

**5-O-04**

**AN ORDINANCE**

**GRANTING A SPECIAL USE FOR A  
PLANNED DEVELOPMENT IN THE O1 OFFICE ZONING  
DISTRICT AT 1100 CLARK STREET/1719 RIDGE AVENUE**

**WHEREAS**, TR Ridge Partners, LLC ("Applicant"), as owner of that portion of the property commonly known as 1719 Ridge Avenue and contract purchaser of the property commonly known as 1100 Clark Street (collectively, "subject property"), located in the O1 Office Zoning District, sought approval of a special use for a planned development (the "Planned Development") in case no. ZPC 03-14PD to construct a four-building multi-family residential complex, with approximately fifteen, two-story townhome-style condominiums arranged around the perimeter of such complex, facing Ridge Avenue and Clark Street, with accessory parking and office uses, and with each of the four condominium buildings having a height of eight (8) stories; and

**WHEREAS**, construction of the Planned Development as proposed by the Applicant requires the granting of a special use to allow for multiple-family dwellings and the granting of site development allowances for floor area ratio, building height, yard width and depth requirements, and transition landscaped strip requirements; and

**WHEREAS**, the Plan Commission conducted a public hearing on December 10, 2003, pursuant to proper notice in said case no. ZPC 03-14-PD making a written record thereof, and certain findings of fact that the proposal meets the standards for special uses in Section 6-3-5-10, the conditions for planned developments in Section 6-15-1-

9 (A), the site controls and standards of Section 6-15-1-9 (B), and the development allowances of Section 6-15-1-9 (C), and recommended that the Planned Development be approved, subject to certain conditions; and

**WHEREAS**, the Planning and Development Committee of the City Council considered and adopted the record and recommendations of the Plan Commission at its January 12, 2004 meeting and recommended approval of the application; and

**WHEREAS**, the City Council considered and adopted the respective records and recommendations of the Plan Commission and Planning and Development Committee at its January 12, 2004 and January 26, 2004 meetings, and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION ONE:** That the foregoing recitals are found as fact and made a part hereof.

**SECTION TWO:** That the aforescribed Special Use for a Planned Development, case no. ZPC-03-14-PD, be and it is hereby approved to permit the construction and operation on the subject property of the Planned Development substantially in conformance with the O1 Office District regulations, the Development Plan as approved by the City and the terms of this Ordinance, all on property commonly known as 1100 Clark Street and 1719 Ridge Avenue, legally described in **Exhibit A** attached hereto and made a part hereof.

**SECTION THREE:** That pursuant to Section 6-3-6-6 of the Zoning Ordinance, modifications to the site development allowances set forth in Section 6-15-1-9 of this Ordinance in excess of those established in the O1 Zoning District, are hereby allowed,

the City Council finding that said site development allowances are necessary to achieve the following public benefits set forth in Section 6-3-6-3:

- a) The Development Plan as a whole including siting considerations and building height are a necessary use of design, landscape, and architectural features that will create a pleasing living environment at a highly visible location in the City as a public benefit in conformance with 6-3-6-3(D).
- b) The Development Plan as a whole including siting considerations and building height results in a Development Plan that provides townhouses and apartment-style housing arrangements of various sizes as a public benefit in conformance with 6-3-6-3(E).
- c) The Development Plan as a whole including siting considerations and building height results in construction that eliminates an unsightly surface parking lot while maintaining the parking required by the Zoning Ordinance for the development's uses in conformance with 6-3-6-3(F).
- d) The Development Plan as a whole including siting considerations and building height results in more efficient use of the property by maintaining the current parking use while simultaneously providing increased real estate tax revenues, increasing potential sales tax generated by the purchases of new residents, and providing transfer stamp revenue and other funds in conformance with 6-3-6-3(H).

**SECTION FOUR:** That the site development allowances for the O1 Office District authorized in Section 6-3-6-5 and set forth in Section 6-15-1-9 (C) are modified as follows:

- a) The floor area ratio requirements of Section 6-15-2-7 are modified to 2.1 or 245,000 square feet. Without modification, the maximum floor area ratio and square footage are 2.00 and 239,896 (without a Planned Development).
- b) The maximum building height requirement is modified to 75 feet to the top of the roof of top floor. Without modification, the maximum heights are 52 feet (without a Planned Development) and 65 feet (with a Planned Development).

