Summary Title: 801 Alma Project Funding

Title: Approval of Amendment No. Four to the Alma Street Affordable Multifamily Rental Housing Project Acquisition and Development Agreement to Provide a Permanent Loan of $2.8 Million, to Commit Additional Funding of up to $3.0 Million of future City In-Lieu Fees and to Modify the Terms of the Agreement to Satisfy Outside Lenders.

From: City Manager

Lead Department: Planning and Community Environment

Recommendation
Staff recommends that the City Council:

1. Approve the attached Amendment No. Four to the Alma Street Affordable Multifamily Rental Housing Project Acquisition and Development Agreement to loan $2.8 million of Housing Funds to the project for predevelopment, construction and permanent project costs and to commit up to an additional $3.0 million of Housing Funds for construction and permanent loan funding for the project. Attached to the loan agreement are two Promissory Notes and a Deed of Trust for both loans.

2. Authorize the City Manager or his designee to execute the Loan Agreement referenced above and all documents necessary to implement the Agreement, and direct the City Manager or his designee to administer the provisions of the Agreement.

3. Authorize the City Manager or his designee to execute an amendment to the existing $3.5 million loan documents to conform the terms of that loan to the terms of the new $2.8 million and $3.0 million commitment.

Executive Summary
The recommended action will provide funding of up to $5.8 million for the development of the previously approved 50-unit 100% affordable rental housing project for extremely-low and very-low income households at 801-841 Alma Street. This funding will allow the project applicant, 801 Alma Family Housing L.P., to submit a competitive application for the State’s Multifamily Housing Program (MHP) Fund and/or 9% Low Income Housing Tax Credits (TCAC). Funding is from the City’s Housing Fund from commercial and housing development and is restricted to be spent only on affordable housing. No General Fund monies would be spent.
Background
On August 6, 2007, the City Council approved and the City executed an Acquisition and Development Agreement (ADA) between the City and Palo Alto Family, L.P. for the development of affordable rental family housing at 801 and 841 Alma Street. The project site includes the former Palo Alto Utility Substation property (841 Alma) and the former Ole’s Auto Repair Shop (801 Alma). The ADA included a $3.5 million loan from the City to the developers for property acquisition of the Ole’s site. On November 9, 2009, the City Council certified the Final Environmental Impact Report and approved all necessary entitlements for development of a 50-unit 100% affordable, family housing rental development for extremely-low income (at or below 30% of Area Median Income) and very-low income households (at or below 50% of Area Median Income) on the site. The 801 Alma and 841 Alma parcels have been merged, and the site will be owned by Palo Alto Family, L.P.

Discussion
The City Council is being asked to approve a planned and budgeted $2.8 million predevelopment to permanent loan for the project. The $2.8 million predevelopment to permanent loan will be funded with $1 million from the City’s Commercial Housing Fund (State Housing Trust Fund Grant) and $1.8 million from the City’s Residential Housing Fund. The City was awarded $1.0 million from the State Housing Trust Fund in 2003 for the construction of very low and low-income housing. The $1.8 million in the Residential Housing Fund is from remaining in-lieu fees from the Summerhill Homes Redwood Gates project. In December, 2009, the City Council allowed the payment of fees in-lieu of providing seven Below-Market-Rate dwelling units for the Redwood Gates project generating approximately $4.5 million. The City already provided $2.5 million of those fees to the Tree House Apartments project at 488 Charleston Road in 2010.

The Council is also being asked to approve a loan of up to $3 million from the Residential Housing Fund from the in-lieu fees to be paid by the Classic Communities Sterling Park development. These requested additional City commitments for $2.8 million and $3.0 million would fill the project’s funding gap and allow the project to move forward. The additional $3 million may be reimbursed in part or in full by the County of Santa Clara Office of Affordable Housing, Stanford General Use Permit Funds, depending on a modification of County guidelines for use of these funds. The County has already committed $2.5 million to the project for 20 extremely low-income units.

State Housing Fund and Tax Credits
City Council approval of the recommended action will allow Palo Alto Family, L.P. to submit competitive applications for the State’s Multifamily Housing Program (MHP) Fund and/or 9% Low Income Housing Tax Credits (TCAC). Funding from either of these programs is the last major step in securing total project funding for the development. All construction funding for a project must be committed at the time of application (MHP in March and TCAC in July) in order for the project to be competitive for either an MHP or TCAC funding award. Funding awards from either of these two programs would lead to a construction start for this project in the
spring of 2012. The requested additional funding commitments are a critical component of the project’s financial feasibility and competitive advantage in the MHP and TCAC applications. The additional and committed funds result in a total City contribution to the project of up to $9.3 million from its affordable housing funds.

Terms of the Loans
Terms of the loans are specified as follows:

1. Terms for the $2.8 Million Loan include:
   a. Borrower: The borrower will be Palo Alto Family, L.P., a California limited partnership whose co-general partners will be Eden Investments, Inc., a wholly-controlled affiliate of Eden Housing, Inc. and 801 Alma, LLC whose sole member/manager is Community Working Group.
   b. Maturity Date: The loan maturity date will be 55 years from the date of the project’s final certificate of occupancy issued by the City.
   c. Interest; Nonrecourse; Security: The outstanding principal balance of the nonrecourse loan will accrue simple interest at the rate of not more than 3% per annum, subject to the following sentence. The City agrees to reduce or eliminate the interest rate at the borrower’s request prior to the admission of the investor limited partner if, and to the extent that, a reduction or elimination of the interest rate on the loan is necessary to prevent the borrower’s investor limited partner’s capital account from being a negative number during the Low-Income Housing Tax Credit period. The loan will be nonrecourse and will be secured by an assignment of agreements prior to the partnership’s ownership of the property, and secured by a Deed of Trust from and after the partnership’s acquisition of the property.
   d. Repayment from Residual Receipts: Annual installments to repay the loan will be limited to Residual Receipts (the Project’s gross revenue less operating expenses) generated by the project. Residual Receipts will be divided 50% as the borrower’s share and 50% as the lenders’ share. The lender’s share will be used to repay the loan, an MHP loan, and any other subordinate loans on a prorata basis.
   e. Use Restriction: The Regulatory Agreement which will be recorded against the property requires that the property will be used for affordable housing at affordability levels specified in the agreement for 55 years from the final certificate of occupancy.
   f. Subordination: The loan documents and Regulatory Agreement will be subordinated to construction and permanent deeds of trust and senior loan regulatory agreements, pursuant to subordination agreements that provide the City with reasonable notice and cure rights.
   g. Cost Savings: The loan documents shall provide for a one-time special prepayment of the Loan in the amount equal to any project Excess Proceeds. “Excess Proceeds” shall mean the sum of all sources of permanent financing for the project (including equity and mortgage debt) less the sum of actual uses as shown on the final cost certificate for the project.
   h. Other Terms: The City Manager or his authorized designee shall have the authority
to add to and/or modify any of the above loan terms without additional approval from the City Council; provided, however, that the City Manager or his authorized designee shall not have the authority to increase the loan amount.

2. The terms of the Additional Loan up to $3.0 million shall have the same terms as specified in 1.a through 1.h above, except that the final amount of this additional loan will be determined prior to the permanent loan conversion, and will be set based upon the amount of funding required by the project and the extent of any funding contributed by Santa Clara County (up to $3.0 million). Staff notes that, whereas most housing loans are forgiven if the units remain affordable for the specified number of years, the $3.0 million loan is not allowed to be forgiven and must over time be repaid to the City. That funding also is not due to the borrower until permanent financing is required, which is likely not until at least 2013.

3. The terms of the existing $3.5 million loan shall be amended to have the same terms as specified in 1.a through 1.h above; the amount of the existing loan shall remain at $3.5 million.

Resource Impact
The $2.8 million predevelopment to permanent loan will be funded with $1 million from the City’s Commercial Housing Fund (State Housing Trust Fund Grant) and $1.8 million from the City’s Residential Housing Fund. The additional loan of up to $3 million will be funded from the Residential Housing Fund from the in-lieu fees to be paid by Classic Communities Sterling Park development. The Classic Communities project has deposited approximately $400,000 in in-lieu funds with the City to date, and the total funds expected from the project will amount to about $4.6 million. The project owner, however, initiated litigation regarding the City’s housing fee requirements, requesting that such fees not be required. Courts have twice rejected the claims, but the litigation is not yet final. The City Attorney anticipates that the necessary in-lieu funds from the Classic Communities project will be available within the next two to three months. The 801 Alma owners will not need the funding in hand until permanent financing is in place, likely in early 2013. Given the City’s previous contribution of $3.5 million, this results in a total City contribution to the project of up to $9.3 million from the City’s affordable housing funds. No monies from the General Fund will be committed.

Policy Implications
The actions recommended in this report implement the City’s adopted Housing Element policies and programs supporting the development of very low and extremely low income housing. The 50 units from the Alma Street Affordable Multifamily Rental Housing Project will be listed on the City’s Housing Inventory for the 2007 to 2014 Housing Element period and counted towards the City’s housing production goals when the project is developed. This project will also provide 20 of the 50 units required to serve households at or below 30% of the Area Median Income (AMI), considered Extremely Low Income, which will help the City address State requirements for meeting the housing needs of this population.
Environmental Review
This funding is not a project under the California Environmental Quality Act. An Environmental Impact Report was previously certified with the project entitlements on November 9, 2009.

Courtesy Copies
Eden Housing
Community Working Group

ATTACHMENTS:
- Attachment A: 4th Amendment to ADA (DOC)
- Attachment B: Loan Agreement (DOC)

Prepared By: Julie Caporgno, Chief Planning and Transportation Official
Department Head: Curtis Williams, Director
City Manager Approval: James Keene, City Manager
FOURTH AMENDMENT TO ALMA STREET AFFORDABLE MULTI-FAMILY RENTAL HOUSING PROJECT ACQUISITION AND DEVELOPMENT AGREEMENT

THIS FOURTH AMENDMENT TO ACQUISITION AND DEVELOPMENT AGREEMENT ("Fourth Amendment"), dated as of __________, 2011 ("Effective Date") is entered into by and among the CITY OF PALO ALTO, a municipal corporation (the "City") and PALO ALTO FAMILY, L.P., a California limited partnership ("Developer").

RECATALS

This Fourth Amendment is entered into with reference to the following facts:

A. The City and Developer’s general partners (or their predecessors in interest), COMMUNITY HOUSING ALLIANCE, INC., a California non-profit public benefit corporation, and EDEN HOUSING, INC., a California non-profit public benefit corporation, entered into that certain Acquisition and Development Agreement as of August 6, 2007, a First Amendment dated as of September 15, 2008, a Second Amendment dated April 1, 2009, and a Third Amendment dated August 30, 2010 (collectively, the "ADA") for the Alma Street Affordable Multi-Family Rental Housing Project, located on certain real property located in the City of Palo Alto identified more particularly in the ADA (the "Property"). All capitalized terms used herein without definition at first use shall have the meanings ascribed to them in the ADA.

B. City and Developer now desire to amend the Agreement again to reflect some of the requirements of other financing sources for the Project, including the State of California Multifamily Housing Program ("MHP") and the Low Income Housing Tax Credits Program ("TCAC"), all as more particularly provided below.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants contained herein, the parties agree as follows:

1. Section 6.2.4 of the ADA is hereby deleted in its entirety and replaced by the following:

The restrictions imposed by this section and by the Regulatory Agreement shall continue for an initial period ending fifty-five (55) years from the date on which the final certificate of occupancy for the Development is issued by the City, unless it is extended pursuant to this Section (the "Restriction Termination Date"). For the purposes of the commercial condominium created for the ground floor commercial/retail space, the Restriction Termination Date shall be the date upon which the subdivision of the ground floor condominiums is completed and recorded in accordance with state law. It is the intent of the parties to maintain affordability of the Affordable Units for the longest time feasible. Accordingly, the parties agree
to negotiate one or more extensions of the Restriction Termination Date to the extent permitted by TCAC and other applicable public financing requirements, and to execute and record one or more appropriate amendments to the Regulatory Agreement to effect such extension(s).

2. Section 7.2.3 of the ADA is hereby deleted in its entirety and replaced by the following:

Payments of principal and interest on the City Loan shall be made on a residual receipts basis as described in, and in accordance with, the City Note.

3. Section 7.2.5 of the ADA is hereby deleted in its entirety.

4. The first paragraph of Section 8.5.4 is hereby deleted in its entirety and replaced by the following:

Upon such termination, in addition to the other rights of City under this Section 8.5, City shall also have the option, subject to the rights of Holders set forth in Section 5.13, to purchase the Site (the “Option”); provided that, City must exercise the Option by written notice to Developer prior to the date, if any, on which the default is cured. The rights of City to repurchase pursuant to this Section 8.5.4 shall be set forth in the Regulatory Agreement and in the Memorandum of Option in the form attached hereto as Attachment No. 11, which shall encumber the entire Site; provided, however that the commercial condominiums for the ground floor commercial/retail space shall be released from the encumbrance of the Option when those condominiums are created in accordance with the Subdivision Map Act.

5. Attachment No. 4, Form of Grant Deed, shall be deleted in its entirety and replaced with the Revised Attachment No. 4, Form of Grant Deed, attached hereto and incorporated herein.

6. Attachment No. 7, Form of City Note, shall be deleted in its entirety and replaced with the Revised Attachment No. 7, Form of City Note, attached hereto and incorporated herein.

7. Attachment No. 8, Form of City Deed of Trust, shall be deleted in its entirety and replaced with the Revised Attachment No. 8, Form of City Deed of Trust, attached hereto and incorporated herein.

8. Attachment No. 9, Form of Regulatory Agreement, shall be deleted in its entirety and replaced with the Revised Attachment No. 9, Form of Regulatory Agreement, attached hereto and incorporated herein.

9. Attachment No. 11, Form of Memorandum of Option, is hereby deleted in its entirety and replaced by Revised Attachment No. 11, Form of Memorandum of Option.
10. **Execution in Counterparts.** This Fourth Amendment may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

11. **Effect of Fourth Amendment.** Except as modified by this Fourth Amendment, the ADA and each term contained therein remains in full force and effect. In the event of a conflict between the ADA and the terms of this Fourth Amendment, this Fourth Amendment shall control.

[Signatures appear on next page.]
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written above.

ATTEST:

City Clerk

CITY OF PALO ALTO, a chartered city

Mayor

“BORROWER”

PALO ALTO FAMILY, L.P., a California limited partnership

BY:

801 ALMA LLC, a California limited liability company, its Co-General Partner

By:

COMMUNITY WORKING GROUP, INC., a California non-profit public benefit corporation, its sole member/manager

BY:

EDEN INVESTMENTS, Inc., a California non-profit public benefit corporation, its Co-General Partner.

By:

Name: TERESA MCNAMEE
Title: CHIEF FINANCIAL OFFICER

94-2975223
Borrower FEIR#
REVISED ATTACHMENT NO. 4
FORM OF GRANT DEED

WHEN RECORDED MAIL TO AND MAIL TAX STATEMENTS TO:
City of Palo Alto
P.O. Box 10250
Palo Alto, CA 94303
Attn: City Manager

WITH A COPY TO:
Palo Alto Family, L.P.

