

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CITY OF LA HABRA
110 E. La Habra Blvd.
LA HABRA, CA 90633
ATTN: CITY CLERK

SPACE ABOVE THIS LINE FOR RECORDERS USE

EXEMPT FROM RECORDING FEE
PER GOVERNMENT CODE SECTION 27383

AFFORDABLE HOUSING AGREEMENT

THIS AFFORDABLE HOUSING AGREEMENT (“Agreement”) is dated as of _____, 2022, by and between the CITY OF LA HABRA, a California municipal corporation (“City”), and OLSON URBAN V – LA HABRA 3, LLC, a Delaware limited liability company (“Developer”).

RECITALS

- A. The City’s Density Bonus Ordinance (“Ordinance”) was adopted by the City Council on October 4, 2010, and amended by Ordinance 1792 in 2018, and as it has been amended from time to time, is codified in Municipal Code Chapter 18.80, “Affordable Housing Incentives.”
- B. The Developer is the fee owner of the real property located at 251 – 351 West Imperial Highway, La Habra, California (“Property”).
- C. The Developer has obtained entitlements for the development of a housing project on the Property. Based upon those approvals, Developer will develop, at the Developer’s sole cost and expense, a one hundred seventeen (117) unit housing development on the Property, inclusive of twelve (12) Affordable Units which shall be income restricted (“Project”).
- D. The locations of the Affordable Units within the Project are shown on Exhibit 2 attached hereto, and those twelve (12) Affordable Units are more particularly described in the legal description attached hereto as Exhibit 3. Prior to Developer’s sale of any of the Affordable Units, Developer is required to cause this Affordable Housing Agreement to be recorded against those Affordable Units so that it appears as a matter of record title with respect to those Affordable Units.

- E. On January 10, 2022, the Planning Commission approved Resolution Numbers 22-01, 22-02, 22-03, and 22-04, which sets forth the City Approvals for the Project.
- F. On September 2, 2022, the Affordable Housing Administrator, acting on behalf of the City, approved an Affordable Housing Plan that was prepared by the Developer in accordance with the requirements imposed by the Ordinance and City's administrative procedures established by the City Council to implement the Ordinance requirements.
- G. This Affordable Housing Agreement, when fully executed by the City and the Developer and recorded, is intended to satisfy the requirement that the Developer enter into an Affordable Housing Agreement, as set forth in the Ordinance and the conditions to City Approvals.

NOW, THEREFORE, in consideration of the mutual promises set forth in this Affordable Housing Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the City and the Developer, the Parties agree as follows:

DEFINITIONS OF TERMS

The following words, terms and phrases are used in this Affordable Housing Agreement, and, unless the particular context of usage of a word, term or phrase requires another interpretation, shall have the meanings set forth below:

Affordability Gap is equal to the difference between the Fair Market Value of the Affordable Unit and the Affordable Sales Price for the Affordable Unit at the time of acquisition by the Homebuyer; provided, that, if at the time of resale of the unit, the resale value of the Affordable Unit is less than the initial Fair Market Value of that unit, then such resale value shall be used as and deemed to be the Fair Market Value of the Affordable Unit for all purposes of this Agreement.

Affordable Housing Administrator means the City official having day-to-day authority for making determinations related to the Ordinance and this Affordable Housing Agreement. The Affordable Housing Administrator will be appointed by the City Manager.

Affordable Housing Cost means the maximum housing costs that can be borne by a Moderate Income Household based on the requirements imposed by HSC Section 50052.5.

Affordable Housing Plan means the plan approved by the Affordable Housing Administrator, and which is attached to this Agreement as Exhibit 2 and details the location of the Affordable Units within the project.

Affordable Sales Price means the maximum price that can be charged for each Affordable Unit in connection with its initial sale as set forth on Exhibit 1; provided, that, if the Household income of the Eligible Purchaser of the Affordable Unit at issue is greater than 110% of area median income but less than 120% of area median income adjusted for family size, then the Affordable Sales Price for that unit shall be the greater of (i) the initial sales price set forth on Exhibit 1 or (ii) the maximum Affordable Housing Price, determined in accordance with the methodology shown in Exhibit 1, calculated when using an "income allocated to housing" equal to the product of thirty-five percent (35%) times the actual Gross Income of the Household purchasing the Affordable Unit at issue.

Affordable Unit means one of the twelve (12) completed affordable owner-occupied housing units, including the landscape improvements thereon, that is made available for sale to an Eligible Purchaser. The location of each Affordable Unit in the Project is shown on Exhibit 2 to this Affordable Housing Agreement and the twelve (12) Affordable Units are legally described on Exhibit 3 attached hereto.

Affordable Unit Escrow means the escrow transaction by and between the Developer and each Homebuyer through which transfer of fee title in each completed Affordable Unit is made.

Benchmark Down Payment shall be set at 10% of the Affordable Sales Price for each Affordable Unit.

California Health and Safety Code ("HSC") Section 50093 provides definitions of household income and affordable housing costs that are used in this Affordable Housing Agreement.

City means the City of La Habra, California.

City Approvals are defined as the entitlement approvals and the Affordable Housing Plan approved by the Affordable Housing Administrator prior to the issuance of building permits for the Project.

City Council means the City of La Habra City Council.

City Manager is the City Manager of the City of La Habra.

Default means the failure of a Party to perform any action or covenant required by this Affordable Housing Agreement within the time period provided herein following notice and opportunity to cure, as set forth in Article 3 – Section I of this Affordable Housing Agreement.

Delivery Date means the date on which an Affordable Unit Escrow closes and the Homebuyer acquires a fee title interest in the completed Affordable Unit from the Developer.

Developer means the developer of the Project.

Effective Date means the date on which the Affordable Housing Agreement is approved and executed by the appropriate authorities of the Developer and the City, and the Affordable Housing Agreement is recorded in the Official Records of the Orange County Recorder.

Eligible Purchaser means a prospective purchaser who meets the eligibility criteria for a purchaser of an Affordable Unit as set forth in HSC Section 50093 and this Agreement.

Exhibits means the exhibits to this Affordable Housing Agreement, which are listed in Article 1 - Section 5.

Fair Market Value means the value of the Affordable Unit at the time of sale or resale under normal circumstances in which the seller and the buyer freely negotiate the terms of the transfer of ownership. The Fair Market Value is estimated based on the assumption that no income or affordability restrictions are placed on the Affordable Unit.