- c) The yard setbacks shall be modified to 12 feet on Clark Street, 20 feet on Ridge Avenue, 2 feet on Oak Avenue, and 0 feet on the alley. Without a Planned Development, the required yard setbacks of Section 6-15-1-9 (C) 3 are 27 feet in front and side yards and 10 feet in rear and interior side yards.
- d) No transition landscaped strip on the south lot line shall be required. Without a Planned Development, Section 6-15-1-9 (B) requires a 27-foot wide transition landscaped strip on all lot lines not abutting a public street.

**SECTION FIVE:** That development and operation of the Special Use for the Planned Development granted hereby shall be in substantial conformity with Applicant's commitments, statements, testimony and exhibits to the Plan Commission, the Planning and Development Committee, and the City Council and with the Development Plan attached as Exhibit B hereto and made a part hereof, except as said Development Plan is modified by this Ordinance 5-O-04.

**SECTION SIX:** That the Development Plan for purposes of this Ordinance consists of the Architectural Drawings, Architectural Renderings, Landscape Plans, and Preliminary Engineering Plans that the Applicant submitted with its application in case no. ZPC 03-14-PD, plus a revision to the south elevation architectural drawing, and new rendering thereof, identified as sheet A-14 and A-14.1, last revised January 26, 2004, which documents are indexed and attached as Exhibit B hereto and made a part hereof. The Applicant will construct and maintain the structures on the subject property in accordance with the materials and the design elements indicated in the Development Plan, including the following:

- a) The Development Plan includes and provides for the following:
  - 1) Not more than 237 dwelling units, consisting of 222 condominiums that are located in four (4) buildings, each having eight stories, and 15 townhouse-style condominiums,

each having two stories, arranged around the perimeter of such complex, facing Ridge Avenue and Clark Street, (the division between condominium and townhome units may be altered to provide for 17 townhouse-style units, subject to an overall limit of 237 dwelling units) plus an office garage building located beneath two of the eight-story buildings and a pool house/recreational building located above a portion of the office garage building;

- 2) A building lot coverage of 90,314 square feet, or about 76%, on the 119,950-square foot subject property;
  - 3) A defined gross floor area (excluding parking, loading, mechanicals, and uses accessory to the building) of 243,045 square feet, resulting in a floor area ratio of about 2.1;
  - 4) A maximum building height 75 feet to the top of the roof of top floor;
  - 5) 668 parking spaces, of which about 306 are to be located in the office garage building to fulfill the parking requirement for the office/commercial building at 1007 Church Street;
  - 6) Office space, including building management office, lobbies and common areas, occupying portions of the first and second floor of each eight story building, each with access to the cul-de-sac drive in the center of the subject property; and
  - 7) Yards or setbacks with neither front nor street side yards being built to the lot line, specifically:
    - a. no less than 20 feet along Ridge Avenue, the west side of the subject property;
    - b. no less than 2 feet along Oak Avenue, the east side of the subject property;
    - c. no less than 12 feet along Clark Street, the north side of the subject property; and
    - d. no less than 0 feet along the south lot line of the subject property, adjacent to an east/west alley.
- b) Construction of the Planned Development as set forth in the Development Plan and this Ordinance shall be subject to the Site

Plan and Appearance Review provisions of the City Code and all other applicable codes, regulations and legislation.