(SPACE ABOVE FOR RECORDER'S USE ONLY)

Attention: __________________________

This document is exempt from the payment of a recording fee pursuant to Government Code § 27383 and §6103 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code Section 11922.

GRANT DEED

For a valuable consideration, receipt of which is hereby acknowledged,

The CITY OF PALO ALTO, a chartered city of the State of California (hereinafter referred to as “Grantor”), acting to carry out the public purposes of that certain Acquisition and Development Agreement (as amended from time to time, the “ADA”) dated as of August 6, 2007 and entered into by and between Grantor and PALO ALTO FAMILY, L.P., a California limited partnership (hereafter, “Grantee”), hereby grants to Grantee the real property (hereinafter referred to as the “Property”), described in Exhibit “A”, attached hereto and incorporated herein by this reference. Further, title to the Property is conveyed pursuant hereto subject to all recorded liens, encumbrances, covenants, encroachments, assessments, easements, leases and taxes.

[Signatures appear on the following page]
IN WITNESS WHEREOF, the Grantor and the Grantee have caused this instrument to be executed on their behalf by their respective officers thereunder duly authorized, as of this ______ day of ______________, 201__.

“GRANTOR”
CITY OF PALO ALTO,
a chartered city

By: ___________________________
Name: __________________________

Title: ___________________________

ATTEST:

By: ___________________________
   City Clerk

APPROVED AS TO FORM:

______________________________
City Attorney
ACKNOWLEDGMENT

STATE OF CALIFORNIA )
COUNTY OF ) ss.

On ________________, before me, ____________________________, a 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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ____________________________

(seal)

ACKNOWLEDGMENT

STATE OF CALIFORNIA )
COUNTY OF ) ss.

On ________________, before me, ____________________________, a 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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ____________________________

(seal)
EXHIBIT “A”

LEGAL DESCRIPTION

PROPERTY

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:
REVISED ATTACHMENT NO. 7

Form of Promissory Note

PROMISSORY NOTE
(City Loan)

$3,500,000

PALO ALTO, CALIFORNIA

FOR VALUE RECEIVED, PALO ALTO FAMILY, L.P., a California limited partnership (the “Maker”) promises to pay to the CITY OF PALO ALTO (the “City”), or order, the principal sum of THREE MILLION FIVE HUNDRED DOLLARS ($3,500,000), or such portion thereof that may have been disbursed to Maker (the “Loan”). This Note amends, replaces, and supersedes in its entirety that certain “City Note” dated August 1, 2008, made by Maker. The Loan shall bear simple interest of three percent (3%) per annum, simple interest, on the amount disbursed from the date of disbursement. The City agrees to reduce or eliminate the interest rate at Maker’s request prior to the admission of the investor limited partner if, and to the extent that, a reduction or elimination of the interest rate on the Loan is necessary to prevent Maker’s investor limited partner’s capital account from being a negative number during the Low-Income Housing Tax Credit period.

1. The Loan is made pursuant to that certain Acquisition and Development Agreement between Maker and City dated as of August 6, 2007 (as amended from time to time, the “ADA”). All capitalized terms used herein and not defined when first used shall have the meaning ascribed to them in the ADA. The Loan will be used by Maker for the predevelopment expenses related to the development of certain real property as described in the ADA (the “Project”) and pursuant to the terms and conditions contained therein and to those contained in that certain Regulatory Agreement recorded on the Property on ________________, 2011 as Document No. __________ (the “Covenant”).

2. Payment of this Note is secured by a deed of trust, assignment of rents, security agreement and fixture filing from Maker to City of even date herewith and recorded against the Project on ______________, 2011, as Document No. __________ (the “Deed of Trust”).

3. This Note shall be due and payable as follows:

Beginning with Maker’s fiscal year following the first year of operations of the Project after completion of rehabilitation of the Project, Maker shall make annual payments of interest and principal to the City only from “Residual Receipts,” defined below, from Maker’s preceding fiscal year. Residual Receipts will be divided: 50% as the “Maker’s Share” and 50% as the “Lenders’ Share.” The 50% Lenders’ Share will be used to repay any of the City loans to the Project, the Maker’s MHP loan from the California Department of Housing and Community Development, if received, and other subordinate loans on a pro rata basis based on the respective loan amounts. Payment shall be made within one hundred eighty (180) days of the end of each
fiscal year of Maker. Payments shall be applied first to interest on the Loan and then to reduce principal. To the extent the Residual Receipts from any fiscal year are not sufficient to pay the entire amount of interest due for such year any unpaid interest for any fiscal year on the Loan shall accrue and shall be payable from the Residual Receipts from succeeding fiscal years, with the entire remaining amount of principal and interest due on the fifty-fifth (55th) anniversary of the date on which the final certificate of occupancy for the Project is issued by the City, unless that time is extended by agreement of the parties in accordance with Section 6.2.4 of the ADA (herein, the “Maturity Date,” and otherwise referred to in the ADA as the “Restriction Termination Date”). All outstanding principal and all accrued interest under this Note shall be paid by the Maker on the Maturity Date, or in the case of a default under the ADA, on the date the ADA is terminated in accordance with Section 12 thereof.

For the purposes herein, “Residual Receipts” means the difference, if positive, between all income received by Maker with respect to the Project (including, without limitation, rents, grants, reimbursements, contributions, gifts, or payments for services delivered at the Project) and all operating expenses of the Project (including, without limitation, maintenance, repairs, payment of staff salaries and Project management fees and reimbursements in accordance with the limitations in the ADA, taxes, debt service currently due and payable on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Project) on Approved Senior Loans and such other loans approved by the City and which are secured by deeds of trust senior in priority to the Additional Deed of Trust (collectively, "Approved Senior Loans"), premiums for property damage, liability and other insurance related to the Project; utility service costs not paid for directly or indirectly by tenants; fees for licenses and permits related to the operation of the Project; organizational costs (e.g., annual franchise tax payments) and costs associated with accounting, tax preparation and legal fees of Maker incurred in the ordinary course of business; expenses for security services; advertising and marketing costs; payment of deductibles in connection with insurance claims not paid from reserves; tenant services; the amount of uninsured losses actually replaced, repaired or restored and not paid from reserves; cash deposits into reserves for capital replacements in an amount no more than $600 per unit per year or such greater amount as reasonably required by the holder of an Approved Senior Loan or Maker’s investor limited partner or as required by a physical needs assessment prepared by a third-party selected or approved by City and prepared at Maker’s expense; an annual partnership management fee payable to the general partner of Maker in the maximum aggregate sum of $25,000 per year (plus any portion of such annual fee deferred from prior years), increasing by three percent (3%) per year and payable only during the first fifteen (15) years following issuance of a final certificate of occupancy for the Project (unless City in its sole discretion consents to a request by Maker to extend such period); an annual asset management fee not to exceed $10,000 per year (plus any portion of such annual fee deferred from prior years) increasing by three percent (3%) per year, payable to the investor limited partner of Maker only during the first fifteen (15) years following issuance of a final certificate of occupancy for the Project (unless City in its sole discretion consents to a request by Maker to extend such period); any previously unpaid portion of the developer fee (without interest) due in accordance with the Financing Plan (provided that the cumulative amount of such fee does not exceed the maximum allowable by the California Tax Credit Allocation Committee (the “Approved Developer Fee”); cash deposits into operating reserves in an amount reasonably approved by City or required by the holder of an Approved Senior Loan or Maker’s investor limited partner; other reserve account deposits required pursuant to Approved Senior Financing or Maker’s investor limited
partner; other ordinary and reasonable operating expenses; and other extraordinary operating expenses specifically approved by the City.

Beginning with the first year of operations of the Project after completion of the rehabilitation, Maker shall deliver to City each year an annual audited financial statement to determine the amount of Residual Receipts. City shall have the right upon reasonable notice to Maker to inspect and audit Maker’s books and records concerning the calculation of Residual Receipts.

4. Payment shall be made in lawful money of the United States to the City of Palo Alto, P.O. Box 10250, Palo Alto, CA 94303, Attn: __________. The place of payment may be changed from time to time as the City may from time to time designate in writing.

5. Within ten (10) business days after maker’s receipt of its limited partner(s)’ capital contribution following the issuance of the IRS Form 8609 for the Project, Maker shall make a one-time payment to the City to reduce the amount of the Loan by the amount equal to any project Excess Proceeds. For the purposes of this Note, “Excess Proceeds” shall mean the sum of all sources of permanent financing for the Project (including equity and mortgage debt) less the sum of actual uses as shown on the final cost certificate for the Project prepared in accordance with applicable tax credit and other governmental requirements. For purposes of calculating Excess Proceeds: (i) Maker shall be entitled to pay any deferred Developer Fee; (ii) the Project replacement reserve shall be funded in an amount equal to the amount(s) shown on the Project pro forma approved pursuant to the ADA, or such amount as required by the holder of an Approved Senior Loan or approved investor limited partner, and (iii) the operating reserve shall be funded in an amount shown on the Project pro forma approved pursuant to the ADA, or such amount as required by the holder of an Approved Senior Loan or approved investor limited partner.

6. The occurrence of any of the following shall constitute an event of default under this Note: (i) Maker fails to pay any amount due hereunder within ten (10) days of its due date; (ii) any default by Maker under the ADA after any applicable cure period; or (iii) any sale, exchange, transfer, assignment or other conveyance of the Project without City’s prior written approval.

Upon the occurrence of any event of default, or at any time thereafter, at the option of the City hereof, the entire unpaid principal owing on this Note shall become immediately due and payable. In such event, interest shall accrue on the entire unpaid amount then owing commencing from the date such amount was due and continuing until the date such amounts are paid in full. This option may be exercised at any time following any such event, and the acceptance of one or more installments thereafter shall not constitute a waiver of such option with respect to any subsequent event. City’s failure in the exercise of any other right or remedy hereunder or under any agreement which secures the indebtedness or is related thereto shall not affect any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof.

7. City shall not exercise any right or remedy provided for herein because of any default of Maker unless, in the event of a monetary default, Maker shall have failed to pay the
outstanding sums within a period of thirty (30) calendar days after notice that payment was due; or in the event of a nonmonetary default, City shall have first given written notice thereof to Maker, and Maker shall have failed to cure the nonmonetary default within a period of thirty (30) days after the giving of such notice of such default; provided that if the nonmonetary default cannot be cured within thirty (30) days and Maker proceeds diligently with effort to cure such default until it shall be fully cured within no more than one hundred twenty (120) days after the giving of such notice, City shall not exercise any right or remedy provided for herein until such one hundred twenty (120) shall expire; provided, however, City shall not be required to give any such notice or allow any part of the grace period if Maker shall have filed a petition in bankruptcy or for reorganization or a bill in equity or otherwise initiated proceedings for the appointment of a receiver of its assets, or if Maker shall have made an assignment for the benefit of creditors, or if a receiver or trustee is appointed for Maker and such appointment or such receivership is not terminated within forty-five (45) days.

8. Maker and any endorsers hereof, if any, and all others who may become liable for all or any part of this obligation, if any, severally waive presentment for payment, demand and protest and notice of protest, and of dishonor and nonpayment of this Note, and expressly consent to any extension of the time of payment hereof or of any installment hereof, to the release of any party liable for this obligation, and any such extension or release may be made without notice to any of said parties and without in any way affecting or discharging this liability.

9. Maker agrees to pay immediately upon demand all costs and expenses of City including reasonable attorneys’ fees, (i) if after default this Note be placed in the hands of an attorney or attorneys for collection, (ii) if after a default hereunder, City finds it necessary or desirable to secure the services or advice of one or more attorneys with regard to collection of this Note against Maker, any guarantor, if any, or any other party liable therefor, if any, or to the protection of its rights under ADA, this Note, the Deed of Trust or the Covenant, or (iii) if City seeks to have the Project abandoned by or reclaimed from any estate in bankruptcy, or attempts to have any stay or injunction prohibiting the enforcement or collection of the Note or prohibiting the enforcement of the Deed of Trust or any other agreement evidencing or securing this Note lifted by any bankruptcy or other court.

10. If City shall be made a party to or shall reasonably intervene in any action or proceeding, whether in court or before any governmental City, affecting the Project or the title thereto or the interest of the City under the Deed of Trust, including without limitation, any form of condemnation or eminent domain proceeding, City shall be reimbursed by Maker immediately upon demand for all costs, charges, and attorneys’ fees incurred by City in any such case, and the same shall be secured by the Deed of Trust as a further charge and lien upon the Project.

11. Any notices provided for in this Note shall be given by mailing such notice by certified mail, return receipt requested at the addresses set forth in the ADA or at such address as either party may designate by written notice.

12. This Note shall be binding upon Maker, its successors and assigns. This Note may not be assigned by Maker without the prior written approval of City.
13. This Note is nonrecourse and neither Maker nor any member, officer, agent, director, affiliate, parent, partner or employee of Maker shall have any personal liability for repayment of the sums evidenced hereby, and the City must resort only to the Project for repayment should the Maker fail to repay the sums evidenced hereby. Regardless of the foregoing limitation of liability, Maker will be fully liable for the following:

   a. Failure to pay property taxes, assessments and any other charges that could result in liens against any portion of the Project or any other collateral pledged, encumbered or otherwise covered by the Deed of Trust;

   b. Failure to pay and discharge any mechanics’ liens, materialmens’ liens or other liens against any portion of the Project or any other collateral pledged, encumbered, or otherwise covered by the Deed of Trust;

   c. Fraud or intentional misrepresentation with respect to any representation, warranty or certification made in the Loan Documents, or otherwise made by Maker in connection with the Loan;

   d. Retention by Maker of any rental income or other income arising with respect to any portion of the Project or any other collateral pledged, encumbered, or otherwise covered by the Deed of Trust subsequent to the date of any notice of default to Maker;

   e. Retention by Maker of any insurance proceeds, condemnation awards, or other similar funds or payments attributable to the Project or any other collateral pledged, encumbered, or otherwise covered by the Deed of Trust that, by its terms, should have been paid to City or used in a manner contrary to the use made by Maker;

   f. Waste of the Project, or any failure to maintain, repair, or restore any portion of the Project or any other collateral pledged, encumbered, or otherwise covered by the Deed of Trust in accordance with its terms.

14. This Note shall be construed in accordance with and be governed by the laws of the State of California.

15. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

16. Maker may, without premium or penalty, at any time and from time to time, prepay all or any portion of the outstanding principal balance due under this Note, provided that each such prepayment is accompanied by accrued interest on the amount of principal prepaid calculated to the date of such prepayment. Prepayments shall be applied first to any unpaid late charges and other costs and fees then due, then to accrued but unpaid interest, and then to principal. The Covenant shall remain in full force for the entire term thereof regardless of any prepayment of this Note.

[Signatures appear on next page.]
MAKER:

"BORROWER"

PALO ALTO FAMILY, L.P., a California limited partnership

BY:

801 ALMA, LLC, a California limited liability company, its Co-General Partner

By: COMMUNITY WORKING GROUP, INC., a California non-profit public benefit corporation, its sole member/manager

By: ______________________
Name: ______________________
Title: ______________________

BY:

EDEN INVESTMENTS, Inc., a California non-profit public benefit corporation, its Co-General Partner.