Gross Income means all income from whatever source from all adult Household members, which is anticipated to be received during the 12-month period following the date of the determination of Gross Income. The applicable sources of income are defined in California Code of Regulations Title 25, Housing and Community Development, Section 6914, as it may be amended from time to time. The definition includes the following specific requirements:

- (i) Except as provided in subdivision (ii), all payments from all sources received by the head of Household (even if temporarily absent) and each additional member of the Household who is not a minor shall be included

in the annual income of a Household. Gross Income shall include, but not be limited to:

- The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;
- The net income from operation of a business or profession or from rental of real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);
- Interest and dividends;
- The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts (but see subdivision (ii) with respect to lump sum payments);
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay.
- Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:
 - The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus
 - The maximum amount which the public assistance agency could in fact allow for the Household for shelter and utilities,
- Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
- All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the Household or spouse or domestic partner (but see subdivision (ii) with respect to special pay of absent servicemen exposed to hostile fire).
- Where a Household has net assets in excess of \$5,000, income shall include the actual amount of income, if any, derived from all of the net Household assets or 10 percent (10%) of the value of all such assets, whichever is greater. For purposes of this definition, net Household assets means value of equity in real property other than the Household's

full-time residence, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.

(ii) The following items shall not be considered as income:

- Casual, sporadic or irregular gifts;
- Amounts which are specifically for or in reimbursement of the cost of medical expenses;
- Lump-sum additions to Household assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
- Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans not used for the above purposes and which are available for subsistence are to be included in income;
- The special pay to a serviceman head of a Household away from home and exposed to hostile fire;
- Relocation payments made pursuant to federal, state, or local relocation law;
- Foster child care payments;
- The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible Household;
- Payments received pursuant to participation in the following volunteer programs under the ACTION Agency:
 - National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs.
 - National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).

Homebuyer means the Eligible Purchaser purchasing an Affordable Unit from Developer.

Household means all the persons who will occupy the Affordable Unit as their Primary Residence. A child who is subject to a legally-binding shared-custody agreement, in which the child resides with the Household at least 50% of the time, is counted as a member of the Household. Excluded from the definition of Household are live-in caregivers/caretakers, foster children, unborn children and children being pursued for legal custody or adoption that are not currently living with the Household.

Housing Cost means and includes all of the following costs associated with ownership of an Affordable Unit as defined in Title 25 of the California Code of Regulations Section 6920:

- (i) Principal and interest on a mortgage loan at the defined interest rate;
- (ii) Property tax and assessments;
- (iii) Fire and casualty insurance covering replacement value of property improvements;
- (iv) Property maintenance and repairs;
- (v) A reasonable utility allowance, as determined by the City; and
- (vi) Homeowner Association assessments and dues.

HCD means the California Department of Housing and Community Development.

HUD means the United States Department of Housing and Urban Development.

Orange County Median Income is calculated by HCD using non-aggregated census income data and applying trending factors for metropolitan statistical areas (MSA) throughout the country. The MSA for La Habra is Orange County.

Market Rate Unit means any unit in the Project that is not restricted to ownership and occupancy by Eligible Purchasers. The Market Rate Units shall mean and include all of the residential units in the Project other than the Affordable Units described in Exhibits B and C attached hereto.

Moderate Income Household refers to Households whose Gross Income does not exceed the standards defined in Title 25 of the California Code of Regulations Section 6932, and by HSC Section 50093 for moderate income households. The maximum household income amount for Moderate Income Households shall be the amount published by HCD for such a household as adjusted to reflect the actual Household size of the Homebuyer of the Affordable Unit.

Ordinance means the Density Bonus Ordinance adopted by the City Council on October 4, 2010, and amended by Ordinance No. 1792 in 2018, and as it has been amended from time to time, and which is codified in Chapter 18.80 of the City's Municipal Code.

Party and Parties mean the City and the Developer as parties to this Affordable Housing Agreement.

Project means the owner-occupied housing project proposed to be developed on the Property at the Developer's sole cost and expense.

Property means the real property on which the Project is to be developed.

Qualified Nonprofit Housing Corporation means a nonprofit housing corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

Supportable Mortgage means the maximum mortgage amount that can be supported by a Moderate Income Household based on the Affordable Housing Cost calculations and the Benchmark Down Payment. The mortgage calculation is based on the prevailing market interest rate for a 30-year fully amortizing mortgage with a fixed interest rate.

ARTICLE 1

PARTIES; REPRESENTATIONS AND WARRANTIES; EFFECTIVE DATE; RECITALS; AND EXHIBITS

1. Parties to the Affordable Housing Agreement

- a. City. The City is a California municipal corporation. The address of the City, for the purposes of this Affordable Housing Agreement, is:

City of La Habra
110 E. La Habra Boulevard
La Habra, California 90633
Attention: Affordable Housing Administrator
Phone: 562 383 4000

With a copy to:

Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, California 92835
Attention: City Attorney
Phone: 714 446 1400

- b. Developer. The Developer is a Delaware limited liability company. The address of the Developer, for the purposes of this Affordable Housing Agreement, is:

Olson Urban V – La Habra 3, LLC
3010 Old Ranch Parkway, Suite 100
Seal Beach, California 90740
Attention: Todd Olson and John Reekstin

Email: tolson@theolsonco.com
jreekstin@theolsonco.com

With a copy to:

Olson Urban V – La Habra 3, LLC
3010 Old Ranch Parkway, Suite 100
Seal Beach, California 90740
Attention: Katherine M. Chandler, Esq.

Email: kchandler@theolsonco.com

2. Developer Representations And Warranties

The representations and warranties of the Developer contained in Article 1 – Section 2 shall be based upon the actual knowledge of the Developer as of the Effective Date, and are true and correct as of the Effective Date. The Developer's liability for misrepresentation or breach of warranty, representation or covenant, wherever contained in this Affordable Housing Agreement, shall survive the execution and delivery of the Affordable Housing Agreement.

The Developer hereby makes the following representations, covenants and warranties, and Developer acknowledges that the execution of this Affordable Housing Agreement by the City has been made in material reliance by the City on such covenants, representations and warranties:

- a. The Developer is a Delaware limited liability company lawfully entitled to do business in the State of California and the City. The Developer has the legal right, power and authority to enter into this Affordable Housing Agreement and the instruments and documents referenced herein and to consummate the transaction contemplated hereby. The persons executing this Affordable Housing Agreement and the instruments referenced herein on behalf of the Developer hereby represent and warrant that such persons have the power, right and authority to bind the Developer.
- b. The Developer has taken all requisite action and obtained all requisite consents in connection with entering into this Affordable Housing Agreement and the instruments and documents referenced herein and the consummation of the transactions contemplated hereby, and no consent of any other party is required for the Developer's authorization to enter into this Affordable Housing Agreement.
- c. Neither the execution of this Affordable Housing Agreement nor the consummation of the transactions contemplated hereby shall result in a breach of or constitute a default under any other agreement, document, instrument, or other obligation to which the Developer is a party or by which the Developer may be bound, or, to the best of Developer's knowledge, under any law, statute, ordinance, governmental regulation or any writ, injunction, order or decree of any court or governmental body applicable to the Developer or to the Property.