- c) The exterior wall materials used on the buildings shall consist of face brick, window units and copper panels described as follows. All brick facing on the buildings in the Planned Development shall be Norman size and all face brick used throughout the Planned Development shall be Desert Ironspot Light, manufactured by Endicott Brick, LLC, (or substantially similar to the quality, color and appearance thereof if such brick shall become unavailable), except in the following instance: on the south face of the first and second floor of the office garage building, there shall be alternating strips and decorative panels of Bowerston Red Smooth brick, manufactured by Bowerston Shale Company, as shown in architectural drawing A-14, last revised January 26, 2004 and incorporated in the Development Plan. Exterior glass window-walls shall be used extensively on the seventh and eight floors of the condominium buildings, with face brick used around the balconies and giving way to all glass enclosure on the eighth floor. Copper panels shall be used on the third (3<sup>rd</sup>) through sixth (6<sup>th</sup>) floors of the buildings, centered on the short end walls of the buildings. Window units shall vary across the building elevation and consist of modules that are three, four or six feet in width, made with double insulated glass and clear anodized aluminum frames. Operable windows in the window units shall be sized approximately 3'8" high and 2' 10" wide and shall be a cream color. Horizontal decorative banding at the bottom and top of window units shall be Indiana Limestone, projecting (not flush with the face brick) approximately three-quarters of an inch. Garage doors shall have copper panels.
- d) Balconies shall have floors and railings made of painted steel, using a cream color; the balustrades shall be made of glass having a decorative ceramic frit applied to the surface, rendering the glass partially opaque. Balconies shall be approximately five (5) feet in width, half of the structure of which is recessed into the building, the other half projecting beyond the exterior wall. The terraces of third-floor units located over the townhome units shall have balustrades using masonry substantially similar to Endicott face brick (Desert Ironspot light) alternating with glass having a decorative ceramic frit applied to the surface, rendering the glass partially opaque. Rooftop terraces for the eighth floor units shall have trellises made with painted steel, using a cream color.
- e) The entry porticos of the townhome units, located at the lot lines of the subject property, shall form a staggered pattern rather than a continuous line, partially screening the townhome units from the

abutting public streets. The entry porticos will be approximately twenty-one feet in length, using masonry substantially similar to Endicott face brick (Desert Ironspot light), with low wing masonry walls, approximately two feet high and eight feet in width extending on either side away from the columned entry leading to the front door of each townhome unit.

- f) Landscaping on the subject property shall substantially conform with the details for varied use of colored concrete pavers, use of decorative walls, pergolas, fountains, arbors, courtyard and streetscape plantings and use of the trees, plants, shrubs and ground covers identified in the Development Plan. The obligation to maintain, repair and replace such landscaping shall be an obligation of the condominium association to be formed to administer the subject property, which obligation shall be contained in the Declaration of Condominium for the subject property and not be subject to amendment without the prior consent of the City. The Applicant shall warrant the parkway trees to be planted along Ridge Avenue, Clark Street and Oak Avenue for a period of one (1) year after such plantings are established and accepted by the City in connection with the City's customary review and acceptance procedures for public improvements installed in connection with private developments. After the warranty obligations of the Applicant are fulfilled, maintenance, repair and replacement of the accepted parkway trees shall revert to the City.
- g) The Applicant shall apply install landscaping in the public right of way just beyond the northeast corner of the subject property in order to create the corner art plaza indicated in the landscape drawings of the Development Plan, including the installation of an arbor at the corner of Clark Street and Oak Avenue, special pavers and landscape plantings, all as described in the Development Plan. The Applicant agrees and commits to bind the Applicant's successors in title to the subject property to granting licenses for the installation of outdoor sculpture or art installations in the corner art plaza and to maintaining the corner art plaza in accordance with the Development Plan, with open access from abutting streets; provided, that the Applicant and the Applicant's successors in title to the subject property shall have the right to adopt reasonable rules and regulations affecting the portion of the corner art plaza that is part of the subject property for the purpose of preventing the acquisition of rights in the public (in the nature of adverse possession) and for the purpose of maintaining a safe and healthy environment for the benefit and enjoyment of the users of such corner art plaza. The Applicant and the Applicant's successors in title to the subject property shall at all times have the sole right to

determine the nature of the art work that is displayed in the corner art plaza, to allocate the costs of installation, insurance and removal to the owner of the art work, but neither the Applicant nor the Applicant's successors in title shall charge any rental or license fee to any party granted the right to display art in the corner art plaza (or receive any payment as a substitute for such charges). The commitment to enter into licenses without financial gain in order to encourage the outdoor display of public art shall be contained in the Declaration of Condominium for the subject property and not be subject to amendment without prior consent of the City.