By: ______________________
Name: ______________________
Title: ______________________
REVISED ATTACHMENT NO. 8

Form of City Deed of Trust

RECORDING REQUESTED BY
AND WHENRecorded MAIL TO:

City of Palo Alto
P.O. Box 10250
Palo Alto, California 94303
Attn: City Manager

(SPACE ABOVE FOR RECORDER'S USE ONLY)

This document is exempt from the payment of a recording fee pursuant to Government Code § 27383 and §6103.

DEED OF TRUST AND ASSIGNMENT OF RENTS

A.P.N.__________

THIS DEED OF TRUST (this "Deed of Trust") is made as of ____________, 2011, between PALO ALTO FAMILY, L.P., a California limited partnership ("Trustor"); FIRST AMERICAN TITLE INSURANCE COMPANY as "Trustee," and the CITY OF PALO ALTO, a chartered city ("Beneficiary"). Trustor is the fee owner of the Property described below.

This Deed of Trust witnesseth:

That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS TO TRUSTEE IN TRUST, WITH POWER OF SALE, that certain real property in Santa Clara County, California, described as:

See Exhibit A, attached hereto and incorporated herein by this reference.

TOGETHER WITH the rents, issues and profits thereof; SUBJECT, HOWEVER, to the right, power, and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits; and together with all buildings and improvements of every kind and description now or hereafter erected or placed thereon, and all fixtures, including but not limited to all gas and electric fixtures, engines and machinery, radiators, heaters, furnaces, heating equipment, laundry equipment, steam and hot water boilers, stoves, ranges, elevators and motors, bath tubs, sinks, water closets, basins, pipes, faucets and other plumbing and heating fixtures, mantels, cabinets, refrigerating plant and refrigerators, whether mechanical or otherwise, cooking apparatus and appurtenances, and all shades, awnings, screens, blinds and other furnishings, it being hereby agreed that all such fixtures and furnishings shall to the extent permitted by law be deemed to be permanently affixed to and a part of the realty; and

Together with all building materials and equipment now or hereafter delivered to the premises and intended to be installed therein; and
Together with all articles of personal property owned by the Trustor now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the lands described which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same, are or shall be attached to the building or buildings in any manner. All of the foregoing, together with the real property, is herein referred to as the “Property.”

To have and to hold the Property, together with appurtenances to the Trustee or its successors and assigns, forever.

For the Purpose of Securing:

(a) Performance of each agreement of Trustor herein contained.

(b) Payment of the indebtedness evidenced by that certain promissory note of even date herewith, and any extension or renewal thereof, in the stated principal sum of $3,500,000.00 (the “Note”), executed by Trustor in favor of Beneficiary or order.

(c) Payment of such further sums as the then record owner of the Property hereafter may borrow from Beneficiary, when evidenced by another note (or notes) reciting it is so secured.

(d) Performance by Trustor of all of Trustor’s obligations arising under that certain Regulatory Agreement dated __________ and recorded on the Property on __________, 2011 as Document No. __________ (the “Covenant”).

(e) Performance of each obligation of Trustor set forth in that certain Acquisition and Development Agreement dated as of August 6, 2007 and amended from time to time (the “ADA”), entered into by and between Trustor’s predecessors-in-interest and Beneficiary.

To Protect the Security of This Deed of Trust, Trustor Agrees:

(1) That it shall faithfully perform each and every covenant contained in the Note, the Covenant, and the ADA.

(2) That it will not permit or suffer the use of any of the Property for any purpose other than the use described in the Covenant and the ADA as they may be amended from time to time.

(3) To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting the Property, or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use

10677-0013\1323435v2.doc Revised Attachment 8, Pg 2
of the Property may be reasonably necessary, the specific enumerations herein not excluding the
general.

(4) To provide, maintain and deliver to Beneficiary fire and extended coverage
insurance with endorsements for vandalism, malicious mischief, and special extended perils, in
the full replacement value of the improvements (excluding footings and foundations with no co-
insurance penalty provision), and with endorsements for increases in costs due to changes in
code and inflation, and any other insurance requested by Beneficiary, and with loss payable to
Beneficiary, and any other insurance required by the ADA. The amount collected under any fire
or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby
and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so
collected or any part thereof may be released to Trustor. Such application or release shall not
cure or waive any default or notice of default hereunder or invalidate any act done pursuant to
such notice. Beneficiary shall have the right to pay any insurance premiums when due should
Trustor fail to make them, and all such payments made by the Beneficiary shall be added to the
principal sum secured hereby. Beneficiary shall release all insurance or condemnation proceeds
to Trustor to be used to reconstruct the Project on the Property provided that such Beneficiary
determines that such restoration, repair or rebuilding is economically feasible. Notwithstanding
the foregoing, unless Beneficiary and Trustor otherwise agree in writing, insurance proceeds
shall be applied to restoration or repair of the Property damages, provided Beneficiary
determines that such restoration or repair is economically feasible and there is no default
continuing beyond the expiration of all applicable cure periods. If Beneficiary determines that
such restoration or repair is not economically feasible or if a default exists after expiration of all
applicable cure periods, the insurance proceeds shall be applied to the sums secured by this Deed
of Trust, with the excess, if any, paid to Trustor. In the event funds for such work are
insufficient, Beneficiary may, at its option, advance such additional funds as may be necessary to
allow the Property to be repaired or restored, and may add the amount thereof to the principal
balance of the Note hereby secured.

(5) To appear in and defend any action or proceeding purporting to affect the security
hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses,
including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or
proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary
to foreclose this Deed of Trust.

(6) To pay: at least ten (10) calendar days before delinquency all taxes and
assessments affecting the Property, including assessments on appurtenant water stock; when due,
all encumbrances, charges and liens, with interest, on the Property or any part thereof, which
appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

(7) Should Trustor fail to make any payment or to do any act as herein provided, then
Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon
Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in
such manner and to such extent as either may deem necessary to protect the security hereof;
Beneficiary or Trustee being authorized to enter upon the Property for such purposes with
written notice to Trustor; appear in and defend any action or proceeding purporting to affect the
security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or
compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay its reasonable fees.

(8) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby, any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time the statement is made.

(9) The Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the Property any lien or liens except as authorized by Beneficiary and further that it will keep and maintain the Property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on the Property, or will cause the release of or will provide a bond against any such liens within ten (10) days of Trustor’s receipt of notice of the lien or liens.

(10) That any award of damages in connection with any condemnation for public use of or injury to the Property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys it receives in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance. Notwithstanding the foregoing, the proceeds of any award or claim for damages, direct or consequential, in connection with a total condemnation or taking of the Property, shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor, unless Trustor and Beneficiary otherwise agree in writing. In the event of a partial condemnation or taking, the proceeds shall be applied to the restoration or repair of the Property, provided Beneficiary determines that such restoration or repair is economically feasible and there is no default continuing after the expiration of all applicable cure periods. If Beneficiary determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the condemnation proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. In the event funds for such work are insufficient, Beneficiary may, at its option, advance such additional funds as may be necessary to allow the Property to be repaired or restored, and may add the amount thereof to the principal balance of the Note hereby secured.

(11) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(12) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of the Property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.
(13) That upon written request of Beneficiary stating that all sums secured hereby have been paid or forgiven by Beneficiary, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as “the person or persons legally entitled thereto.” In addition, upon Beneficiary’s satisfaction that the subdivision process for the creation of commercial condominiums for the ground level commercial/retail spaces on the Property in accordance with state law has been completed, Beneficiary shall make written request to Trustee for the partial reconveyance of the portion of the Property consisting of those condominiums, and the encumbrance of this Deed of Trust shall be reconveyed without warranty as to that portion of the Property only.

(14) That Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary all the rents, income and profits of the property encumbered hereby, and hereby give to and confer upon Beneficiary the right, power and authority to collect such rent, income, and profits, and Trustor irrevocably appoints Beneficiary Trustor’s true and lawful attorney at the option of Beneficiary, at any time, to give receipts, releases and satisfactions and to sue, either in the name of Trustor or in the name of Beneficiary, for all income, and apply the same to the indebtedness secured hereby; provided, however, so long as no default by Trustor in the payment of any indebtedness secured hereby shall exist and be continuing, Trustor shall have the right to collect all rent, income and profits from the Property and to retain, use and enjoy the same. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney’s fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(15) That upon default by Trustor in payment of any indebtedness secured hereby, or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and election to cause to be sold the Property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby. After the lapse of such time as may then be required by law following the recordation of the notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Property at the time and place fixed by it in the notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed
conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at the sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(16) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title estate, rights, powers and duties. The instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee.

(17) That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the Note, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(18) That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

(19) If Trustor shall die or sell, convey, hypothecate, transfer, encumber or alienate the Property, or any part thereof, or any interest therein, or shall be divested of title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the Beneficiary being first had and obtained, or if Trustor shall fail to make any payments due under the Note, or fail to perform any other obligation under this Deed of Trust, the Note, the Covenant or the ADA, or any other deed of trust encumbering the Property or the promissory note or other agreement secured thereby, then Beneficiary shall have the right, at its option, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any note evidencing the same, immediately due and payable.

(20) That Trustor shall promptly pay when due the payments of interest, principal, and all other charges accruing under any superior or prior trust deed, mortgage, or other instrument encumbering the Property. Upon any breach of the ADA, Beneficiary shall have the right to declare all sums secured hereby immediately due and payable. Beneficiary shall have the right,
but not the obligation, to cure any defaults on any superior or prior deed of trust or promissory note secured thereby and upon curing such default Trustor shall immediately reimburse Beneficiary for all costs and expenses incurred thereby, together with interest thereon at the maximum legal rate permitted to be charged by non-exempt lenders under the State of California, and Trustor’s failure to pay such amount on demand shall be a breach hereof. Trustor’s breach or default of any covenant or condition of any superior or prior trust deed, mortgage or other instrument encumbering the Property shall be a default under this Deed of Trust.

(21) That the improvements now existing or to be constructed upon the Property, and all plans and specifications, comply with all municipal ordinances and regulations and all other regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to it at the following addresses:

Eden Investments, Inc.
22645 Grand St.
Hayward, CA 94541
Attn: Executive Director
Tel: (510) 582-1460
Fax: (510) 582-6523

And

801 Alma, LLC
C/o Community Working Group, Inc.
948 Ramona Street
Palo Alto, CA 94301
Attn: Donald A. Barr
Tel: (650) 906-6943
Fax: (650) 725 5451

With a copy to:

Jorgenson, Siegel,
McClure & Flegel, LLP
1100 Alma St., Ste. 210
Menlo Park, CA 94025-3392
Attn: Sandy Sloan
Tel: (650) 324-9300
Fax: (650) 324-0227

NOTE: The Trustor (sometimes referred to herein as the "Partnership"), through its limited partner, is providing equity for the development of the Property. The agreement of limited partnership governing the Trustor, as it may be amended and/or amended and restated from time to time, is referred to herein as the “Partnership Agreement.”
INVESTOR PROVISIONS:

a. If a non-monetary event of default occurs under the terms of this Deed of Trust, the Note, the Covenant or the ADA (the “Loan Documents), prior to exercising any remedies thereunder, Beneficiary shall give Trustor and each of its general and limited partners simultaneous written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Trustor and its limited partner shall have such period to effect a cure prior to exercise of remedies by Trustor under the Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and if the Beneficiary (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then the Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary.

b. Beneficiary hereby agrees that any cure of any default made or tendered by one or more of the Partnership’s limited partners shall be deemed to be a cure by the Partnership and shall be accepted or rejected on the same basis as if made or tendered by the Partnership. Copies of all notices which are sent to the Partnership under the terms of the Loan Documents shall also be sent to:

[Address to be provided]

The Partnership’s limited partners may change their address for receipt of copies of notices by giving notice in writing stating its new address to the Beneficiary. Commencing on the tenth (10th) day after the giving of such notice, such newly designated address shall be effective for purposes of all such copies of notices required to be sent by the Beneficiary to the limited partners.

c. Notwithstanding any of the provisions hereof, none of the following shall constitute a violation of the Loan Documents:

(i) The withdrawal, removal, replacement, and/or addition of a general partner of the Partnership pursuant to the terms of the Partnership Agreement, provided that any new general partner: (a) is an entity that is exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended from time to time (or any successor statute), and (b) receives prior written approval from the City; and

(ii) The transfer of any of the limited partners’ interests in the Partnership.

d. The execution and delivery of a right of first refusal and purchase option to either Co-General Partner or an affiliate thereof pursuant to the Partnership Agreement shall not constitute a default under the Loan Documents or accelerate the maturity of the Loan.
e. Beneficiary acknowledges that Trustor and the California Tax Credit Allocation Committee ("CTCAC") intend to enter into an extended use agreement, which constitutes the extended low-income housing commitment described in Section 42(h)(6)(B) of the Internal Revenue Code (IRC), as amended. As of the date hereof, IRC Section 42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under Section 42 for a period of three (3) years after the date the building is acquired by foreclosure or instrument in lieu of foreclosure. In the event the regulatory agreement required by CTCAC is recorded against the Property, Beneficiary agrees to comply with the provisions set forth in IRC Section 42(h)(6)(E)(ii).

[Signatures appear on next page.]
Signature of Trustor

ATTEST:

CITY OF PALO ALTO, a chartered city

__________________________
City Clerk

Mayor

“BORROWER”

APPROVED AS TO FORM:

PALO ALTO FAMILY, L.P., a California limited partnership

__________________________
Assistant City Attorney

BY:

801 ALMA, LLC, a California limited liability company, its Co-General Partner

By: COMMUNITY WORKING GROUP, INC., a California non-profit public benefit corporation, its sole member/manager

APPROVED:

__________________________
Assistant City Manager

By:

Name: ______________________
Title: ______________________

__________________________
Director of Administrative Services

________________________________
EDEN INVESTMENTS, Inc., a California non-profit public benefit corporation, its Co-General Partner.

__________________________
Director of Planning and Community Environment

__________________________
Insurance Review

Borrower FEIR#
ACKNOWLEDGMENT

STATE OF CALIFORNIA )
 ) ss.
COUNTY OF ____________ )

On ____________, before me, ____________________________, a 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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ____________________________

(seal)

ACKNOWLEDGMENT

STATE OF CALIFORNIA )
 ) ss.
COUNTY OF ____________ )

On ____________, before me, ____________________________, a 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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ____________________________

(seal)
EXHIBIT “A”
LEGAL DESCRIPTION OF THE PROPERTY
REVISED ATTACHMENT NO. 9

Form of Regulatory Agreement

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

City of Palo Alto
P.O. Box 10250
Palo Alto, California 94303
Attn: City Manager

(SPACE ABOVE FOR RECORDER'S USE ONLY)

This document is exempt from the payment of a recording fee pursuant to Government Code § 27383 and §6103.

REGULATORY AGREEMENT

THIS REGULATORY AGREEMENT (this “Agreement”) is made and entered into as of __________, 20__ by and between the CITY OF PALO ALTO, a chartered city (hereinafter referred to as “City”) and PALO ALTO FAMILY, L.P., a California limited partnership (“Owner”), with reference to the following:

RECITALS

A. Owner is the owner of real property located in the City of Palo Alto, California (hereinafter referred to as the “Property”) and legally described on Exhibit “A,” attached hereto and incorporated herein by this reference.