- d. This Affordable Housing Agreement is, and all agreements, instruments and documents to be executed by the Developer pursuant to this Affordable Housing Agreement shall be, duly executed by and, to the best of Developer's knowledge, are or shall be valid and legally binding upon the Developer and enforceable in accordance with their respective terms, subject to applicable bankruptcy, insolvency and other like laws and principles of equity.

3. Effective Date

This Affordable Housing Agreement is dated August 15, 2022 for reference purposes only. This Affordable Housing Agreement shall not go into effect before the Effective Date.

4. Recitals

The Recitals set forth above are true and correct. The Recitals are incorporated into this Affordable Housing Agreement in their entirety by this reference.

5. Exhibit List

The following is a list of the exhibits attached to this Affordable Housing Agreement. Each of the exhibits is incorporated by reference into the text of this Affordable Housing Agreement.

- | | |
|-----------|--|
| Exhibit 1 | Calculation of Affordable Sales Prices |
| Exhibit 2 | Affordable Housing Plan |
| Exhibit 3 | Legal Description of Property |
| Exhibit 4 | Notice of Affordability Restrictions |
| Exhibit 5 | Sample Equity Sharing Calculation |

ARTICLE 2 AFFORDABLE HOUSING COVENANTS

1. Developer Compliance with the Ordinance

The Developer acknowledges that the City has provided the Developer with copies of the Ordinance. The Developer is familiar with the requirements of the foregoing document and shall ensure that the Project complies in all material respects with this Affordable Housing Agreement.

2. Affordable Housing Covenants

The Developer covenants and agrees that twelve (12) of the two-bedroom Units to be developed on the Property shall be Affordable Units reserved for sale at the Affordable Sales Price and occupancy by Homebuyers whose Gross Income at the time of initial occupancy of each Affordable Unit does not exceed the household income qualification limits of a Moderate Income Household. Developer shall make a good faith effort to obtain a qualified purchaser residing in the City of La Habra for each Affordable Unit, prior to considering other qualified purchasers. Such effort shall include, but not limited to, local public advertising, listing in local real estate publications, and City suggested marketing. The City shall determine if a "good faith" effort has been performed. The City shall not unreasonably withhold its approval.

This covenant and agreement shall run with the land and be binding on all initial purchasers of Affordable Units on the Property, as set forth herein. This Affordable Housing Agreement, and all affordable housing covenants contained herein, along with a Notice of Affordability Restrictions in the form of Exhibit 4, shall be recorded against all Affordable Units on the Property. Notwithstanding anything herein to the contrary, in no event shall this Affordable Housing Agreement apply to any of the Market Rate Units located on the Property, and such Market Rate Units shall not be subject to any of the restrictions, requirements or provisions of this Affordable Housing Agreement which are applicable to the Affordable Units and this Agreement shall not be recorded on the title of any of the Market Rate Units (or, in the event of an unintentional recordation, shall be promptly removed from the title to such Market Rate Units). Without limitation of the foregoing, upon request by Developer, City shall execute, deliver and/or record such documents as are requested by Developer to confirm the foregoing and to remove any reference of record to this Affordable Housing Agreement from the record title of the Market Rate Units.

- a. The Affordable Units to be developed on the Property shall be located within the Project as depicted on Exhibit 2. The Developer may change the location of any Affordable Unit to another area within the Project upon approval of the Affordable Housing Administrator, such approval not to be unreasonably withheld, and, in that event, an amendment to this Affordable Housing Agreement shall be recorded depicting the revised location of the Affordable Units. Unless and until such an amendment is recorded, the location of the Affordable Units shall be conclusively presumed to be the locations shown on Exhibit 2, and all other units in the Project shall be conclusively presumed to be Market Rate Units.
- b. The Affordable Units shall, at a minimum, be comparable to the base plan in terms of design, general appearance and interior amenities as the Market Rate Units. The Affordable Units may be the units with the smaller floor plans, and the Affordable Units may have non-garage parking or smaller garages than the Market Rate Units.
- c. The Affordable Units to be developed on the Property shall be constructed concurrently with, or prior to, the final Market Rate Units in the Project. If the Project is phased, the Affordable Units shall be constructed in accordance with a phasing plan approved by the Affordable Housing Administrator. If the Developer wishes to change the timing and/or phasing of the Project's construction, the City agrees to amend said schedule in a manner consistent with such change so long as the revised schedule continues to ensure that the Affordable Units will be constructed concurrently with, or prior to, the final Market Rate Units. The Developer shall affirmatively market the Affordable Units to Moderate Income Households in accordance with Developer's standard marketing procedures.

3. Initial and Subsequent Sale of Affordable Units

Each of the Affordable Units shall be initially sold to a Moderate Income Household at an Affordable Sales Price as set forth in the Affordable Housing Plan. Initial purchasers of Affordable Units shall, upon resale, be bound by the equity sharing provisions set forth in Government Code § 65915(c)(2). Exhibit 5 attached hereto sets forth additional detail concerning the manner of calculating such equity share and a sample calculation of such an equity share. The sample calculations contained in Exhibit 5 are only illustrative, and, in the event of any

dispute in the manner of calculating equity share, the Housing Administrator's determination shall control.

4. Selection of Eligible Purchaser

The Developer shall, at its sole cost and expense, conduct all procedures and comply with all requirements as set forth in the Ordinance and this Affordable Housing Agreement in selecting the initial qualified Eligible Purchasers for each of the Affordable Units. Developer shall make a good faith effort to obtain a qualified purchaser residing in the City of La Habra for each Affordable Unit, prior to considering other qualified purchasers. Such effort shall include, but not limited to, local public advertising, listing in local real estate publications, and City suggested marketing. The City shall determine if a "good faith" effort has been performed. The City shall not unreasonably withhold its approval. Developer shall submit covenants, conditions and restrictions that shall be recorded against the Property and that shall provide for the creation of a homeowner's association, which will have the duty of, among other things, cooperating with the City in the implementation of the affordability restrictions set forth in Sections 2 and 3, above. If a prospective initial Homebuyer qualifies as an Eligible Purchaser, as defined herein, the Homebuyer shall be required to execute a purchase agreement for the purchase and sale of an Affordable Unit. The Developer, or its successor in interest, shall seek and obtain all approvals required from the City pursuant to the Ordinance and this Affordable Housing Agreement, and shall provide the City with all documentation required pursuant hereto.