- h) Prior to the City issuing a final certificate of occupancy for Phase 4 of the development as indicated in the Development Plan, the Applicant or the Applicant's successor in title to the subject property shall reimburse the City for the cost of top-coat resurfacing of portions of Clark Street and Oak Avenue, in a manner satisfactory to the Commissioner of Public Works, such re-surfacing to be performed on Clark Street, from the east line of Ridge Avenue east to the Milwaukee Division of Chicago and Northwestern Railway, and on Oak Avenue, from Clark Street south to the south line of the 20 foot public alley south of and abutting the subject property.
- i) The Applicant agrees and commits to bind the Applicant's successors in title to the subject property to making an annual monetary contribution in the amount of \$500 on or before each January 15 (such amount to increase each year by the percentage increase in the U.S. consumer price index over the preceding year) to the owners' association representing the owners of the property commonly known as 1111 Church Street, such payment to be made to offset any burden of removing snow from the alley south of the subject property that may arise as a result of the relief from the requirement for a transitioned landscaped strip hereby granted in the Special Use for the Planned Development and to ensure that the dumpsters for the subject property can be accessed from such alley. Such commitment shall be contained in the Declaration of Condominium for the subject property and not be subject to amendment without the consent of the City.
- j) Venting of vehicle exhaust from the office garage building shall be compliant with applicable codes, regulations and legislation.
- k) Applicant shall conform to the requirements of the Affordable Housing Plan attached as Exhibit C hereto and made a part hereof with the additional provision that the Applicant shall especially promote the availability of the affordable units to be created in the



Planned Development to persons who have resided or been employed in the City for at least two (2) years. The Applicant shall file such reports with the City's Community Development Department as may be necessary to ensure compliance with this Ordinance.

**SECTION SEVEN:** No building permit shall issue without the City having first received evidence satisfactory to it that the Applicant is the owner of the property at 1100 Clark Street, and that therefore, that property and the property at 1719 Ridge Avenue are held in common ownership and will be developed as a single zoning lot.

**SECTION EIGHT:** All requirements applicable in the O1 Office District as provided in the Zoning Ordinance shall govern and remain in full force and effect with respect to the use and development of the Property, except as and to the extent said requirements have been modified by this Ordinance, and the Property may be developed in any manner that conforms to said requirements as modified hereby.

**SECTION NINE:** References herein to the "Owner" shall in all cases mean TR Ridge Partners, LLC and any and all successor owners, and operators of the subject property, as applicable.

**SECTION TEN:** Applicant is required to record at its cost a certified copy of this Ordinance along with the development plan attached in the Cook County Recorder's Office and to provide a copy of same to the City's Zoning Administrator before any permits may be obtained.

**SECTION ELEVEN:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION TWELVE:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

AYES: 9  
NAYS: 0

Introduced: January 12, 2004

Adopted: January 26, 2004

Approved: February 23, 2004

Jerraine A. Norton  
Mayor

ATTEST:

Mary P. Morris  
City Clerk

Corporation Counsel:

[Signature]