B. Owner’s predecessors-in-interest and City entered into that certain Acquisition and Development Agreement dated as of August 6, 2007, as amended from time to time (hereinafter referred to as the “ADA”), which is incorporated herein by this reference. All capitalized terms not defined when first used in this Agreement shall have the meanings ascribed to them in the ADA. Under the ADA, the City is providing financial assistance to Owner for the purpose of acquiring and making improvements to the Property for use as residential development including affordable multi-family rental housing (the “Development”).

C. As a condition of providing such financial assistance, the Owner desires to record this Agreement to impose certain income and rent restrictions on the Development described below to satisfy the requirements under Section 6.2 of the ADA.

NOW, THEREFORE, City and Owner agree as follows:
AGREEMENT

1. Except for the covenants contained in Section 4 and Section 7 below, the covenants contained in this Agreement shall remain in full force and effect for fifty-five (55) years after the date on which the final certificate of occupancy for the Project is issued (the "Restriction Termination Date"), unless sooner terminated by written agreement of the Owner and the City. The covenants contained in Section 4 below shall remain in effect in perpetuity. The provisions in Section 7 shall terminate upon the issuance of the final certificate of occupancy for the Project.

2. Owner hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that the Owner, and such successors and such assigns, shall:
   a. Develop and use the Property only for the Development permitted and specified in the ADA;
   b. Keep the Property free from any accumulation of debris or waste materials, and keep the landscaping in a healthy condition;
   c. Maintain the Property and all improvements on the Property, including landscaping, in good condition, and to the reasonable satisfaction of the City. Maintenance shall be in conformance and in compliance with City’s normal maintenance standards, as defined by City’s codes relating to property maintenance and in accordance with the following:
      i. Owner and its successors and assigns shall maintain the Property and the improvements thereon in the same aesthetic and sound condition (or better) as to the condition of the Property at the time City issues a Certificate of Completion pursuant to the ADA, reasonable wear and tear excepted. In the event Owner, its successors or assigns fail to maintain the Improvements in accordance with the standard for the quality of maintenance, City or its designee shall have the right but not the obligation to enter the Property upon reasonable notice to the then record owner of the Property, correct any violation, and hold Owner, or its successors or assigns responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Property. The Owner and each successor and assign shall be liable for maintenance of the Property pursuant to this paragraph only for the respective period of time during which such entity holds an ownership interest in the Property.
      ii. Except for Permitted Alterations (as hereinafter defined), Owner shall not make or suffer to be made any alterations, additions, or improvements to or on the Property or any building or structure thereon or any part thereof without the prior written consent of City, which consent will not be unreasonably withheld, conditioned or delayed. Any request for consent shall be accompanied by plans and specifications for the proposed work in reasonable detail (including component materials and finish items) to enable City to consider whether or not to grant approval. City may condition its approval in any way reasonably deemed necessary by City to protect its interest in the Property. The term "Permitted Alterations" shall mean (and Owner shall not be required
to obtain the consent of City for) either of the following, to the extent they comply with all applicable City procedures and requirements: (aa) any alterations, additions, improvements, exterior painting or landscaping (which alterations, additions, improvements, exterior painting or landscaping undertaken during a twelve (12) month period, which cost less than 20% of the value of the Property after issuance of the Certificate of Completion); or (bb) any tenant improvements within tenant or subtenant spaces or signs for any tenants or subtenants. All alterations, additions, or improvements by Owner shall be made without cost or expense to City, by responsible and licensed contractors. All improvements and equipment shall be designed, built, and installed in accordance with all applicable building codes and regulations, and Owner shall obtain all necessary building permits. Notwithstanding any provision of this paragraph “c,” prior to the recordation of the Certificate of Completion for the Property, construction or rehabilitation of the initial Improvements shall be governed by the applicable provisions of the ADA.

3. Owner hereby further covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that the Owner, and such successors and such assigns, that:

   a. Owner shall operate a residential project consisting of thirty-five (35) to fifty-five (55) residential units (the “Project”).

   b. All of the residential units in the Project (the “Affordable Units”) shall be both rent-restricted and occupied, or if vacant, available for occupancy, by Very Low Income Households whose incomes do not exceed fifty percent (50%) of the Area Median Income for Santa Clara County, as adjusted by household size, or such other qualifying limits for Very Low Income Households as may be established in accordance with California Tax Credit Allocation Committee (TCAC) guidelines, as they subsequently may be amended. In addition, at least thirty percent (30%) of the Affordable Units shall be occupied (or available for occupancy) by Extremely Low Income households whose incomes do not exceed thirty percent (30%) of the Area Median Income. The Affordable Units shall contain the number of bedrooms that may be required by the financing approved by the City.

   c. Rents shall be restricted on Affordable Units to thirty percent (30%) of the income limitation above, or as otherwise may be set forth in the TCAC guidelines (“Affordable Rents”).

   d. In determining the household size appropriate for the Affordable Unit, it shall be assumed one person occupies a studio unit, one and one-half persons occupy a one-bedroom unit, three persons occupy a two-bedroom unit, four and one-half persons occupy a three-bedroom unit, and six persons occupy a four-bedroom unit or as otherwise may be required by TCAC.

   e. The income and household size of all households occupying Affordable Units shall be certified by the Owner prior to occupancy and re-certified annually thereafter. Each annual re-certification shall also include the initial occupancy date of the household occupying the Unit, the monthly Affordable Rent paid for the Affordable Unit during the prior year, the utility allowance attributable to the Affordable Unit, and the percentage of household income
used to pay rent. The Owner shall maintain all certifications and make them available to the City upon request.

4. Owner herein covenants by and for itself and its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the grantee himself or herself, or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

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

Owner further covenants that all deeds, leases or contracts entered into with respect to the Property shall contain or be subject to substantially the following nondiscrimination/nonsegregation clauses:

IN DEEDS: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the grantee himself or herself, or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

“Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”
IN LEASES: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the leasing, subleasing, transferring, use or occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased.

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

IN CONTRACTS: "The contracting party or parties hereby covenant by and for himself or herself and their respective successors and assigns, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the contracting party or parties, any subcontracting party or parties, or their respective assigns or transferees, establish or permit any such practice or practices of discrimination or segregation.

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

5. All conditions, covenants and restrictions contained in this Agreement shall be covenants running with the land, and shall burden the Property and run for the benefit of City.

6. All covenants in this Agreement, without regard to technical classification or designation, legal or otherwise, shall, in any event, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by City, its successors and assigns, against Owner, its successors and assigns, to or of the Property or any portion thereof or any interest therein, and any party in possession or occupancy of the Property and such
covenants shall run in favor of City for the entire period during which such covenants shall be in force and effect, without regard to City is or remains an owner of any land or interest therein to which such covenants relate. City shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

7. Prior to the issuance of the final certificate of occupancy for the Project (the “Restriction Termination Date”), in the event Owner ceases to operate the Property in accordance with this Agreement or ceases to operate the Project, and fails to cure such breach upon sixty (60) days’ written notice from City, in addition to the other rights of City under this Agreement, City shall also have the option to purchase the Property (the “Option”) in accordance with the following:

a. The Option shall be exercised, if at all, by City’s delivery of written notice of its election to exercise the Option to Owner within one year after expiration of the last of the cure periods granted to Owner, and the Owner shall execute, acknowledge and deliver a grant deed for the Property to the City within fifteen (15) business days after the City’s election, subject only to the title exceptions described in clause (c) below. In the event Owner fails to do so, City shall have, in addition to any and all of its other rights and remedies at law, in equity and under this Agreement, the right to an order for specific performance.

b. The purchase price for the Property under the Option (the “Option Purchase Price”) shall be the balance then due to the City under the City Loan described more particularly in the ADA.

c. City shall credit the Option Purchase Price to Owner through escrow. Owner shall convey title subject only to exceptions that (i) existed at the time of Owner’s acquisition of the Property, or (ii) were created with the written consent of City or approved in writing by City or expressly contemplated or permitted by this Agreement, including but not limited to the deed of trust or other lien securing construction or permanent financing.

d. Upon the City’s election to exercise the Option, the City and the Owner shall promptly open an escrow with Escrow Agent and shall execute and deliver all documents necessary or appropriate to complete the purchase and sale transaction in accordance with this Section 7 (including, without limitation, escrow instructions, a settlement statement, a FIRPTA affidavit, and a California Form 593). Owner shall pay all escrow costs and the costs of an ALTA owner’s title insurance policy in favor of City, which is consistent with clause (c) above.

e. The City shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of the Option and this Section, including, but not limited to specific performance. Any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that City should not be constrained so as to avoid the risk of being deprived of or limited to the exercise of the remedy provided in this Section because of concepts of waiver, laches, or others), nor shall any waiver in fact made by the City with respect to any specific
default by the Owner, its successors and assigns, be considered or treated as a waiver of the rights of the City with respect to any other defaults by the Owner, its successors and assigns, or with respect to the particular default except to the extent specifically waived.

8. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest permitted by this Agreement; provided, however, that any subsequent owner of the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such owner’s title was acquired by foreclosure, deed in lieu of foreclosure, trustee’s sale or otherwise.

9. Within thirty (30) days after the Restriction Termination Date, the City and Owner shall record a notice of the termination of this Agreement and the Option.

10. Only the City, its successor, and assigns, and Owner and the successor and assigns of Owner in and to the fee title to the Property shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements, or other restrictions contained in this Agreement or to subject the Property to additional covenants, easements, or other restrictions without the consent of any tenant, lessee, easement holder, licensee, mortgage, trustee, beneficiary under a deed of trust or any other person or entity having an interest less than a fee in the Property. The covenants contained in this Agreement without regard to technical classification or designation shall not benefit, burden, or be enforceable by any person, or firm, or corporation, public or private, except City, Owner, and their respective successors and assigns. To the extent of any inconsistency between the ADA and this Agreement, this Agreement shall govern.

11. Notwithstanding any other provision of this Agreement, the upon the creation of commercial condominiums for the ground level commercial/retail spaces on the Property in accordance with state law, the portion of the Property consisting of those condominiums shall be released from the encumbrance of this Agreement. City and Owner shall record an addendum to this Agreement documenting the release of the commercial condominium portion of the Property when the subdivision process is completed.

[Signatures appear on next page.]
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written above.

ATTEST:
City Clerk

APPROVED AS TO FORM:
Assistant City Attorney

APPROVED:
Assistant City Manager

Director of Administrative Services

Director of Planning and Community Environment

CITY OF PALO ALTO, a chartered city

Mayor

Borrower FEIR# I0677-0013132452.doc Revised Attachment 9, Pg 8

EDEN INVESTMENTS, Inc., a California non-profit public benefit corporation, its Co-General Partner.

COMMUNITY WORKING GROUP, INC., a California non-profit public benefit corporation, its sole member/manager

PALO ALTO FAMILY, L.P., a California limited partnership

“DEVELOPER”

801 ALMA LLC, a California limited liability company, its Co-General Partner

CITY OF PALO ALTO, a chartered city
ACKNOWLEDGMENT

STATE OF CALIFORNIA )
COUNTY OF ________________ ) ss.

On _____________, before me, ________________________________, a 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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ________________________________

(seal)

ACKNOWLEDGMENT

STATE OF CALIFORNIA )
COUNTY OF ________________ ) ss.

On _____________, before me, ________________________________, a 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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ________________________________

(seal)
ACKNOWLEDGMENT

STATE OF CALIFORNIA )
COUNTY OF ________________ ) ss.

On __________________, before me, ____________________________________________, a
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(ies), and that by his/her/their
signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the
instrument.

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

WITNESS my hand and official seal.

Signature ____________________________

(seal)

ACKNOWLEDGMENT

STATE OF CALIFORNIA )
COUNTY OF ________________ ) ss.

On __________________, before me, ____________________________________________, a
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(ies), and that by his/her/their
signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the
instrument.

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

WITNESS my hand and official seal.

Signature ____________________________

(seal)
REVISED ATTACHMENT NO. 10

Form of Memorandum of Option

REQUESTED BY AND WHEN RECORDED
MAIL TO:
City of Palo Alto
P.O. Box 10250
Palo Alto, CA 94303
Attn: City Manager

WITH A COPY TO AND MAIL TAX
STATEMENTS TO:

__________________________
__________________________
__________________________
Attention: ____________________

(SPACE ABOVE FOR RECORDER’S USE ONLY)

This document is exempt from the payment of a recording fee pursuant to Government Code § 27383 and §6103 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code Section 11922.

MEMORANDUM OF OPTION TO PURCHASE REAL PROPERTY

In connection with the recordation of this instrument, the CITY OF PALO ALTO, a chartered city of the State of California (hereinafter referred to as “Grantor” or “City”), has granted to PALO ALTO FAMILY, L.P., a California limited partnership (“Grantee”) the real property (hereinafter referred to as the “City Parcel”), described in Exhibit “A-1”, attached hereto and incorporated herein by this reference. Grantee also acquired certain real property adjacent to the City Parcel (hereinafter referred to as the “Ole’s Parcel”), described in Exhibit “A-2”, attached here to and incorporated herein by this reference. The City Parcel and the Ole’s Parcel together shall be referred to herein as the “Property”. Grantee acquired the Property pursuant to that certain Acquisition and Development Agreement dated as of August 6, 2007 by and between Grantor and Grantee (the "ADA"), which is a public record on file in the office of the City Clerk. Terms used in this instrument and not defined herein shall have the meanings given in the ADA.

In consideration of the grant of the City Parcel by Grantor to Grantee and the provision of certain financing by Grantor to Grantee for the purpose of acquiring the Ole’s Parcel, Grantee shall have the option to purchase the Property (herein, “Option”) as follows:

4th Amendment to Acquisition and Development Agreement_Alma Street.DOC
(a) If Grantee defaults on the ADA at any time prior to issuance of a Certificate of Completion for the Property pursuant to Section 8.5 of the ADA, and such default is not cured within the time periods set forth in Section 8.1 of the ADA, and subject to the rights of Holders set forth in Section 5.13 of the ADA, Grantor may purchase the Property and all improvements thereon, or any portion thereof for which a partial Certificate of Completion has not been issued, at any time.

(b) The Option shall be exercised, if at all, by Grantor's delivery of written notice of its election to exercise the option to Grantee within one year after expiration of the last of the cure periods granted to Grantee.

(c) The purchase price (the "Option Purchase Price") shall be all amounts then owned by Grantee to Grantor pursuant to the City Loan, as that term is defined in the ADA.

(d) The purchase and sale shall occur within fifteen (15) business days after Grantor's exercise of the Option through an escrow company selected by Grantor. Grantor and Grantee shall promptly execute, acknowledge and deliver any and all documents necessary or appropriate to conduct the purchase and sale transaction (including, without limitation, escrow instructions, a settlement statement, a FIRPTA affidavit, and a California Form 593) and the Grantee (i.e., Seller) shall pay all escrow costs and the cost of an ALTA title policy in favor of Grantor that is consistent with clause (f) below.

(e) Grantor shall credit the Option Purchase Price to Grantee concurrently with delivery of title to Grantor. Grantee shall convey title subject only to exceptions that (i) existed at the time of Grantee's acquisition of the Property, or (ii) were created with the written consent of Grantor or approved in writing by Grantor.

(f) Grantor shall be entitled to specific enforcement of the terms of this instrument.

[Signatures appear on next page.]
IN WITNESS WHEREOF, the Grantor and the Grantee have caused this instrument to be executed on their behalf by their respective officers thereunder duly authorized, as of this ____ day of __________, 2011.