5. City Approval of Homebuyer

The Developer shall not sell an Affordable Unit to an initial purchaser unless and until the City has reviewed and approved the Homebuyer as an Eligible Purchaser for the purchase of the Affordable Housing Unit.

6. Enforcement of Affordable Housing Covenants Declaration

The Developer irrevocably stipulates and agrees that breach of the Affordable Housing Covenants set forth above in Article 2 – Sections 2 and 3, either by the Developer or the initial purchaser will result in great and irreparable damage to the City, and will result in damages to the City that are either impracticable or extremely difficult to quantify. Accordingly, upon such a breach of those Affordable Housing Covenants set forth above in Article 2 – Sections 2 and 3, the

City may institute an action for injunctive relief and/or specific performance for the remedy of such breach including unwinding any such unpermitted transfer.

7. Alternative Sale of Affordable Units to Qualified Nonprofit Housing Corporation

As an alternative to the requirements of Article 2 – Sections 2 to 5 above to sell one or more of the Affordable Units to Moderate Income Households at an Affordable Housing Cost, the Developer may instead enter into a recorded agreement with a Qualified Nonprofit Housing Corporation pursuant to Government Code Section 65915(c)(2)(A)(ii) to sell one or more Affordable Units to the Qualified Nonprofit Housing Corporation. Such recorded agreement shall satisfy all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code and shall include all of the following:

(I) A repurchase option that requires a subsequent purchaser of the Affordable Unit that desires to resell or convey the Affordable Unit to offer the Qualified Nonprofit Housing Corporation the right to repurchase the Affordable Unit prior to selling or conveying that Affordable Unit to any other purchaser.

(II) An equity sharing agreement with the City.

(III) Affordability restrictions on the sale and conveyance of the Affordable Unit that ensure that the Affordable Unit will be preserved for lower income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income, as defined in Section 50052.5 of the Health and Safety Code.

If the Developer enters into an agreement with a Qualified Nonprofit Housing Corporation as provided above, the City may enter into a contract with the Qualified Nonprofit Housing Corporation under which the Qualified Nonprofit Housing Corporation would recapture any initial subsidy and its proportionate share of appreciation if the Qualified Nonprofit Housing Corporation is required to use 100 percent of the proceeds to promote homeownership for lower income households as defined by Health and Safety Code Section 50079.5 within the jurisdiction of the City.

8. Maintenance of the Property

Prior to the issuance of a Certificate of Occupancy covering any of the Improvements on the Property, Developer shall prepare and submit to the City

Attorney for review and approval a program for the maintenance of the exterior of the structures on the Property (the "Exterior Maintenance Program"), which Exterior Maintenance Program shall be incorporated into covenants, conditions and restrictions ("CC&Rs") to be recorded by Developer against the Property prior to Developer's conveyance of fee title to any portion of the Project. The Exterior Maintenance Program shall describe in reasonable detail the standards to be followed in maintaining the exterior of the structures on the Property as further set forth in the City approved CC&Rs.

The Exterior Maintenance Program shall include regular and reasonable maintenance, including graffiti removal and care of planted areas and plantings, as more particularly described in the Exterior Maintenance Program; and that maintenance shall be performed at the sole cost and expense of Developer until such time as the CC&Rs are recorded and such responsibility transfers to the homeowner's association established pursuant to the CC&Rs ("Homeowners Association"), at which time Developer shall be released from any further obligation or liability under this Affordable Housing Agreement.

Once the CC&Rs become effective, the then current fee owners of the Property (the "Owners"), acting through their Homeowners Association, shall maintain the exterior of the structures on the Property in accordance with the approved Exterior Maintenance Program. In the event such Homeowners Association fails to maintain the exterior of the structures on the Property in accordance with the approved Exterior Maintenance Program, the City shall have the right, but not the obligation, to enter the Property, correct any violation, and hold the Homeowners Association responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the common area of the Property; provided, that prior to taking such action and entering upon the Property, the City shall provide the Homeowner's Association with not less than 30 days' written notice of the claimed maintenance deficiency and an opportunity to cure the same; provided, further, that, in the event of an emergency, such notice may be shortened to such time as is necessary to safely address such emergency situation. The CC&Rs shall contain appropriate provisions implementing this Section 7. City acknowledges and agrees that the maintenance obligations set forth in this **Section VII** may be assumed by and assigned to such Homeowners Association.

ARTICLE 3 DEFAULTS AND REMEDIES

1. Default

If either Party defaults with regard to any provision of this Affordable Housing Agreement, the non-defaulting Party shall serve written notice of such default upon the defaulting Party. If, after the service of written notice of such default, the defaulting Party does not cure such default within thirty (30) calendar days after service of the notice of default (or, if such cure reasonably takes longer than thirty (30) days, if such cure has not been commenced within the thirty (30) day period or is not diligently completed within a reasonable time thereafter), the defaulting Party shall be in Default of the terms of this Affordable Housing Agreement, and shall be liable to the other Party for damages caused by such Default. Alternatively, the non-defaulting Party, at its option, may institute an action for specific performance of the terms of this Affordable Housing Agreement with respect to any Default not cured within the above-described period.

2. Legal Actions

In addition to any other rights or remedies, either Party may institute legal action to cure, correct or remedy any Default, to recover damages for any Default, or to obtain any other remedy consistent with the purposes of this Affordable Housing Agreement. Further, in the event that the Developer sells or rents any of the Affordable Units in violation of this Affordable Housing Agreement, as restitution to the City, the Developer shall forfeit all monetary amounts obtained through the sale or rental of the Affordable Units which are in excess of the Affordable Sales Price permitted for such Unit by this Agreement. All such restitution shall be made to the City, and shall be placed in the City's Affordable Housing Fund.

- a. The laws of the State of California shall govern the interpretation and enforcement of this Affordable Housing Agreement.
- b. In the event that any legal action is commenced by the Developer against the City, service of process on the City shall be made by personal service upon the City Manager, or in such other manner as may be provided by law.
- c. In the event that any legal action is commenced by the City against the Developer, service of process shall be made by personal service on the

Developer's designated agent at such address as may be specified in written notice to the City, or in such other manner as may be provided by law, and shall be valid whether made within or without the State of California.

3. Rights and Remedies are Cumulative

The rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party.

