highways. As a condition precedent to the exercise by Tenant of any of the powers granted to Tenant in this Section 18.13, Tenant shall give written notice to Landlord of the action to be taken, shall certify in writing to Landlord that such action will not adversely affect either the value or the use of the Premises, the Future Development, or any part thereof, and shall deliver all instruments required of Tenant by Landlord, and any mortgagee of the Premises.

Section 18.14 Governing Law and Venue.

This Lease will be governed by and construed in accordance with the internal laws of the State of New Mexico, without regard to principles of conflicts of laws. However, federal law shall apply to provisions required by federal statutes, regulations or guidelines.

Section 18.15 Binding Effect

This Lease will inure to the benefit of, and will be binding upon, Landlord's successors and assigns except as otherwise provided in this Lease. This Lease will inure to the benefit of, and will be binding upon Tenant's successors and assigns so long as the succession or assignment is permitted pursuant to the terms of this Lease.

Section 18.16 Cumulative Rights.

Except, as expressly limited by the terms of this Lease, all rights, powers and privileges conferred hereunder shall be cumulative and not restrictive of those provided at law or in equity.

Section 18.17 Non-Merger

Except upon expiration of the Term or upon termination of this Lease pursuant to an express right of termination set forth herein, there shall be no merger of either this Lease or

Tenant's estate created hereunder with the fee estate of the Premises or any part thereof by reason of the facts that the same person may acquire, own or hold, directly or indirectly, (i) this Lease, Tenant's estate created hereunder or any interest in this Lease or Tenant's estate (including the Development), and (ii) the fee estate in the Premises or any part thereof or any interest in such fee estate (including the Development), unless and until all persons, including any assignee of Landlord, having an interest in (a) this Lease or Tenant's estate created hereunder, and (b) the fee estate in the Premises or any part thereof, shall join in a written instrument effecting such merger and shall duly record the same.

Section 18.18 No Third Party Beneficiary.

Nothing contained in this Lease or in any agreement or contract between the Parties, Landlord or Tenant be deemed or construed to create any relationship of third party beneficiary, principal and agent, limited or general partnership, joint venture or any association.

Section 18.19 Quiet Enjoyment

Tenant, upon paying the Base Rent and Additional Rent and keeping, observing and performing all of the terms, covenants, agreements, provisions, conditions and limitations of this Lease on Tenant's part to be kept, observed and performed, shall quietly have and enjoy the Premises during the Term of this Lease without hindrance or molestation by anyone lawfully claiming by, under or through Landlord, subject, however, to the Permitted Encumbrances, reservations and conditions of this Lease.

Section 18.20 Counterparts.

This Lease may be executed in counterparts and all such counterparts shall be deemed originals and together shall constitute but one and the same instrument.

Section 18.21 Litigation Fees.

If Landlord and Tenant litigate any provision of this Lease or the subject matter of this Lease, the unsuccessful litigant will pay to the successful litigant all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees and court costs, actually incurred by the successful litigant at trial and on any appeal.

Section 18.22 Limited Liability of Landlord

Tenant shall look solely to Landlord's interest in the Premises for the satisfaction of any claims against Landlord, or its employees, agents, or assigns for the satisfaction of any claims, if permitted by law, arising pursuant to this Lease.

Section 18.23 Access

Tenant agrees to grant a right of access to Landlord, or any of its authorized representatives, during regular business hours with respect to any books, documents, papers, or other records related to this Lease in order to make audits, examinations, excerpts, and transcripts.

Section 18.24 Disclaimer of Partnership Status

(a) Tenant and Landlord acknowledge that the proposed transfer to Tenant or to any other participating party in the Development, of Multi-family mixed income housing funds for the development and operation of the Premises covered under this Lease shall not be deemed to be an assignment of such funds. Accordingly, neither Landlord, nor any other participating party, shall succeed to any rights or benefits of Tenant. Tenant further agrees to include this disclaimer in each of its agreements or contracts with any partner, participating party, or any other party involving the use of said housing funds for the Developments.