GRANTOR:

PALO ALTO FAMILY, L.P., a California limited partnership

BY:

801 ALMA LLC, a California limited liability company, its Co-General Partner

By: COMMUNITY WORKING GROUP, INC., a California non-profit public benefit corporation, its sole member/manager

By: ______________________
Name: ----------------------
Title: ____________________

BY:

EDEN INVESTMENTS, Inc., a California non-profit public benefit corporation, its Co-General Partner.

By: ______________________
Name: ----------------------
Title: ____________________

Borrower FEIR#

The Grantee hereby accepts and approves each of the covenants, conditions and restrictions set forth in this Memorandum.

GRANTEE

CITY OF PALO ALTO, a chartered city

By: ______________________
Name: ----------------------
Its: ______________________

4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th Amendment to Acquisition and Development Agreement_Alfred St. 4th 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ACKNOWLEDGMENT

STATE OF CALIFORNIA )
) ss.
COUNTY OF ____________ )

On ______________________, before me, ______________________, a
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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf
of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ______________________

(seal)

ACKNOWLEDGMENT

STATE OF CALIFORNIA )
) ss.
COUNTY OF ____________ )

On ______________________, before me, ______________________, a
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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf
of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ______________________

(seal)
ACKNOWLEDGMENT

STATE OF CALIFORNIA )
COUNTY OF ____________) ss.

On ________________, before me, ___________________________________, a 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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____________________________

(seal)

4th Amendment to Acquisition and Development Agreement_Alfred Street.DOC
Attachment 11
Page 5
EXHIBIT “A”

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:
LOAN AGREEMENT

THIS LOAN AGREEMENT (the “Agreement”) is made and entered into as of __________, 2011 by and between is entered into by and between the CITY OF PALO ALTO, a chartered city (“City”), and PALO ALTO FAMILY, L.P., a California limited partnership (“Borrower”). City and Borrower agree as follows:

RECITALS

A. City and Borrower’s predecessors in interest, COMMUNITY HOUSING ALLIANCE, INC., a California non-profit public benefit corporation, and EDEN HOUSING, INC., a California non-profit public benefit corporation, entered into that certain Acquisition and Development Agreement as of August 6, 2007 (as amended from time to time, the “ADA”) for the Alma Street Affordable Multi-Family Rental Housing Project, located on certain real property located in the City of Palo Alto identified more particularly in the ADA (the “Property”). Pursuant to the ADA, that certain Regulatory Agreement dated as of __________, 20___ as recorded on the Property on __________, 2011 as Document No. __________ (the “Covenant”). All capitalized terms used herein without definition at first use shall have the meanings ascribed to them in the ADA.

B. Under the ADA, the City previously lent Borrower $3,500,000 (the “City Loan”) for the purposes of certain predevelopment expenses and acquiring certain real property for the Project.

C. Borrower has requested financing from the City in addition to that already provided by the City Loan in the form of loan of (i) $2,800,000 for predevelopment, construction and permanent expenses (the “Predevelopment Component”) and (ii) up to $3,000,000 for permanent financing (the “Permanent Component”) (together, the Predevelopment Component and the Permanent Component shall be referred to as the “Additional Loan”).

D. The City has agreed to provide the Additional Loan to Borrower, on the terms and conditions specified more particularly below.

NOW, THEREFORE, in consideration of the foregoing, and of the covenants, conditions and agreements as hereinafter set forth, the parties agree as follows:

1. City to Provide Additional Loan.

1.1 Documentation. The City agrees to lend to Borrower the sum of up to Five Million Eight Hundred Thousand and No/eight-hundredths Dollars ($5,800,000.00) (collectively, the “Additional Loan”). The Additional Loan shall be evidenced by two promissory notes substantially in the form of Exhibits “A-1” and “A-2” hereto (together, the “Additional Note”) and secured by a deed of trust (the “Additional Deed of Trust”) encumbering the Property in substantially the form of Exhibit “B” hereto.

1.2 Interest and Terms. The Additional Loan shall bear simple interest at the rate of three percent (3%) per annum (subject to reduction under certain conditions as described more particularly in the Note) on the amount disbursed from the date of disbursement. Principal and
interest on the Additional Loan shall be due and payable during the term of this Agreement on a "residual receipts" basis as described more particularly in the Additional Note. Except in the case of a Default (as defined in Section 12 below), all remaining principal and interest accruing on the Additional Loan shall be payable on the Restriction Termination Date as defined in the Additional Note (the "Maturity Date").

1.3 Use of Additional Loan Funds. The Additional Loan Funds shall be used exclusively as follows: (a) the Predevelopment Component ($2,800,000) shall be used for predevelopment, construction and permanent financing costs for the Development in accordance with the Sources and Uses Budget, or as otherwise approved in writing by the City; and (b) the Permanent Component (up to $3,000,000), with the precise amount to be set based on the amount of financing needed by the Project (taking into account other public financing commitments), shall be used to take out construction and/or predevelopment financing provided by lenders other than the City, at the Project’s permanent loan conversion in accordance with the Sources and Uses Budget, or as otherwise approved in writing by the City.

2. Borrower to Comply with ADA Obligations. Borrower shall construct and operate the Project in accordance with the ADA and all related documents, including but not limited to the Covenant, as such documents may be amended from time to time at all times.

3. Conditions to Disbursement of the Additional Loan Funds. The City shall not have any obligation to advance the Additional Loan Funds nor to take any other action under this Agreement, the Additional Note nor the Additional Deed of Trust unless all of the conditions precedent set forth below are satisfied at the time of such action. The City Manager or his or her designee shall have the authority to waive any condition of disbursement set forth herein, however any waiver must be expressly made in writing. The decision to waive any condition of disbursement shall be in the sole discretion of the City Manager or designee, and the decision to waive any requirement may be conditioned upon its satisfaction at a later date and/or upon the substitution of another condition. The disbursement of the Additional Loan Funds prior to fulfillment of one or more of the foregoing conditions shall not be construed as a waiver of such conditions, and the City reserves the right to require their fulfillment prior to making any subsequent disbursements.

The conditions precedent to the disbursement of the Predevelopment Component are as follows:

3.1.1 Borrower shall have executed and delivered to the City the Additional Note for this Predevelopment Component (Exhibit "A-1") and the Additional Deed of Trust.

3.1.2 The Additional Deed of Trust shall have been recorded in the Official Records of Santa Clara County.

3.1.3 If required by City, Borrower shall have delivered to the City an ALTA Lender’s Extended Coverage Policy of Title Insurance, and satisfactory to the City, in the City’s reasonable discretion, or a commitment for same, with coverage equal to the principal amount of the Predevelopment Component, insuring the City that the Property is vested in Borrower, and that the Additional Deed of Trust is a lien or charge against the Property which shall be subject
only to those liens, encumbrances, covenants, conditions, restrictions and other exceptions of
record approved by the City. The title policy shall be issued by North American Title Company
(the “Title Company”). Moreover, prior to delivery of the Additional Loan Funds, all real
property taxes (with the exception of those not yet due and payable) shall be current and there
shall not be any existing delinquency in payment of real property taxes.

3.1.4 Borrower shall have provided to the City certificates of insurance (or
copies of the insurance policies) as set forth in Section 11 hereof.

3.1.5 Borrower shall not otherwise have committed a Default (as defined in
Section 12) hereunder and there shall exist no event, omission or failure of condition which, but
for the giving of notice and/or the lapse of time, would constitute a Default.

3.1.6 The City shall have received financial statements, supporting schedules
and such other unaudited and audited financial data as the City may reasonably require with
respect to the Project, the Property and the financial condition of Borrower, in form and content
reasonably satisfactory to the City.

3.1.7 The City shall have received an affidavit of Borrower stating that there is
no litigation pending or, to the best of Borrower’s actual knowledge, threatened against
Borrower which would materially interfere with or adversely affect the financial condition of
Borrower.

3.1.8 Borrower shall have delivered to the City such other documents and
instruments as the City shall reasonably require.

Additional conditions precedent to the disbursement of the Permanent Component
are as follows:

3.1.9 Borrower shall have executed and delivered to the City the Additional
Note for the Permanent Component (Exhibit “A-2”).

3.1.10 If required by City, Borrower shall cause the amount of the title insurance
referenced in Section 3.1.3 to increase to the total amount of the Additional Loan.

3.1.11 City shall have received an updated affidavit from Borrower addressing
the same issues identified in Section 3.1.7.

3.2 All the conditions set forth in this Section 3 shall have been satisfied on or before
one (1) year from the date of the Agreement, or this Agreement shall automatically terminate and
neither the City nor the Borrower shall have any further obligations hereunder.

3.3 This Agreement, together with the Additional Note, the Additional Deed of Trust
and any other documents executed pursuant to this Agreement, are collectively referred to herein
as the “Additional Loan Documents.”

4. Disbursement of Predevelopment Component. Provided that the conditions in
Section 3.1.1 through 3.1.8 above have been satisfied or waived, the Additional Loan Funds shall
be disbursed as needed for predevelopment expenses in accordance with the Sources and Uses Budget upon presentation of invoices from contractors and vendors and such other documentation as may be reasonably required by the City. Borrower may request that payments be made directly to contractors or vendors, or to Borrower on a reimbursement basis. Invoices shall be submitted to the City Attorney of the City, and the City shall pay invoices within thirty (30) days of receipt of all required documentation.

5. Disbursement of Permanent Component. Provided that the conditions in Sections 3.1.1 through 3.1.11 above have been satisfied or waived, the Permanent Component shall be disbursed directly to the closing of permanent financing for the Project in accordance with the Sources and Uses Budget, or as otherwise may be approved in writing by the City.

6. Relationship of City and Borrower as Creditor and Debtor Only. The City and the Borrower intend that the relationship between them shall be solely that of creditor and debtor. Nothing contained in this Agreement or in any other document or instrument made in connection with this Agreement shall be deemed or construed to create a partnership, tenancy in common, joint tenancy, joint venture or co-ownership by or between the City and the Borrower. The City shall not be in any way responsible or liable for the debts, losses, obligations or duties of the Borrower with respect to the Property or otherwise.

7. Restriction on Transfer and Assignment. Borrower acknowledges that its identity is of particular importance to the City, and that the Additional Loan is being made in consideration of Borrower’s particular credentials, creditworthiness, experience and expertise. Accordingly, for a period commencing with the date hereof and ending with the repayment or forgiveness of the Additional Loan, Borrower shall not assign its rights or obligations hereunder, nor sell, convey or otherwise transfer the Property except in accordance with Section 2.6 of the ADA. Any attempted transfer in violation hereof shall be ineffective and void and shall constitute a default and breach of this Agreement by Borrower, and shall terminate any further obligations of the City hereunder.

7.1.1 Borrower anticipates syndicating the low income housing tax credits that will be generated by the Project, which syndication will require a subsequent transfer of the limited partner interest in the Borrower to the initial investor limited partner(s). The City hereby approves the initial transfer of the limited partner interest in the Borrower, provided that (i) the amended and restated partnership agreement is submitted to the City; and (ii) the partnership documents do not conflict with the Additional Loan Documents.

7.1.2 The City hereby approves future transfers of the investor limited partner(s) interest(s) in the Borrower provided that such transfers do not affect the timing and amount of the limited partner capital contributions provided for in the amended partnership agreement of Borrower.

7.1.3 The City hereby approves a transfer of the Property from the Borrower to one or both of the Co-General Partners or one or both of their wholly-controlled affiliates, and an assumption of the Additional Loan by such transferee at or before the end of the fifteen (15)-year compliance period as described in Section 42(i)(1) of the Internal Revenue Code, pursuant to an option agreement as described or to be described in the partnership agreement (the "Option.
Agreement"), provided that the transferee expressly assumes the obligations of the Borrower under the Additional Loan Documents, utilizing a form of assignment and assumption agreement to be provided by the City.

7.1.4 In the event the general partner of the Borrower is removed by the investor limited partner of the Borrower for cause following default under the partnership agreement, the City hereby approves the transfer of the general partner interest to a 501(c)(3) tax exempt nonprofit corporation selected by the limited partner and approved by the City, which approval shall not be withheld unreasonably.

8. Compliance With Law. Borrower shall comply with all local, State and Federal laws relating to the use of, or condition of, the Project and Property. Borrower shall cause the Project to be rehabilitated in full compliance with all applicable provisions of State, Federal and local laws, including, prevailing wage laws and public bidding requirements, and all rules and regulations promulgated pursuant thereto.

9. Modification. This Agreement may be modified only by subsequent mutual written amendment executed by Borrower and the City.

10. Indemnification. Borrower shall indemnify, defend and hold the City and its officers, agents, employees and attorneys harmless from all claims, damages or liability, including all reasonable attorneys’ fees and other costs incurred in defending any claims, arising out of or in connection with the activities performed under this Agreement and any activities occurring in, on or about the Property including, but not limited to, the construction and operation of the Project. Such indemnity shall extend, but not be limited, to claims, damages and liability arising from personal injuries, death or real or personal property damages, provided that the obligation to indemnify shall not extend to claims, damages or liability arising solely from the willful misconduct of the City or any of its officers or employees.

11. Insurance.

Borrower shall comply at all times with the insurance requirements in Section 5.11, Bodily Injury, Property Damage and Worker’s Compensation Insurance, of the ADA.

12. Defaults, Remedies and Waiver. The occurrence of any of the following shall constitute default hereunder ("Default"):  

12.1.1 Borrower’s failure to perform or any delay in performing any of Borrower’s obligations under the ADA, the City Note, the City D/T, the Covenant or the Additional Loan Documents (including but not limited to any obligation to make monetary payments) following notice and after an opportunity to cure as provided therein, or, if no cure period is specified, then within thirty (30) days after City gives Borrower notice of the failure. If such cure by its nature cannot be effectuated within such thirty (30) day period, Borrower shall diligently and continuously prosecute such cure, correction or remedy until completion thereof, but in no event for a period longer than one hundred twenty (120) days; or

12.1.2 Any actual default or breach by Borrower under any superior or inferior instrument or loan document encumbering the Property following notice and after an opportunity
to cure as provided therein, including any other obligation of Borrower to the City, or under any other lender whose loan is secured by a lien encumbering the Property; or

12.1.3 Any representation or warranty in any Additional Loan Document proves to have been incorrect in any material respect when made and which has a material adverse affect on the City's security; or

12.1.4 Borrower is the subject of an order for relief by a bankruptcy court, or is unable or admits its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Borrower applies or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or any part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of Borrower and the appointment continues undischarged or unstayed for sixty (60) days; or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, dissolution, custodianship, conservatorship, liquidation, or similar proceeding relating to it or any part of its property; or any similar proceeding is instituted without the consent of Borrower and continues undischmissed or unstayed for sixty (60) days.

12.2 Upon Default by Borrower, the City may terminate this Agreement and exercise any rights or remedies it may have at law or in equity, including without limitation declaring the Additional Loan plus interest thereon immediately due and payable and foreclosing the Additional Deed of Trust, either judicially or non-judicially.