ARTICLE 4 GENERAL PROVISIONS

1. Notices, Demands and Communications Between the Parties

Any and all notices, demands or communications submitted by any Party to another Party pursuant to, or required by, this Affordable Housing Agreement shall be proper if in writing and dispatched by messenger for immediate personal delivery, or by registered or certified United States mail, postage prepaid, return receipt requested, to the address of the City and Developer, as applicable, as designated in Article 1 – Section 1 of this Affordable Housing Agreement. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time-to-time designate as provided in this Section.

Any notice, demand or communication shall be deemed to be received by the addressee, on the day that it is personally delivered, if dispatched by messenger, or two (2) calendar days after it is placed in the United States mail. In addition to the submission of notices, demands or communications to the Parties via United States Mail, copies of all notices shall also be delivered by electronic mail to the email addresses designated in Article 1 – Section 1.

2. Conflict of Interest

No council member, official, contractor, consultant, attorney or employee of the City having any conflict of interest, direct or indirect, related to this Affordable Housing Agreement, or in the development of the Property, shall participate in any decision relating to this Affordable Housing Agreement. The Parties

represent and warrant that they do not have knowledge of any such conflict of interest.

3. Non-liability of City or City Officials and Employees

No council member, official, contractor, consultant, attorney or employee of the City shall be personally liable to the Developer, any voluntary or involuntary successors and assignees, or any lender or other party holding any interest in the Property, in the event of any default or breach by the City, or for any amount which may become due to the Developer or to its successors or assignees, or on any obligations arising under this Affordable Housing Agreement. No member, principal, employee, contractor, consultant, attorney or affiliate of Developer shall be personally liable to City, or any voluntary or involuntary successors and assignees of City, in the event of any default or breach by the Developer, or for any amount which may become due to the City or to its successors or assignees, or on any obligations arising under this Affordable Housing Agreement.

4. Indemnification and Defense

Developer shall, at its expense, defend, indemnify, and hold harmless the City and its officers, agents, employees and representatives harmless from any and all losses, liabilities, claims, lawsuits, causes of action, judgments, settlements, court costs, attorneys' fees, and other legal expenses, and other damages of whatsoever nature arising out of or in connection with, or relating in any manner to any act or omission (where there was a duty to act) of Developer or its agents, employees, contractors and subcontractors of any tier and employees thereof in connection with or arising from Developer's performance or failure to perform its obligations under this Agreement, Developer's ownership or operation of the Housing Project, or the development of the Housing Project, except and to the extent any such loss, liability, claim, lawsuit or other damage arises from the negligence or willful misconduct of the City or its officers, agents, employees or representatives.

Developer shall defend, indemnify, and hold harmless the City from and against any and all claims, damages, demands, suits and/or proceedings of any kind brought by anyone challenging the validity and/or legality of this Agreement, or the process followed. Developer shall further defend, indemnify, and hold harmless the City from and against any and all claims, damages, demands, suits and/or proceedings of any kind brought by anyone challenging the validity and/or legality of the Developer's planned development of the Property, including any

and all challenges to any permits and/or approvals that may or may not be granted by the City for the development of the Property.

City shall, at its expense, defend, indemnify, and hold harmless the Developer and its officers, agents, employees and representatives harmless from any and all losses, liabilities, claims, lawsuits, causes of action, judgments, settlements, court costs, attorneys' fees, and other legal expenses, and other damages of whatsoever nature arising out of or in connection with, or relating in any manner to any act or omission of City in connection with or arising from City's performance or failure to perform its obligations under this Agreement, except and to the extent any such loss, liability, claim, lawsuit or other damage arises from the negligence or willful misconduct of the Developer or its officers, agents, employees or representatives.

5. No Waiver

Failure to insist upon strict compliance with any of the terms, covenants, conditions and restrictions hereof on any one occasion shall not be deemed a waiver of such term, covenant, condition or restriction. Any waiver or relinquishment of rights or powers hereunder at any one or more times shall not be deemed a waiver or relinquishment of such rights or powers at any other time or times.

6. Jurisdiction and Venue

Any legal action or proceeding concerning this Affordable Housing Agreement shall be filed and prosecuted in the appropriate State of California court in Orange County, California. Each Party hereto irrevocably consents to the personal jurisdiction of that court. The City and the Developer each hereby expressly waive the benefit of any provision of federal or state law or judicial decision providing for the filing, removal, or change of venue to any other court or jurisdiction, including without implied limitation, federal district court due to any of the following:

- (i) Any diversity of citizenship between the City and the Developer; or
- (ii) The fact that the City is a party to such action or proceeding; or
- (iii) That a federal question or federal right is involved or alleged to be involved.

Without limiting the generality of the foregoing, the Developer and the City specifically waive any rights provided to it pursuant to California Code of Civil Procedure 394. The Developer acknowledges that the provisions of this Article 4 – Section 6 are material consideration to the City for its entry into this Affordable Housing Agreement, in that the City will avoid the potential cost, expense and inconvenience of litigating in a distant forum.

7. Inspection of Books and Records

To enforce its rights under this Affordable Housing Agreement, the City shall have the right at all reasonable times and upon reasonable advance notice, at the City's cost and expense, to inspect the books and records of the Developer that are not privileged, confidential, trade secrets or otherwise protected from disclosure and which pertain to the sale of the Affordable Units at the Property. Matters discovered by the City shall not be disclosed to third parties unless required by law, or unless otherwise resulting from or related to the pursuit of any remedies or the assertion of any rights of the City hereunder subject to, however, any right of the Developer to seek a protective order to prevent the disclosure of any confidential or privileged information.

8. Successors and Assigns

This Affordable Housing Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

9. No Third Party Beneficiaries

The performance of the City's and the Developer's respective obligations under this Affordable Housing Agreement are not intended to benefit any party other than the City or the Developer. No person or entity not a signatory to this Affordable Housing Agreement shall have any rights or causes of action against any Party to this Affordable Housing Agreement as a result of that Party's performance or non-performance under this Affordable Housing Agreement, or for the enforcement of any provisions of this Agreement.

10. Entire Agreement

This Affordable Housing Agreement integrates all of the terms and conditions mentioned herein or incidental hereto. This Affordable Housing Agreement

supersedes all negotiations or previous agreements between the Parties with respect to all or any portion of the Property and the Project thereon.