(b) Nothing contained in in any agreement between Landlord and Tenant, nor any act of Landlord, shall be deemed or construed to create any relationship of third-party beneficiary, principal or agent, limited or general partnership, or joint venture involving the Landlord.

Section 18.26 Conflicts.

In the event of a conflict or inconsistency between any requirement contained in this Lease (or between any requirement contained in any document referred to in this Lease, including any Leasehold Mortgage, if applicable), and the Applicable Multi-family mixed income Housing Requirements, the Applicable Multi-family mixed income Housing Requirements shall in all instances be controlling.

IN WITNESS WHEREOF, this Lease has been executed as of the day and year first hereinabove written, with the specific intention that this Lease constitutes an instrument under seal.

WITNESSES:

LANDLORD

CITY OF SANTA a public body established pursuant to New Mexico Statutes

Print Name: _____

By: _____
David Coss, Mayor

Print Name: _____

Date Executed: _____, 2013

WITNESSES:

TENANT

SANTA FE CIVIC HOUSING AUTHORITY

Print Name: _____
Print Name: _____

By: _____

Date Executed: _____, 2013

CITY OF SANTA FE:

Attest:

Yolanda Y. Vigil, City Clerk *ccmtg 6-12-13*

Approved as to Form:

Judith Romero
Geno Zamora, City Attorney *4/25/13*

Approved:

Finance Director

STATE OF NEW MEXICO
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by David Coss, Mayor, City of Santa Fe a public body established pursuant to New Mexico Statutes.

Notary Public, State of New Mexico

Print, Type or Stamp Name

Personally Known___ or Produced Identification ___
Type of Identification Produced _____

STATE OF NEW MEXICO
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2013 by Ed Romero, Executive Director of Santa Fe Civic Housing Authority.

Notary Public, State of New Mexico

Print, Type or Stamp Name

Personally Known___ or Produced Identification ___
Type of Identification Produced _____

EXHIBIT A

Property Description

1510-1520 Luisa Street

A certain tract of land lying within the City of Santa Fe, New Mexico 9-7 Elderly Subdivision, in the City of Santa Fe, New Mexico, and described by metes and bounds as follows:

For a No. an iron bar at the N.E. corner of Block 4, Mateo Heights North (Instrument no. 276,236);

thence S. $83^{\circ} 51' 55''$ W, 56.60 feet to a $\frac{3}{4}$ " pipe on the westerly R.O.W. of Luisa Street, being the true point of beginning;

thence S. $83^{\circ} 45' 52''$ W, 250.15 feet along the northerly line of said Block 4, to a brass cap;

thence N. $76^{\circ} 50' 01''$ W, 432.01 feet along the northerly line of said Block 4, to a brass cap;

thence N. $03^{\circ} 06' 26''$ E, 402.62 feet to a $\frac{3}{4}$ " pipe;

thence S. $87^{\circ} 22' 53''$ E, 56.66 feet to an iron bar;

thence S. $89^{\circ} 02' 53''$ E, 225.25 feet to a $\frac{3}{4}$ " pipe;

thence N. $03^{\circ} 52' 31''$ E, 121.50 feet to a $\frac{3}{4}$ " pipe on the south line of Lot 5, Block 2,

Pacheco Addition No. 1;

thence N. $01^{\circ} 58' 57''$ E, 100.17 feet to a $\frac{3}{4}$ " pipe on the south line of Columbia Street;

thence S. $87^{\circ} 07' 25''$ E, 59.83 feet to a $\frac{3}{4}$ " pipe;

thence S. $02^{\circ} 26' 53''$ W, 100.04 feet to a $\frac{3}{4}$ " pipe on the south line of said Block 2, Pacheco

Addition No. 1;

thence S. $87^{\circ} 15' 29''$ E, 259.97 feet along said line to a $\frac{2}{4}$ " pipe;

thence N. $02^{\circ} 25' 40''$ E, 100.19 feet to a point marked by a nail in a wall, said point being on the south line of Columbia Street;

thence S. $87^{\circ} 51' 39''$ E, 22.41 feet to a $\frac{3}{4}$ " pipe, being the N.W. corner of Lot 10, Block 1,