12.3 The waiver by the City of the performance of any covenant, condition or promise shall not invalidate this Agreement nor shall it be considered a waiver by the City of any other covenant, condition or promise hereunder. The exercise of any remedy shall not preclude the exercise of other remedies the City may have in law or equity. The failure of the City to give notice of an event that after notice and passage of time would constitute a Default shall not be deemed to be a waiver of the performance of any covenant, condition or promise.


13.1 Borrower makes the following representations and warranties as of the date of this Agreement and agrees that such representations and warranties shall survive the execution and delivery of this Agreement:

13.1.1 To the best of Borrower's knowledge: (i) Borrower has complied with all laws and regulations concerning its organization, existence and transaction of business; (ii) Borrower has the right and power to own and operate the Project; (iii) Borrower has, or at all appropriate times shall have, properly obtained all permits, licenses and approvals necessary for the construction of the Improvements on the Property and the operation of the Project and in so doing has, or shall have (as appropriate), complied with all applicable statutes, laws, regulations and ordinances.

13.1.2 Borrower has full right, power and authority to execute and deliver the Additional Loan Documents and to perform the undertakings of Borrower contained in the
Additional Loan Documents. The Additional Loan Documents constitute valid and binding obligations of Borrower that are legally enforceable in accordance with their terms.

13.1.3 To the best of Borrower's knowledge, none of the undertakings of Borrower contained in the Additional Loan Documents violates any applicable statute, law, regulation or ordinance or any order or ruling of any court or governmental entity, or conflicts with, or constitutes a breach or default under, any agreement by which Borrower, the Property, or the Project, is bound or regulated.

13.1.4 To the best of Borrower's knowledge: (i) all financial information delivered to the City, including, without limit, information relating to Borrower, the Property, or the Project, fairly and accurately represents such financial condition and has been prepared in accordance with generally accepted accounting principles consistently applied, unless otherwise noted in such information; and (ii) no material adverse change in such financial condition has occurred.

13.1.5 To the best of Borrower's knowledge: (i) Borrower is not in violation of any statute, law, regulation or ordinance, or of any order of any court or governmental entity; and (ii) Borrower has no knowledge of any claims, actions, litigation or proceedings pending or threatened against Borrower or materially affecting the Property or the Project.

13.1.6 To the best of Borrower's knowledge, all documents, reports, instruments, papers, data, information and forms of evidence delivered to the City with respect to the Additional Loan are accurate and correct, are complete insofar as completeness may be necessary to give the City true and accurate knowledge of the subject matter thereof, and do not contain any misrepresentation or omission. The City may rely on such reports, documents, instruments, papers, data, information and forms of evidence without any investigation or inquiry.

13.1.7 Borrower has filed all federal and state tax returns required to have been filed by Borrower, and has paid all taxes which have become due pursuant to such returns or to any notice of assessment received by Borrower, and Borrower has no knowledge of any basis for additional assessment with respect to such taxes. Notwithstanding the foregoing, nothing contained herein shall be construed as a waiver by Borrower of any right to appeal property tax assessments.


14.1 Notices, Demands and Communications Among the Parties. Written notices, demands and communications among the City and the Borrower shall be sufficiently given by personal service or dispatched by first class mail, postage prepaid, return receipt requested, to the addresses below. 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 by mail as provided in this Section 18.1. Notwithstanding anything to the contrary contained herein, notice personally served shall be presumed to have been received as of the date of such service, and notices sent via mail as provided herein shall be presumed to have been received on the second business day after deposit of same in the mail.
14.1.1 Conflicts of Interest. The Borrower warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City any money or other consideration for obtaining this Agreement.

14.1.2 Interpretation. The provisions of this document shall be liberally construed to effectuate its purpose.
14.1.3 *Severability.* Invalidation of any of the covenants, conditions, restrictions, or other provisions contained herein by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, and the same shall remain in full force and effect.

14.1.4 *Headings.* The headings to the various Articles and Sections of this Agreement have been inserted for convenient reference only and shall not to any extent have the effect of modifying, amending or changing the expressed terms and provisions of this Agreement.

14.1.5 *Non-Liability of Officials and Employees of the City or of Borrower.* No member, official, agent, attorney, or employee of the City shall personally be liable to the Borrower or any successor in interest of the Borrower pursuant to the provisions of this Agreement, nor for any default or breach by the City. No director, officer, agent, attorney, or employee of the Borrower shall personally be liable to the City pursuant to the provisions of this Agreement, nor for any default or breach by the Borrower.

14.1.6 *Attorneys' Fees.* In the event that suit is brought for the enforcement of this Agreement or as the result of any alleged breach thereof, the prevailing party or parties in such suit shall be entitled to recover their reasonable attorneys' fees from the losing party or parties, and any judgment or decree rendered in such proceedings shall include an award thereof.

14.1.7 *Time of Essence.* Time is of the essence in the performance hereof.

14.1.8 *Waivers.* All waivers hereunder shall be in writing and signed by the party entitled to the benefit of the performance of the covenant or satisfaction of the condition being waived. No failure of any party to exercise any right hereunder shall constitute a waiver of such right.

14.1.9 *Counterparts.* This Agreement may be executed in counterparts, each of which is deemed to be an original.

14.1.10 *Integration.* This Agreement together with all exhibits hereto, integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

14.1.11 *Amendments.* All amendments hereto must be in writing executed by the appropriate authorities of the City and the Borrower.

14.1.12 *Successors and Assigns.* The provisions of this Agreement are expressly binding upon, and shall inure to the benefit of, the parties hereto and their successors in interest and assigns.

14.1.13 *Subordination.* The Additional Loan Documents shall be subordinate to the liens of construction and permanent financing and governmental regulatory agreements that are required for the Project. The City agrees to enter into subordination agreements in favor of any financial institution that is providing construction or permanent financing to Borrower for
the Project in accordance with the Sources and Uses Budget and on such commercially reasonable terms as may be approved by the City Attorney of the City.

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

ATTEST:

CITY OF PALO ALTO, a chartered city

Mayor

“BORROWER”

PALO ALTO FAMILY, L.P., a California limited partnership

BY:

801 ALMA, LLC, a California limited liability company, its Co-General Partner

By: COMMUNITY WORKING GROUP, INC., a California non-profit public benefit corporation, its sole member/manager

By:

Name: [Signature]

Title: [Title]

BY:

EDEN INVESTMENTS, Inc., a California non-profit public benefit corporation, its Co-General Partner.

By: [Signature]

Name: TERESA MC NAMER

Title: Chief Financial Officer

Borrower FEIR# 94-2995223
FOR VALUE RECEIVED, PALO ALTO FAMILY, L.P., a California limited partnership (the “Maker”) promises to pay to the CITY OF PALO ALTO (the “City”), or order, the principal sum of TWO MILLION EIGHT HUNDRED THOUSAND DOLLARS ($2,800,000) (the “Loan”). The Loan shall bear simple interest of three percent (3%) per annum, simple interest, on the amount disbursed from the date of disbursement. The City agrees to reduce or eliminate the interest rate at Maker’s request prior to the admission of the investor limited partner if, and to the extent that, a reduction or elimination of the interest rate on the Loan is necessary to prevent Maker’s investor limited partner’s capital account from being a negative number during the Low-Income Housing Tax Credit period.

1. The Loan is made pursuant to that certain Loan Agreement between Maker and City of even date herewith. All capitalized terms used herein and not defined when first used shall have the meaning ascribed to them in the Loan Agreement. The Loan will be used by Maker for the predevelopment expenses related to the development of certain real property as described in the Loan Agreement (the “Project”) and pursuant to the terms and conditions contained therein and to those contained in that certain Regulatory Agreement recorded on the Property on , 201 as Document No. (the “Covenant”).

2. Payment of this Note will be secured by a deed of trust, assignment of rents, security agreement and fixture filing (the “Additional Deed of Trust”) from Maker to City to be recorded against the Project.

3. This Note shall be due and payable as follows:

Beginning with Maker’s fiscal year following the first year of operations of the Project after completion of rehabilitation of the Project, Maker shall make annual payments of interest and principal to the City only from “Residual Receipts,” defined below, from Maker’s preceding fiscal year. Residual Receipts will be divided: 50% as the “Maker’s Share” and 50% as the “Lenders’ Share.” The 50% Lenders’ Share will be used to repay any of the City loans to the Project, the Maker’s MHP loan from the California Department of Housing and Community Development, if received, and other subordinate loans on a prorate basis based on the respective loan amounts. Payment shall be made within one hundred eighty (180) days of the end of each fiscal year of Maker. Payments shall be applied first to interest on the Loan and then to reduce principal. To the extent the Residual Receipts from any fiscal year are not sufficient to pay the entire amount of interest due for such year any unpaid interest for any fiscal year on the Loan shall accrue and shall be payable from the
Residual Receipts from succeeding fiscal years, with the entire remaining amount of principal and interest due on the fifty-fifth (55th) anniversary of the date on which the final certificate of occupancy for the Project is issued by the City, unless that time is extended by agreement of the parties in accordance with Section 6.2.4 of the ADA (herein, the “Maturity Date,” and otherwise referred to in the ADA as the “Restriction Termination Date”). All outstanding principal and all accrued interest under this Note shall be paid by the Maker on the Maturity Date, or in the case of a default under the Loan Agreement, on the date the Loan Agreement is terminated in accordance with Section 12 thereof.

For the purposes herein, “Residual Receipts” means the difference, if positive, between all income received by Maker with respect to the Project (including, without limitation, rents, grants, reimbursements, contributions, gifts, or payments for services delivered at the Project) and all operating expenses of the Project (including, without limitation, maintenance, repairs, payment of staff salaries and Project management fees and reimbursements in accordance with the limitations in the ADA, taxes, debt service currently due and payable on a non-discretionary basis (excluding debt service due from residual receipts or surplus cash of the Project) on Approved Senior Loans and such other loans approved by the City and which are secured by deeds of trust senior in priority to the Additional Deed of Trust (collectively, "Approved Senior Loans"), premiums for property damage, liability and other insurance related to the Project; utility service costs not paid for directly or indirectly by tenants; fees for licenses and permits related to the operation of the Project; organizational costs (e.g., annual franchise tax payments) and costs associated with accounting, tax preparation and legal fees of Maker incurred in the ordinary course of business; expenses for security services; advertising and marketing costs; payment of deductibles in connection with insurance claims not paid from reserves; tenant services; the amount of uninsured losses actually replaced, repaired or restored and not paid from reserves; cash deposits into reserves for capital replacements in an amount no more than $600 per unit per year or such greater amount as reasonably required by the holder of an Approved Senior Loan or Maker’s investor limited partner or as required by a physical needs assessment prepared by a third-party selected or approved by City and prepared at Maker’s expense; an annual partnership management fee payable to the general partner of Maker in the maximum aggregate sum of $25,000 per year (plus any portion of such annual fee deferred from prior years), increasing by three percent (3%) per year and payable only during the first fifteen (15) years following issuance of a final certificate of occupancy for the Project (unless City in its sole discretion consents to a request by Maker to extend such period); an annual asset management fee not to exceed $10,000 per year (plus any portion of such annual fee deferred from prior years) increasing by three percent (3%) per year, payable to the investor limited partner of Maker only during the first fifteen (15) years following issuance of a final certificate of occupancy for the Project (unless City in its sole discretion consents to a request by Maker to extend such period); any previously unpaid portion of the developer fee (without interest) due in accordance with the Financing Plan (provided that the cumulative amount of such fee does not exceed the maximum allowable by the California Tax Credit Allocation Committee (the “Approved Developer Fee”)); cash deposits into operating reserves in an amount reasonably approved by City or required by the holder of an Approved Senior Loan or Maker’s investor limited partner; other reserve account deposits required pursuant to Approved Senior Financing or Maker’s investor limited partner; other ordinary and reasonable operating expenses; and other extraordinary operating expenses specifically approved by the City.
Beginning with the first year of operations of the Project after completion of the rehabilitation, Maker shall deliver to City each year an annual audited financial statement to determine the amount of Residual Receipts. City shall have the right upon reasonable notice to Maker to inspect and audit Maker’s books and records concerning the calculation of Residual Receipts.

4. Payment shall be made in lawful money of the United States to the City of Palo Alto, P.O. Box 10250, Palo Alto, CA 94303, Attn: __________. The place of payment may be changed from time to time as the City may from time to time designate in writing.

5. Within ten (10) business days after Maker’s receipt of its limited partner(s)’ capital contribution following the issuance of the IRS Form 8609 for the Project, Maker shall make a one-time payment to the City to reduce the amount of the Loan by the amount equal to any project Excess Proceeds. For the purposes of this Note, “Excess Proceeds” shall mean the sum of all sources of permanent financing for the Project (including equity and mortgage debt) less the sum of actual uses as shown on the final cost certificate for the Project prepared in accordance with applicable tax credit and other governmental requirements. For purposes of calculating Excess Proceeds: (i) Maker shall be entitled to pay any deferred Developer Fee; (ii) the Project replacement reserve shall be funded in an amount equal to the amount(s) shown on the Project pro forma approved pursuant to the Loan Agreement, or such amount as required by the holder of an Approved Senior Loan or approved investor limited partner, and (iii) the operating reserve shall be funded in an amount shown on the Project pro forma approved pursuant to the Loan Agreement, or such amount as required by the holder of an Approved Senior Loan or approved investor limited partner.

6. The occurrence of any of the following shall constitute an event of default under this Note: (i) Maker fails to pay any amount due hereunder within ten (10) days of its due date; (ii) any default by Maker under the Loan Agreement after any applicable cure period; or (iii) any sale, exchange, transfer, assignment or other conveyance of the Project without City’s prior written approval.

Upon the occurrence of any event of default, or at any time thereafter, at the option of the City hereof, the entire unpaid principal owing on this Note shall become immediately due and payable. In such event, interest shall accrue on the entire unpaid amount then owing commencing from the date such amount was due and continuing until the date such amounts are paid in full. This option may be exercised at any time following any such event, and the acceptance of one or more installments thereafter shall not constitute a waiver of such option with respect to any subsequent event. City’s failure in the exercise of any other right or remedy hereunder or under any agreement which secures the indebtedness or is related thereto shall not affect any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof.

7. City shall not exercise any right or remedy provided for herein because of any default of Maker unless, in the event of a monetary default, Maker shall have failed to pay the outstanding sums within a period of thirty (30) calendar days after notice that payment was due; or in the event of a nonmonetary default, City shall have first given written notice thereof to Maker, and Maker shall have failed to cure the nonmonetary default within a
period of thirty (30) days after the giving of such notice of such default; provided that if the nonmonetary default cannot be cured within thirty (30) days and Maker proceeds diligently with effort to cure such default until it shall be fully cured within no more than one hundred twenty (120) days after the giving of such notice, City shall not exercise any right or remedy provided for herein until such one hundred twenty (120) days shall expire; provided, however, City shall not be required to give any such notice or allow any part of the grace period if Maker shall have filed a petition in bankruptcy or for reorganization or a bill in equity or otherwise initiated proceedings for the appointment of a receiver of its assets, or if Maker shall have made an assignment for the benefit of creditors, or if a receiver or trustee is appointed for Maker and such appointment or such receivership is not terminated within forty-five (45) days.

8. Maker and any endorsers hereof, if any, and all others who may become liable for all or any part of this obligation, if any, severally waive presentment for payment, demand and protest and notice of protest, and of dishonor and nonpayment of this Note, and expressly consent to any extension of the time of payment hereof or of any installment hereof, to the release of any party liable for this obligation, and any such extension or release may be made without notice to any of said parties and without in any way affecting or discharging this liability.