11. Termination

- a. Except as set forth elsewhere, this Affordable Housing Agreement shall be effective until all of the following have been completed:
 - (i) All of the Affordable Units have been constructed and sold by the Developer to Eligible Purchasers at an Affordable Price; and
 - (ii) All of the Eligible Purchasers have transferred their ownership and complied with the equity sharing requirements of Government Code § 65915(c)(2).
- b. Upon occurrence of the above-referenced events, this Affordable Housing Agreement shall automatically and immediately terminate and shall have no further force and effect and Developer and its successors and assigns shall have no further obligations or liability hereunder or any further responsibility with respect to the Affordable Units, except that all of the rights and obligations of the Parties under Article 4, Section 4 (Indemnification and Defense) which have accrued as of the date of expiration or termination shall survive expiration or termination (for any reason) of this Agreement and remain in full force and effect. Following such termination, City and Developer's successors agree to promptly execute, acknowledge and deliver for recordation any documents that may be necessary to remove this Affordable Housing Agreement as an encumbrance against title to any portion of the Property.

12. Lender Protection Provisions.

This Agreement shall not prevent or limit Developer, in any manner, at its sole discretion, from encumbering the portion of the Property owned by it, or any portion thereof or any improvement thereon, by any mortgage, deed of trust, or other security device securing financing with respect to such portion of the Property. The City acknowledges that the lenders providing such financing may require certain Agreement interpretations and/or modifications and agrees, upon request from time to time, to meet with the Developer and the representatives of such lenders to negotiate in good faith any such request for interpretation or modification. Subject to compliance with applicable laws, the City will not unreasonably withhold its consent to any such requested interpretation or

modification provided that such interpretation or modification is consistent with the intent and purposes of this Agreement and does not have a material adverse impact on the City's rights or obligations hereunder. Any Mortgagee of the Property, or any portion thereof, shall be entitled to the following rights and privileges:

(1) Neither the entering into of this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust on the Property, or any portion thereof, made in good faith and for value.

(2) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, who has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from the City of any default or noncompliance by the Developer in the performance of its obligations under this Agreement.

(3) If the City timely receives a request from a Mortgagee requesting a copy of any notice of default or notice of non-compliance given to Developer under the terms of this Agreement, the City shall provide a copy of that notice to the Mortgagee within ten (10) calendar days of sending the notice of default to Developer. The Mortgagee shall have the right, but not the obligation, to cure the default during the period that expires thirty (30) days after the expiration of the remaining cure period allowed Developer under this Agreement.

(4) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement, provided, however, in no event shall such Mortgagee or its successors and assigns be (a) liable for any monetary defaults of Developer under the Agreement arising prior to acquisition of title to the Property, or portion thereof, by such Mortgagee, or (b) obligated to complete construction of the Project or any component thereof. In the event any Mortgagee seeks to develop or use a portion of the Property acquired by such Mortgagee, such Mortgagee shall strictly comply with all of the terms, conditions and requirements of this Agreement and the Project Approvals applicable to the Property or such part thereof acquired by the Mortgagee

13. City Approvals and Actions.

The City shall implement this Agreement through the City Manager (or his/her duly authorized representative). The City Manager shall have the authority to make approvals, issue interpretations, waive provisions, make and execute further agreements and/or enter into amendments of this Agreement on behalf of the City so long as such actions do not materially or substantially change the uses or development permitted on the Site, or materially or substantially add to the costs incurred or to be incurred by the City as specified herein, and such interpretations, waivers and/or amendments may include extensions of time to perform as specified herein. All other material and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the City Council. Developer acknowledges and agrees that the City is not obligated to grant any or all of such approvals and the granting of any such approvals with respect to the Housing Project is subject to the approval process and procedures established by the City, but that the City is merely agreeing to promptly and expeditiously process for approval entitlements and permits. Moreover, nothing herein shall be construed as a waiver of the City's right to defend, to the fullest extent of the law, its use of discretionary authority and executive powers.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Affordable Housing Agreement as of the dates set forth below.

[Signatures on Following Pages]

**SIGNATURE PAGE
TO
AFFORDABLE HOUSING AGREEMENT**

CITY:

**CITY OF LA HABRA,
A California municipal Corporation**

By:

Jim Sadro, City Manager

ATTEST:

Rhonda Barone, Assistant City Clerk

APPROVED AS TO FORM:

Richard Jones, City Attorney

**SIGNATURE PAGE
TO
AFFORDABLE HOUSING AGREEMENT**

OLSON URBAN V – LA HABRA 3, LLC
a Delaware limited liability company

By: OLSON URBAN COMMUNITIES V, LLC
a Delaware limited liability company
Sole Member

By: OLSON URBAN VENTURES V, LLC
a Delaware limited liability company
Sole Member

By: OLSON URBAN HOUSING, LLC
a Delaware limited liability company
Operating Member

By: IN TOWN LIVING, INC.
a Delaware corporation
Managing Member

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT 1
AFFORDABLE SALES PRICES

Income criteria used to determine affordable sales price and affordable housing cost are based on standards imposed by California Health and Safety Code Sections 50093 and 50052,5.

Certain assumptions are used in calculating both the affordable housing cost and maximum affordable sales price for such Affordable Units in this Project.

Affordable housing cost includes all costs associated with owning a housing unit. These include:

- Principal and interest payments
- Private mortgage insurance if applicable
- Property taxes and assessments
- Fire and hazard insurance covering replacement value of improvements
- A reasonable allowance for utilities
- A reasonable allowance for unit maintenance; and
- Homeowners maintenance association fees (HOA)

The maximum affordable sales price is the total sales prices a typical household with a moderate income level (up to 120% of median income), adjusted for the household size appropriate for the unit size, can afford to pay for housing.

The sale price below is based on a target income level, not the income of the actual homebuyer. Actual homebuyer income may be used for households whose income exceeds 110% of area median income. The household size adjustment that is used in determining the income limit for the purpose of setting the maximum affordable sales price is based on the number of bedrooms in the unit, not the size of the specific homebuyer's household. This criteria allows the sales price to be set in advance of identifying a specific buyer. The sales price for the unit is determined by using two-bedroom unit and presumed household size of 3 with a moderate income level.