Pacheco Addition No. 1;

thence S. $02^{\circ} 39' 05''$ W, 100.35 feet to a $\frac{3}{4}$ " pipe on the south line of said Lot 10;

thence S. $87^{\circ} 17' 34''$ E, 38.12 feet along said south line to a $\frac{3}{4}$ " pipe;

thence S. $01^{\circ} 31' 58''$ W, 110.53 feet to a 1" pipe;

thence S. $89^{\circ} 02' 18''$ E, 210.82 feet to a concrete monument;

thence S. $21^{\circ} 00' 05''$ W, 19.63 feet to a point on a curve to the right whose tangent bears S.

$52^{\circ} 49' 34''$ W, and whose central angle is $31^{\circ} 49' 29''$, and whose radius is 332.58 feet;

thence along the arc of said curve 184.73 feet to the point of tangency of said curve as

determined by the centerline of Luisa Street;

thence deflecting to the right at a bearing of S. $21^{\circ} 04' 10''$ W, 312.93 feet to the true point of beginning.

ALL as shown on Plat of Survey entitled "OPERATION BREAKTHROUGH, LUISA STREET SITE - PROJECT N.M. 9-7 SANTA FE, NEW MEXICO" by CHAMBERS-CAMPBELL-ISAACSON-CHAPLIN, Inc., Architects-Engineers-Planners, 3500 Indian School Rd.-NE, Albuquerque, NM 87106, Job Number 372-1AF-2, dated December 1975.

Exhibit B

Permitted Encumbrances

Current encumbrances upon the parcels include a Declaration of Trust (DOT) filed with HUD, entered into in accordance with Section 8 of the Annual Contributions Contract between HUD and the Santa Fe Civic Housing Authority, Inc. dated November 8, 1996, which restricts the leasing regulations of units located upon the property. It is not anticipated that any additional encumbrances will be identified as a result of a title search, scheduled for completion in May 2013. Future encumbrances will include restrictions on the use of the property as per the Low Income Housing Tax Credit program.

In the event Tenant is successful in obtaining an award of Low Income Housing Tax Credits, Tenant, at Tenant's sole expense, may obtain a market valuation/analysis of the value of this Lease and indicate on the application for the LIHTC that the value of this Lease will be donated to the LIHTC project to be developed on the Premises. Landlord also intends to make application for New Mexico Affordable Housing Tax Credits, and if Landlord is successful in its application for these additional tax credits, Landlord agrees to use the proceeds from the sale or other disposition of the Affordable Tax Credits for the sole purpose of development of the Premises for the purpose set forth herein.

EXHIBIT C

MEMORANDUM OF GROUND LEASE #3

THIS MEMORANDUM OF GROUND LEASE #3 is dated as of _____ by and between the City of Santa Fe, a public body established pursuant to the laws of New Mexico ("Landlord") and Santa Fe Civic Housing Authority., ("Tenant").

WHEREAS, Landlord is leasing to Tenant the premises more particularly described in Exhibit A attached hereto (the "Property"), pursuant to the "Lease"; and

WHEREAS, the term of the Lease is from the Commencement Date (as set forth in the Lease) to the last day of the month during which the Ninety-ninth (99th) anniversary of the Commencement Date occurs, subject to earlier termination as contemplated in the Lease; and

WHEREAS, the interest of Landlord in the Property shall not be subject to liens for improvements made by Tenant; and

WHEREAS, Landlord and Tenant by their signatures below do hereby agree that the foregoing accurately describes the Lease entered into by them.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Landlord and Tenant have executed this Memorandum Ground Lease #3 as of the date set forth above.

LANDLORD

CITY OF SANTA FE, a public body established
pursuant New Mexico Statutes

By: _____

TENANT

SANTA FE CIVIC HOUSING AUTHORITY

By: _____