9. Maker agrees to pay immediately upon demand all costs and expenses of City including reasonable attorneys' fees, (i) if after default this Note be placed in the hands of an attorney or attorneys for collection, (ii) if after a default hereunder, City finds it necessary or desirable to secure the services or advice of one or more attorneys with regard to collection of this Note against Maker, any guarantor, if any, or any other party liable thereof, if any, or to the protection of its rights under ADA, the City Note, the City D/T, or the Covenant or the Additional Loan Documents, or (iii) if City seeks to have the Project abandoned by or reclaimed from any estate in bankruptcy, or attempts to have any stay or injunction prohibiting the enforcement or collection of the Note or prohibiting the enforcement of the Additional Deed of Trust or any other agreement evidencing or securing this Note lifted by any bankruptcy or other court.

10. If City shall be made a party to or shall reasonably intervene in any action or proceeding, whether in court or before any governmental City, affecting the Project or the title thereto or the interest of the City under the Additional Deed of Trust, including without limitation, any form of condemnation or eminent domain proceeding, City shall be reimbursed by Maker immediately upon demand for all costs, charges, and attorneys' fees incurred by City in any such case, and the same shall be secured by the Additional Deed of Trust as a further charge and lien upon the Project.

11. Any notices provided for in this Note shall be given by mailing such notice by certified mail, return receipt requested at the addresses set forth in the Loan Agreement or at such address as either party may designate by written notice.

12. This Note shall be binding upon Maker, its successors and assigns. This Note may not be assigned by Maker without the prior written approval of City.

13. This Note is nonrecourse and neither Maker nor any member, officer, agent, director, affiliate, parent, partner or employee of Maker shall have any personal liability for repayment of the sums evidenced hereby, and the City must resort only to the Project for
restitution should the Maker fail to repay the sums evidenced hereby. Regardless of the foregoing limitation of liability, Maker will be fully liable for the following:

a. Failure to pay property taxes, assessments and any other charges that could result in liens against any portion of the Project or any other collateral pledged, encumbered or otherwise covered by the Additional Deed of Trust;

b. Failure to pay and discharge any mechanics' liens, materialmens' liens or other liens against any portion of the Project or any other collateral pledged, encumbered, or otherwise covered by the Additional Deed of Trust;

c. Fraud or intentional misrepresentation with respect to any representation, warranty or certification made in the Additional Loan Documents, or otherwise made by Maker in connection with the Additional Loan;

d. Retention by Maker of any rental income or other income arising with respect to any portion of the Project or any other collateral pledged, encumbered, or otherwise covered by the Additional Deed of Trust subsequent to the date of any notice of default to Maker;

e. Retention by Maker of any insurance proceeds, condemnation awards, or other similar funds or payments attributable to the Project or any other collateral pledged, encumbered, or otherwise covered by the Additional Deed of Trust that, by its terms, should have been paid to City or used in a manner contrary to the use made by Maker;

f. Waste of the Project, or any failure to maintain, repair, or restore any portion of the Project or any other collateral pledged, encumbered, or otherwise covered by the Additional Deed of Trust in accordance with its terms.

14. This Note shall be construed in accordance with and be governed by the laws of the State of California.

15. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

16. Maker may, without premium or penalty, at any time and from time to time, prepay all or any portion of the outstanding principal balance due under this Note, provided that each such prepayment is accompanied by accrued interest on the amount of principal prepaid calculated to the date of such prepayment. Prepayments shall be applied first to any unpaid late charges and other costs and fees then due, then to accrued but unpaid interest, and then to principal. The Covenant shall remain in full force for the entire term thereof regardless of any prepayment of this Note.

[Signatures appear on next page.]
MAKER:

“BORROWER”

PALO ALTO FAMILY, L.P., a California limited partnership

BY:

801 ALMA, LLC, a California limited liability company, its Co-General Partner

By: COMMUNITY WORKING GROUP, INC., a California non-profit public benefit corporation, its sole member/manager

By: ______________________
Name: _____________________
Title: ______________________

BY:

EDEN INVESTMENTS, Inc., a California non-profit public benefit corporation, its Co-General Partner.

By: ______________________
Name: _____________________
Title: _____________________
EXHIBIT “A-2”

FORM OF PROMISSORY NOTE
(Permanent Component)

$3,000,000

Palo Alto, California, 20

For value received, Palo Alto Family, L.P., a California limited partnership (the “Maker”) promises to pay to the City of Palo Alto (the “City”), or order, the principal sum of THREE MILLION DOLLARS ($3,000,000), or such portion thereof that may have been disbursed to Maker (the “Loan”). The Loan shall bear simple interest of three percent (3%) per annum, simple interest, on the amount disbursed from the date of disbursement. The City agrees to reduce or eliminate the interest rate at Maker’s request prior to the admission of the investor limited partner if, and to the extent that, a reduction or elimination of the interest rate on the Loan is necessary to prevent Maker’s investor limited partner’s capital account from being a negative number during the Low-Income Housing Tax Credit period.

1. The Loan is made pursuant to that certain Loan Agreement between Maker and City of even date herewith. All capitalized terms used herein and not defined when first used shall have the meaning ascribed to them in the Loan Agreement. The Loan will be used by Maker for the predevelopment expenses related to the development of certain real property as described in the Loan Agreement (the “Project”) and pursuant to the terms and conditions contained therein and to those contained in that certain Regulatory Agreement recorded on the Property on _____________, 2011 as Document No. ___________ (the “Covenant”).

2. Payment of this Note is secured by a deed of trust, assignment of rents, security agreement and fixture filing from Maker to City which was recorded against the Project on _____________, 2011, as Document No. ___________ (the “Additional Deed of Trust”).

3. This Note shall be due and payable as follows:

Beginning with Maker’s fiscal year following the first year of operations of the Project after completion of rehabilitation of the Project, Maker shall make annual payments of interest and principal to the City only from “Residual Receipts,” defined below, from Maker’s preceding fiscal year. Residual Receipts will be divided: 50% as the “Maker’s Share” and 50% as the “Lenders’ Share.” The 50% Lenders’ Share will be used to repay any of the City loans to the Project, the Maker’s MHP loan from the California Department of Housing and Community Development, if received, and other subordinate loans on a pro rata basis based on the respective loan amounts. Payment shall be made within one hundred eighty (180) days of the end of each fiscal year of Maker. Payments shall be applied first to interest on the Loan and then to reduce principal. To the extent the Residual Receipts from any fiscal year are not sufficient to pay the entire amount of interest due for such year any
unpaid interest for any fiscal year on the Loan shall accrue and shall be payable from the Residual Receipts from succeeding fiscal years, with the entire remaining amount of principal and interest due on the fifty-fifth (55th) anniversary of the date on which the final certificate of occupancy for the Project is issued by the City, unless that time is extended by agreement of the parties in accordance with Section 6.2.4 of the ADA (herein, the "Maturity Date," and otherwise referred to in the Loan Agreement as the "Restriction Termination Date"). All outstanding principal and all accrued interest under this Note shall be paid by the Maker on the Maturity Date, or in the case of a default under the Loan Agreement, on the date the Loan Agreement is terminated in accordance with Section 12 thereof.

For the purposes herein, "Residual Receipts" means the difference, if positive, between all income received by Maker with respect to the Project (including, without limitation, rents, grants, reimbursements, contributions, gifts, or payments for services delivered at the Project) and all operating expenses of the Project (including, without limitation, maintenance, repairs, payment of staff salaries and Project management fees and reimbursements in accordance with the limitations in the ADA, taxes, debt service currently due and payable on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Project) on Approved Senior Loans and such other loans approved by the City and which are secured by deeds of trust senior in priority to the Additional Deed of Trust (collectively, "Approved Senior Loans"), premiums for property damage, liability and other insurance related to the Project; utility service costs not paid for directly or indirectly by tenants; fees for licenses and permits related to the operation of the Project; organizational costs (e.g., annual franchise tax payments) and costs associated with accounting, tax preparation and legal fees of Maker incurred in the ordinary course of business; expenses for security services; advertising and marketing costs; payment of deductibles in connection with insurance claims not paid from reserves; tenant services; the amount of uninsured losses actually replaced, repaired or restored and not paid from reserves; cash deposits into reserves for capital replacements in an amount no more than $600 per unit per year or such greater amount as reasonably required by the holder of an Approved Senior Loan or Maker’s investor limited partner or as required by a physical needs assessment prepared by a third-party selected or approved by City and prepared at Maker’s expense; an annual management fee payable to the general partner of Maker in the maximum aggregate sum of $25,000 per year (plus any portion of such annual fee deferred from prior years), increasing by three percent (3%) per year and payable only during the first fifteen (15) years following issuance of a final certificate of occupancy for the Project (unless City in its sole discretion consents to a request by Maker to extend such period); an annual asset management fee not to exceed $10,000 per year (plus any portion of such annual fee deferred from prior years) increasing by three percent (3%) per year, payable to the investor limited partner of Maker only during the first fifteen (15) years following issuance of a final certificate of occupancy for the Project (unless City in its sole discretion consents to a request by Maker to extend such period); any previously unpaid portion of the developer fee (without interest) due in accordance with the Financing Plan (provided that the cumulative amount of such fee does not exceed the maximum allowable by the California Tax Credit Allocation Committee (the "Approved Developer Fee"); cash deposits into operating reserves in an amount reasonably approved by City or required by the holder of an Approved Senior Loan or Maker’s investor limited partner; other reserve account deposits required pursuant to Approved Senior Loans;
Financing or Maker’s investor limited partner; other ordinary and reasonable operating expenses; and other extraordinary operating expenses specifically approved by the City.

Beginning with the first year of operations of the Project after completion of the rehabilitation, Maker shall deliver to City each year an annual audited financial statement to determine the amount of Residual Receipts. City shall have the right upon reasonable notice to Maker to inspect and audit Maker’s books and records concerning the calculation of Residual Receipts.

4. Payment shall be made in lawful money of the United States to the City of Palo Alto, P.O. Box 10250, Palo Alto, CA 94303, Attn: __________. The place of payment may be changed from time to time as the City may from time to time designate in writing.

5. Within ten (10) business days after maker’s receipt of its limited partner(s)’ capital contribution following the issuance of the IRS Form 8609 for the Project, Maker shall make a one-time payment to the City to reduce the amount of the Loan by the amount equal to any project Excess Proceeds. For the purposes of this Note, “Excess Proceeds” shall mean the sum of all sources of permanent financing for the Project (including equity and mortgage debt) less the sum of actual uses as shown on the final cost certificate for the Project prepared in accordance with applicable tax credit and other governmental requirements. For purposes of calculating Excess Proceeds: (i) Maker shall be entitled to pay any deferred Developer Fee; (ii) the Project replacement reserve shall be funded in an amount equal to the amount(s) shown on the Project pro forma approved pursuant to the Loan Agreement, or such amount as required by the holder of an Approved Senior Loan or approved investor limited partner, and (iii) the operating reserve shall be funded in an amount shown on the Project pro forma approved pursuant to the Loan Agreement, or such amount as required by the holder of an Approved Senior Loan or approved investor limited partner.

6. The occurrence of any of the following shall constitute an event of default under this Note: (i) Maker fails to pay any amount due hereunder within ten (10) days of its due date; (ii) any default by Maker under the Loan Agreement after any applicable cure period; or (iii) any sale, exchange, transfer, assignment or other conveyance of the Project without City’s prior written approval.

Upon the occurrence of any event of default, or at any time thereafter, at the option of the City hereof, the entire unpaid principal owing on this Note shall become immediately due and payable. In such event, interest shall accrue on the entire unpaid amount then owing commencing from the date such amount was due and continuing until the date such amounts are paid in full. This option may be exercised at any time following any such event, and the acceptance of one or more installments thereafter shall not constitute a waiver of such option with respect to any subsequent event. City’s failure in the exercise of any other right or remedy hereunder or under any agreement which secures the indebtedness or is related thereto shall not affect any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof.

7. City shall not exercise any right or remedy provided for herein because of any default of Maker unless, in the event of a monetary default, Maker shall have failed to pay the outstanding sums within a period of thirty (30) calendar days after notice that payment
was due; or in the event of a nonmonetary default, City shall have first given written notice thereof to Maker, and Maker shall have failed to cure the nonmonetary default within a period of thirty (30) days after the giving of such notice of such default; provided that if the nonmonetary default cannot be cured within thirty (30) days and Maker proceeds diligently with effort to cure such default until it shall be fully cured within no more than one hundred twenty (120) days after the giving of such notice, City shall not exercise any right or remedy provided for herein until such one hundred twenty (120) shall expire; provided, however, City shall not be required to give any such notice or allow any part of the grace period if Maker shall have filed a petition in bankruptcy or for reorganization or a bill in equity or otherwise initiated proceedings for the appointment of a receiver of its assets, or if Maker shall have made an assignment for the benefit of creditors, or if a receiver or trustee is appointed for Maker and such appointment or such receivership is not terminated within forty-five (45) days.

8. Maker and any endorsers hereof, if any, and all others who may become liable for all or any part of this obligation, if any, severally waive presentment for payment, demand and protest and notice of protest, and of dishonor and nonpayment of this Note, and expressly consent to any extension of the time of payment hereof or of any installment hereof, to the release of any party liable for this obligation, and any such extension or release may be made without notice to any of said parties and without in any way affecting or discharging this liability.

9. Maker agrees to pay immediately upon demand all costs and expenses of City including reasonable attorneys' fees, (i) if after default this Note be placed in the hands of an attorney or attorneys for collection, (ii) if after a default hereunder, City finds it necessary or desirable to secure the services or advice of one or more attorneys with regard to collection of this Note against Maker, any guarantor, if any, or any other party liable therefor, if any, or to the protection of its rights under ADA, the City Note, the City D/T, the Covenant or the Additional Loan Documents, or (iii) if City seeks to have the Project abandoned by or reclaimed from any estate in bankruptcy, or attempts to have any stay or injunction prohibiting the enforcement or collection of the Note or prohibiting the enforcement of the Additional Deed of Trust or any other agreement evidencing or securing this Note lifted by any bankruptcy or other court.

10. If City shall be made a party to or shall reasonably intervene in any action or proceeding, whether in court or before any governmental City, affecting the Project or the title thereto or the interest of the City under the Additional Deed of Trust, including without limitation, any form of condemnation or eminent domain proceeding, City shall be reimbursed by Maker immediately upon demand for all costs, charges, and attorneys' fees incurred by City in any such case, and the same shall be secured by the Additional Deed of Trust as a further charge and lien upon the Project.

11. Any notices provided for in this Note shall be given by mailing such notice by certified mail, return receipt requested at the addresses set forth in the Loan Agreement or at such address as either party may designate by written notice.