Affordable Housing Price - 2 bedroom, 2.5 bath:

Supportable Mortgage Calculation*

Household Income @ 110% of median income for 3 person household	\$117,920
---	-----------

Ongoing Expenses

Maintenance & Insurance**	\$7,026
Utilities***	\$2,304
Property Taxes @ 1.25% of Affordable Price	\$5,159
Total Expenses	\$14,499
Income Available for Mortgage	\$26,773

Affordable Housing Price

Supportable Mortgage @ 6% Interest	\$372,150
Homebuyer Down Payment @ 10% of Affordable Price	\$41,350

Affordable Housing Price**\$413,500******

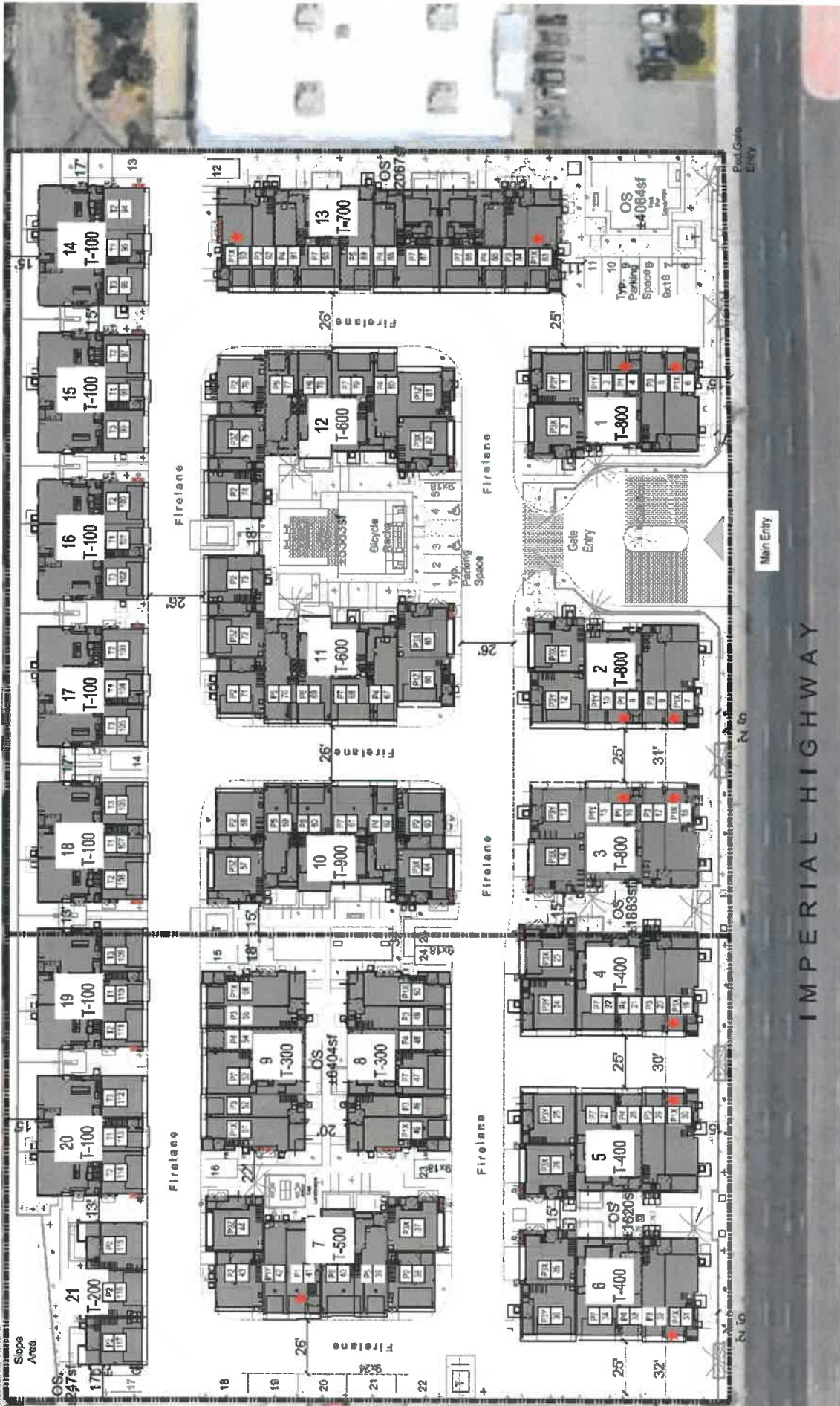
*Based on income standards by California Health and Safety Code 50093 and 50052.5

**Includes HOA and property insurance

***Based on current Orange County Housing Authority Utility Allowances

****Accordingly, the Affordable Sales Price for the Affordable Units in this Project will be \$413,500, unless the Household Income of the Eligible Purchaser exceeds 110% of Area Median Income adjusted for household size, in which case the Affordable Sales Price shall be recalculated using the methodology and assumptions above and the actual income of the Eligible Purchaser to calculate the Affordable Sales Price for that Eligible Purchaser.

EXHIBIT 2
AFFORDABLE HOUSING PLAN
[To Be Attached]



Legend



Accessible Units (10)



Affordable Units (12)

EXHIBIT 3
LEGAL DESCRIPTION OF AFFORDABLE UNITS
[To Be Inserted]

LEGAL DESCRIPTION

Real property in the City of La Habra, County of Orange, State of California, described as follows:

PARCEL ONE: (APN: 019-042-21)

THE WEST 381.15 FEET OF THE EASTERLY 762.30 FEET OF THE SOUTHERLY 400 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, IN TOWNSHIP 3 SOUTH, RANGE 10 WEST, IN THE RANCHO LA HABRA AND RANCHO LOS COYOTES, CITY OF LA HABRA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 51, PAGE 7 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT ONE-HALF OF ALL OIL, GAS, MINERALS, HYDROCARBONS, AND LIKE SUBSTANCES BELOW A DEPTH OF 250 FEET WITHOUT THE RIGHT OF SURFACE ENTRY AS RESERVED BY JOHN E. WILKS, IN DEED RECORDED OCTOBER 31, 1956 IN BOOK 3695, PAGE 429, OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM, THAT PORTION OF SAID LAND CONVEYED TO THE CITY OF LA HABRA, A MUNICIPAL CORPORATION, BY GRANT DEED RECORDED MARCH 6, 2009 AS INSTRUMENT NO. 2009000105403, OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL TWO: (APN: 019-042-24)

THE WEST 226.70 FEET OF THE EAST 989 FEET OF THE SOUTH 400 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, IN TOWNSHIP 3 SOUTH, RANGE 10 WEST, IN THE RANCHO LA HABRA AND RANCHO LOS COYOTES, CITY OF LA HABRA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 51, PAGE 7 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT ONE-HALF OF ALL OIL, GAS, MINERALS, HYDROCARBONS AND LIKE SUBSTANCES BELOW A DEPTH OF 250 FEET WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN THE DEED FROM JOHN E. WILKS, SR., TO POMONA BOX COMPANY, A PARTNERSHIP, RECORDED FEBRUARY 3, 1959 IN BOOK 4571, PAGE 441, OF OFFICIAL RECORDS.

**EXHIBIT 4
NOTICE OF AFFORDABILITY RESTRICTIONS**

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CITY OF LA HABRA
110 EAST LA HABRA BLVD
LA HABRA, CA 90603
ATTN: CITY CLERK

SPACE ABOVE THIS LINE FOR RECORDERS USE

EXEMPT FROM RECORDING FEE PER GOVERNMENT CODE SECTION 27383

**NOTICE OF AFFORDABILITY RESTRICTIONS
ON TRANSFER OF PROPERTY
(To Be Recorded Against Each Affordable Unit)**

Restrictions have been recorded restricting the price and terms at which that certain Affordable Unit located on the real property and described below in Exhibit "A" to this Notice ("Property") may initially be sold. These affordability restrictions may limit the initial sales price of an Affordable Unit to an amount that is less than the fair market value of such Affordable Unit and limit the persons and households who are permitted to purchase the Affordable Unit upon the initial sale of the Affordable Unit to persons or households with certain income levels.

NOTICE TO OWNER OF THE PROPERTY: WHEN YOU SELL OR OTHERWISE TRANSFER THE PROPERTY, YOU WILL BE REQUIRED TO PAY THE CITY OF LA HABRA AN EQUITY SHARING PAYMENT. THE AMOUNT OF THE EQUITY SHARING PAYMENT IS THE REPAYMENT OF THE INITIAL SUBSIDY IN THE SALES PRICE PLUS A PERCENTAGE OF THE APPRECIATION IN THE VALUE OF THE PROPERTY BETWEEN THE TIME YOU ORIGINALLY PURCHASED THE PROPERTY AND THE TIME YOU SELL IT. THE FORMULA FOR CALCULATING THE EQUITY SHARING PAYMENT IS ATTACHED HERETO AS EXHIBIT "B."

Recorded Documents Containing Affordability Restrictions:

Affordable Housing Agreement for [name/address of development] ("Affordability Restrictions") recorded (*check one*):

- as Document No. _____, official records of Orange County, on _____; or
- concurrently with this Notice, official records of Orange County.

Property Legal Description: _____

Property Street Address(es): _____

Property Assessor's Parcel Number (s): _____

Affordability Restrictions Summary (*check as applicable*):

The Affordability Restrictions restrict the sales price that may be charged for the sale of the Affordable Unit, as follows: **The Affordability Restrictions do not restrict the sales price that the owner may charge for the sale of the Affordable Unit.**

The Affordability Restrictions restrict the income level of tenants or purchasers of the Property, as follows: **The Affordability Restrictions do not restrict the income level of persons who may purchase the Property from the owner.**

The Affordability Restrictions commence(d) on _____ and terminate on the resale of the Affordable Unit by the first owner of the Affordable Unit; provided that, upon such sale, an equity sharing payment shall be made to City as required by Government Code Section 65915(c)(2). **The formula for calculating the amount of the equity sharing payment that the owner must pay to the City of La Habra, and a sample calculation of an equity sharing payment, is attached hereto as Exhibit B.**

Upon a termination of these Affordability Restrictions, this Notice shall be of no further force or effect, and, upon request, City shall cooperate in executing and recording any documents necessary or appropriate to remove this Notice from record.

This Notice may not contain all of the terms and conditions of the Affordability Restrictions affecting the Property. Interested persons should obtain and read the Affordability Restrictions in their entirety in order to determine the extent of the Affordability Restrictions applicable to the Property.

Dated: _____ OLSON URBAN V – LA HABRA 3, LLC
a Delaware limited liability company

By: OLSON URBAN COMMUNITIES V, LLC
a Delaware limited liability company
Sole Member

By: OLSON URBAN VENTURES V, LLC
a Delaware limited liability company
Sole Member

By: OLSON URBAN HOUSING, LLC
a Delaware limited liability company
Operating Member

By: IN TOWN LIVING, INC.
a Delaware corporation
Managing Member

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[SIGNATURES MUST BE NOTARY ACKNOWLEDGED]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

[To Be Attached]

EXHIBIT B
SAMPLE CALCULATION OF EQUITY SHARE PAYMENT

[To Be Attached]

EXHIBIT 5

CALCULATION OF EQUITY SHARE PAYMENT

1. FORMULA FOR DIVISION OF RESALE PROCEEDS

Upon resale of the Affordable Unit, the Owner shall pay to the City the sum of (a) the Initial Subsidy and (b) the City's Proportionate Share of Appreciation ("Equity Share Payment"). Upon the resale of the Affordable Unit, the Owner shall retain the value of any improvements made to the Affordable Unit, the Owner's Down Payment made at the time of the initial purchase of the Affordable Unit, and the Owner's Proportionate Share of Appreciation.

"Appreciation" means the sales price for the resale of the Affordable Unit, minus the fair market value of the Affordable Unit at the time the Owner acquired the Affordable Unit, minus the value of any improvements made by Owner to the Affordable Unit, and and minus costs of the resale (broker's commission, escrow and title fees, recording fees, etc.). If upon resale of the Affordable Unit the above calculation is a negative number, then the amount of the Appreciation shall be zero.

"City's Proportionate Share of Appreciation" means the ratio of the Initial Subsidy to the fair market value of the Affordable Unit at the time the Owner acquired the Affordable Unit.

"Initial Subsidy" means the fair market value of the Affordable Unit at the time the Owner acquired the Affordable Unit, minus the affordable sales price paid by the Owner for the acquisition of the Affordable Unit.

"Owner's Down Payment" means the initial sales price paid by the Owner to acquire the Affordable Unit, less the original principal amount of the Owner's mortgage loans.

"Owner's Proportionate Share of Appreciation" means 100% less the City's Proportionate Share of Appreciation.

SAMPLE EQUITY SHARE PAYMENT CALCULATION

A	B	C	D	E	F
Sample Calculation	Down Payment	Affordable Purchase Price	Fair Market Value at Time of Initial Sale	Homeowner Capital Improvements After Closing (Remodeling, Flooring, etc.)	Sample Market Rate Resale Price (Net of Sales Costs)
Buyer 1	\$41,350	\$413,500	\$600,000	\$10,000	\$750,000
Buyer 2	\$50,000	\$413,500	\$600,000	\$20,000	\$700,000

Buyer 1

Buyer 1 must pay City the Initial Subsidy of \$186,500, plus City's Proportionate Share of Appreciation of \$43,400, for a total of \$229,900.

Initial Subsidy = D-C: \$186,500

Appreciation = F – E – D: \$140,000

City's Proportionate Share of Appreciation = Initial Subsidy / D: 31% times
Appreciation: \$43,400

Buyer 2

Buyer 2 must pay City the Initial Subsidy of \$186,500, plus City's Proportionate Share of Appreciation of \$24,800, for a total of \$211,300.

Initial Subsidy = D - C: \$186,500

Appreciation = F – E – D: \$80,000

City's Proportionate Share of Appreciation = Initial Subsidy / D: 31% times
Appreciation: \$24,800