12. This Note shall be binding upon Maker, its successors and assigns. This Note may not be assigned by Maker without the prior written approval of City.
13. This Note is nonrecourse and neither Maker nor any member, officer, agent, director, affiliate, parent, partner or employee of Maker shall have any personal liability for repayment of the sums evidenced hereby, and the City must resort only to the Project for repayment should the Maker fail to repay the sums evidenced hereby. Regardless of the foregoing limitation of liability, Maker will be fully liable for the following:

   a. Failure to pay property taxes, assessments and any other charges that could result in liens against any portion of the Project or any other collateral pledged, encumbered or otherwise covered by the Additional Deed of Trust;

   b. Failure to pay and discharge any mechanics' liens, materialmens' liens or other liens against any portion of the Project or any other collateral pledged, encumbered, or otherwise covered by the Additional Deed of Trust;

   c. Fraud or intentional misrepresentation with respect to any representation, warranty or certification made in the Additional Loan Documents, or otherwise made by Maker in connection with the Additional Loan;

   d. Retention by Maker of any rental income or other income arising with respect to any portion of the Project or any other collateral pledged, encumbered, or otherwise covered by the Additional Deed of Trust subsequent to the date of any notice of default to Maker;

   e. Retention by Maker of any insurance proceeds, condemnation awards, or other similar funds or payments attributable to the Project or any other collateral pledged, encumbered, or otherwise covered by the Additional Deed of Trust that, by its terms, should have been paid to City or used in a manner contrary to the use made by Maker;

   f. Waste of the Project, or any failure to maintain, repair, or restore any portion of the Project or any other collateral pledged, encumbered, or otherwise covered by the Additional Deed of Trust in accordance with its terms.

14. This Note shall be construed in accordance with and be governed by the laws of the State of California.

15. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

16. Maker may, without premium or penalty, at any time and from time to time, prepay all or any portion of the outstanding principal balance due under this Note, provided that each such prepayment is accompanied by accrued interest on the amount of principal prepaid calculated to the date of such prepayment. Prepayments shall be applied first to any unpaid late charges and other costs and fees then due, then to accrued but unpaid interest, and then to principal. The Covenant shall remain in full force for the entire term thereof regardless of any prepayment of this Note.

[Signatures appear on next page.]
MAKER:

"BORROWER"

PALO ALTO FAMILY, L.P., a California limited partnership

BY:

801 ALMA, LLC, a California limited liability company, its Co-General Partner

By: COMMUNITY WORKING GROUP, INC., a California non-profit public benefit corporation, its sole member/manager

By: _______________________
Name: _____________________
Title: _____________________

BY:

EDEN INVESTMENTS, Inc., a California non-profit public benefit corporation, its Co-General Partner.

By: _______________________
Name: _____________________
Title: _____________________
EXHIBIT “B”

FORM OF ADDITIONAL DEED OF TRUST

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Palo Alto
P.O. Box 10250
Palo Alto, California 94303
Attn: City Manager

(SPACE ABOVE FOR RECORDER’S USE ONLY)

This document is exempt from the payment of a recording fee pursuant to Government Code § 27383 and §6103.

DEED OF TRUST AND ASSIGNMENT OF RENTS

A.P.N.______________

THIS DEED OF TRUST (this “Deed of Trust”) is made as of __________, 2011, between PALO ALTO FAMILY, L.P., a California limited partnership (“Trustor”), FIRST AMERICAN TITLE INSURANCE COMPANY as “Trustee,” and the CITY OF PALO ALTO, a chartered city (“Beneficiary”). Trustor is the fee owner of the Property described below.

This Deed of Trust witnesseth:

That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS TO TRUSTEE IN TRUST, WITH POWER OF SALE, that certain real property in Santa Clara County, California, described as:

See Exhibit A, attached hereto and incorporated herein by this reference.

TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power, and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits; and together with all buildings and improvements of every kind and description now or hereafter erected or placed thereon, and all fixtures, including but not limited to all gas and electric fixtures, engines and machinery, radiators, heaters, furnaces, heating equipment, laundry equipment, steam and hot water boilers, stoves, ranges, elevators and motors, bath tubs, sinks, water closets, basins, pipes, faucets and other plumbing and heating fixtures, mantels, cabinets, refrigerating plant and refrigerators, whether mechanical or otherwise, cooking apparatus and appurtenances, and all shades, awnings, screens, blinds and other furnishings, it being hereby agreed that all such fixtures and furnishings shall to the extent permitted by law be deemed to be permanently affixed to and a part of the realty; and
Together with all building materials and equipment now or hereafter delivered to the premises and intended to be installed therein; and

Together with all articles of personal property owned by the Trustor now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the lands described which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same, are or shall be attached to the building or buildings in any manner. All of the foregoing, together with the real property, is herein referred to as the “Property.”

To have and to hold the Property, together with appurtenances to the Trustee or its successors and assigns, forever.

For the Purpose of Securing:

(a) Performance of each agreement of Trustor herein contained.

(b) Payment of the indebtedness evidenced by (i) that certain promissory note of even date herewith, and any extension or renewal thereof, in the stated principal sum of $2,800,000.00, (ii) a second promissory note to be executed at a future date, and any extension or renewal thereof, in the stated principal amount of up to $3,000,000 (collectively, the “Note”), executed by Trustor in favor of Beneficiary or order.

(c) Performance by Trustor of all of Trustor’s obligations arising under that certain Loan Agreement of even date herewith between Trustor and Beneficiary (the “Loan Agreement”).

(d) Payment of such further sums as the then record owner of the Property hereafter may borrow from Beneficiary, when evidenced by another note (or notes) reciting it is so secured.

(e) Performance by Trustor of all of Trustor’s obligations arising under that certain Regulatory Agreement dated __________ and recorded on the Property on __________, 2011 as Document No. __________ (the “Covenant”).

(f) Performance of each obligation of Trustor set forth in that certain Acquisition and Development Agreement (the “ADA”) dated as of August 6, 2007, as amended, entered into by and between Trustor’s predecessors-in-interest and Beneficiary.

To Protect the Security of This Deed of Trust, Trustor Agrees:

(1) That it shall faithfully perform each and every covenant contained in the Note, the Loan Agreement, the Covenant, and the ADA.
(2) That it will not permit or suffer the use of any of the Property for any purpose other than the use described in the Loan Agreement, the Covenant and the ADA as they may be amended from time to time.

(3) To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting the Property, or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general.

(4) To provide, maintain and deliver to Beneficiary fire and extended coverage insurance with endorsements for vandalism, malicious mischief, and special extended perils, in the full replacement value of the improvements (excluding footings and foundations with no co-insurance penalty provision), and with endorsements for increases in costs due to changes in code and inflation, and any other insurance requested by Beneficiary, and with loss payable to Beneficiary, and any other insurance required by the Loan Agreement. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Beneficiary shall have the right to pay any insurance premiums when due should Trustor fail to make them, and all such payments made by the Beneficiary shall be added to the principal sum secured hereby. Beneficiary shall release all insurance or condemnation proceeds to Trustor to be used to reconstruct the Project on the Property provided that such Beneficiary determines that such restoration, repair or rebuilding is economically feasible. Notwithstanding the foregoing, unless Beneficiary and Trustor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damages, provided Beneficiary determines that such restoration or repair is economically feasible and there is no default continuing beyond the expiration of all applicable cure periods. If Beneficiary determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. In the event funds for such work are insufficient, Beneficiary may, at its option, advance such additional funds as may be necessary to allow the Property to be repaired or restored, and may add the amount thereof to the principal balance of the Note hereby secured.

(5) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys’ fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.
(6) To pay: at least ten (10) calendar days before delinquency all taxes and assessments affecting the Property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on the Property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

(7) Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes with written notice to Trustor; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay its reasonable fees.

(8) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby, any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time the statement is made.

(9) The Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the Property any lien or liens except as authorized by Beneficiary and further that it will keep and maintain the Property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on the Property, or will cause the release of or will provide a bond against any such liens within ten (10) days of Trustor’s receipt of notice of the lien or liens.

(10) That any award of damages in connection with any condemnation for public use of or injury to the Property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys it receives in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance. Notwithstanding the foregoing, the proceeds of any award or claim for damages, direct or consequential, in connection with a total condemnation or taking of the Property, shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor, unless Trustor and Beneficiary otherwise agree in writing. In the event of a partial condemnation or taking, the proceeds shall be applied to the restoration or repair of the Property, provided Beneficiary determines that such restoration or repair is economically feasible and there is no default continuing after the expiration of all applicable cure periods. If Beneficiary determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the condemnation proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. In the event funds for such work are insufficient, Beneficiary may, at its option, advance such additional funds as may be necessary to allow the Property to be repaired or restored, and may add the amount thereof to the principal balance of the Note hereby secured.
(11) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(12) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of the Property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(13) That upon written request of Beneficiary stating that all sums secured hereby have been paid or forgiven by Beneficiary, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto." In addition, upon Beneficiary’s satisfaction that the subdivision process for the creation of commercial condominiums for the ground level commercial/retail spaces on the Property in accordance with state law has been completed, Beneficiary shall make written request to Trustee for the partial reconveyance of the portion of the Property consisting of those condominiums, and the encumbrance of this Deed of Trust shall be reconveyed without warranty as to that portion of the Property only.

(14) That Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary all the rents, income and profits of the property encumbered hereby, and hereby give to and confer upon Beneficiary the right, power and authority to collect such rent, income, and profits, and Trustor irrevocably appoints Beneficiary Trustor’s true and lawful attorney at the option of Beneficiary, at any time, to give receipts, releases and satisfactions and to sue, either in the name of Trustor or in the name of Beneficiary, for all income, and apply the same to the indebtedness secured hereby; provided, however, so long as no default by Trustor in the payment of any indebtedness secured hereby shall exist and be continuing, Trustor shall have the right to collect all rent, income and profits from the Property and to retain, use and enjoy the same. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney’s fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
(15) That upon default by Trustor in payment of any indebtedness secured hereby, or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and election to cause to be sold the Property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby. After the lapse of such time as may then be required by law following the recordation of the notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Property at the time and place fixed by it in the notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at the sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(16) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title estate, rights, powers and duties. The instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee.

(17) That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the Note, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(18) That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.
(19) If Trustor shall die or sell, convey, hypothecate, transfer, encumber or alienate the Property, or any part thereof, or any interest therein, or shall be divested of title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the Beneficiary being first had and obtained, or if Trustor shall fail to make any payments due under the Note, or fail to perform any other obligation under this Deed of Trust, the Note, the Covenant, the Loan Agreement or the ADA, or any other deed of trust encumbering the Property or the promissory note or other agreement secured thereby, then Beneficiary shall have the right, at its option, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any note evidencing the same, immediately due and payable.

(20) That Trustor shall promptly pay when due the payments of interest, principal, and all other charges accruing under any superior or prior trust deed, mortgage, or other instrument encumbering the Property. Upon any breach of the Loan Agreement, Beneficiary shall have the right to declare all sums secured hereby immediately due and payable. Beneficiary shall have the right, but not the obligation, to cure any defaults on any superior or prior deed of trust or promissory note secured thereby and upon curing such default Trustor shall immediately reimburse Beneficiary for all costs and expenses incurred thereby, together with interest thereon at the maximum legal rate permitted to be charged by non-exempt lenders under the State of California, and Trustor’s failure to pay such amount on demand shall be a breach hereof. Trustor’s breach or default of any covenant or condition of any superior or prior trust deed, mortgage or other instrument encumbering the Property shall be a default under this Deed of Trust.

(21) That the improvements now existing or to be constructed upon the Property, and all plans and specifications, comply with all municipal ordinances and regulations and all other regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to it at the following addresses:

Eden Investments, Inc.
22645 Grand St.
Hayward, CA 94541
Attn: Executive Director
Tel: (510) 582-1460
Fax: (510) 582-6523

And

801 Alma, LLC
c/o Community Working Group, Inc.
948 Ramona Street
Palo Alto, CA 94301
Attn: Donald A. Barr
Tel: (650) 906-6943
Fax: (650) 725 5451
NOTE: The Trustor (sometimes referred to herein as the "Partnership"), through its limited partner, is providing equity for the development of the Property. The agreement of limited partnership governing the Trustor, as it may be amended and/or amended and restated from time to time, is referred to herein as the "Partnership Agreement."

(22) INVESTOR PROVISIONS:

a. If a non-monetary event of default occurs under the terms of this Deed of Trust, the Note, the Covenant, the Loan Agreement or the ADA (the "Loan Documents), prior to exercising any remedies thereunder, Beneficiary shall give Trustor and each of its general and limited partners simultaneous written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Trustor and its limited partner shall have such period to effect a cure prior to exercise of remedies by Trustor under the Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and if the Beneficiary (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then the Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary.

b. Beneficiary hereby agrees that any cure of any default made or tendered by one or more of the Partnership’s limited partners shall be deemed to be a cure by the Partnership and shall be accepted or rejected on the same basis as if made or tendered by the Partnership. Copies of all notices which are sent to the Partnership under the terms of the Loan Documents shall also be sent to:

[Address to be provided]

The Partnership’s limited partners may change their address for receipt of copies of notices by giving notice in writing stating its new address to the Beneficiary. Commencing on the tenth (10th) day after the giving of such notice, such newly designated address shall be effective for purposes of all such copies of notices required to be sent by the Beneficiary to the limited partners.

c. Notwithstanding any of the provisions hereof, none of the following shall constitute a violation of the Loan Documents:
(i) The withdrawal, removal, replacement, and/or addition of a general partner of the Partnership pursuant to the terms of the Partnership Agreement, provided that any new general partner: (a) is an entity that is exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended from time to time (or any successor statute), and (b) receives prior written approval from the City; and

(ii) The transfer of any of the limited partners’ interests in the Partnership.

d. The execution and delivery of a right of first refusal and purchase option to either Co-General Partner or an affiliate thereof pursuant to the Partnership Agreement shall not constitute a default under the Loan Documents or accelerate the maturity of the Loan.

e. Beneficiary acknowledges that Trustor and the California Tax Credit Allocation Committee ("CTCAC") intend to enter into an extended use agreement, which constitutes the extended low-income housing commitment described in Section 42(h)(6)(B) of the Internal Revenue Code (IRC), as amended. As of the date hereof, IRC Section 42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under Section 42 for a period of three (3) years after the date the building is acquired by foreclosure or instrument in lieu of foreclosure. In the event the regulatory agreement required by CTCAC is recorded against the Property, Beneficiary agrees to comply with the provisions set forth in IRC Section 42(h)(6)(E)(ii).

[Signatures appear on next page.]
Signature of Trustor

ATTEST:

CITY OF PALO ALTO, a chartered city

City Clerk

Mayor

“BORROWER”

PALO ALTO FAMILY, L.P., a California limited partnership

APPROVED AS TO FORM:

Assistant City Attorney

BY:

801 ALMA, LLC, a California limited liability company, its Co-General Partner

APPROVED:

Assistant City Manager

By: COMMUNITY WORKING GROUP, INC., a California non-profit public benefit corporation, its sole member/manager

Assistant City Manager

Director of Administrative Services

EDEN INVESTMENTS, Inc., a California non-profit public benefit corporation, its Co-General Partner.

Director of Planning and Community Environment

Insurance Review

Borrower FEIR#
ACKNOWLEDGMENT

STATE OF CALIFORNIA )
COUNTY OF ___________ ) ss.

On _________________, before me, ____________________________, a 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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ____________________________

(seal)

ACKNOWLEDGMENT

STATE OF CALIFORNIA )
COUNTY OF ___________ ) ss.

On _________________, before me, ____________________________, a 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(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ____________________________

(seal)