## EXHIBIT A

### LEGAL DESCRIPTION OF PROPERTY

#### Permanent Index Numbers:

11-18-122-007-0000, 11-18-122-008-0000, and 11-18-122-026-0000

#### 1100 Clark Street:

LOT 1 (EXCEPT THE WESTERLY 11 FEET THEREOF), LOT 2 (EXCEPT THE WESTERLY 11 FEET THEREOF), LOT 3 (EXCEPT THE WESTERLY 11 FEET OF THE NORTHERLY 12 FEET THEREOF), LOTS 4 AND 5 AND THE NORTH 2 FEET OF LOT 6, AND ALL OF LOTS 16, 17, 19, 19 AND 20 AND LOT 21 (EXCEPT THAT PART OF LOT 21 WHICH LIES NORTH AND EAST OF A STRAIGHT LINE DRAWN FROM THE SOUTHEAST CORNER OF SAID LOT 21 TO A POINT ON THE NORTH LINE OF AND 50 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 21); THE VACATED NORTH AND SOUTH PUBLIC ALLEY LYING BETWEEN SAID LOTS 1 TO 6 INCLUSIVE AND LOTS 16 TO 21 INCLUSIVE; THAT PART OF THE VACATED SOUTH 8 FEET OF CLARK STREET WHICH LIES EAST OF THE WEST LINE OF SAID LOTS 1 TO 6 INCLUSIVE EXTENDED IN A NORTHEASTERLY DIRECTION AND WEST OF THE SAID LINE DRAWN FROM THE SOUTHEAST CORNER OF SAID LOT 21 TO A POINT ON THE NORTH LINE OF AND 50 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 21 EXTENDED IN A NORTHWESTERLY DIRECTION; ALSO LOTS A, B, C AND D (EXCEPT THE WEST 25 FEET OF LOT D) IN GRAVES AND CURREY=S SUBDIVISION OF LOTS 6, 7, AND 8 (EXCEPT THE NORTH 2 FEET OF LOT 6 THEREOF); ALL OF THE AFORESAID PROPERTY BEING LOCATED IN BLOCK 2 IN L.A. PRATT=S ADDITION TO EVANSTON, A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF RIDGE ROAD AND WEST OF MILWAUKEE DIVISION OF CHICAGO AND NORTHWESTERN RAILWAY, IN COOK COUNTY, ILLINOIS.

#### 1719 Ridge Avenue:

LOT 1 AND THE WEST 25 FEET OF BARN LOT "D" IN GROVER & CURREY'S SUBDIVISION OF LOT 6 (EXCEPT THE NORTH 2 FEET THEREOF) AND ALL OF LOTS 7 AND 8 IN BLOCK 2 IN E. A. PRATT'S ADDITION TO EVANSTON A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**EXHIBIT B**  
**DEVELOPMENT PLAN**

**Architectural Drawings**, by Roszak/ADC and Wallin-Gomez, all dated November 12, 2003, except sheets A-14 and A-14.1, dated January 26, 2004

A-1	<i>Site Plan</i>
A-2	<i>Evanston Zoning Map</i>
A-3	<i>Phasing Diagram</i>
A-4	<i>Sub-Basement Floor Plan</i>
A-5	<i>Basement Floor Plan</i>
A-6	<i>First Floor Plan</i>
A-7	<i>Second Floor Plan</i>
A-8	<i>Third Floor Plan</i>
A-9	<i>Fourth-Sixth Floor Plan</i>
A-10	<i>Seventh Floor Plan</i>
A-11	<i>Eighth Floor Plan - Standard Layout</i>
A-12	<i>North Elevation</i>
A-13	<i>West Elevation</i>
A-14	<i>South Elevation</i>
A-14.1	<i>South Elevation, color rendering</i>
A-15	<i>East Elevation</i>
A-16	<i>Interior North Elevation</i>
A-17	<i>Interior West Elevation</i>
A-18	<i>Interior South Elevation</i>
A-19	<i>Interior East Elevation</i>
A-20	<i>Building Section A-A</i>
A-21	<i>Building Section A-1</i>
A-22	<i>Building Section A-2</i>
A-23	<i>Building Section B-B</i>
A-24	<i>Building Section C-C</i>
A-25	<i>Building Section D-D</i>
A-26	<i>Building Section E-E</i>
A-27	<i>Building Section F-F</i>

**Architectural Renderings**, by Young Ki & Associates  
– six color views, undated

**Landscape Plan**, by Douglas Hills Associates,

*L-1 Landscape Plan, dated November 12, 2003*

*L-2 Landscape Plan – Enlargements, dated December 10, 2003*

*L-3 Landscape Plan – Enlargements, dated December 10, 2003*

*L-4 Landscape Plan – Planting Scheme, dated December 10, 2003*

**Preliminary Engineering Plans**, by Gary A. Wiss, Inc, all dated October 10, 2003.

*C-1 Phase 1*

*C-2 Phase 2*

*C-3 Phase 3*

*C-4 Phase 4*

## EXHIBIT C

### AFFORDABLE HOUSING PLAN

#### **TR Ridge Partners, LLC (the “Company”)**

**Project**                      Sienna, 1100 Clark Street, Evanston, Illinois

The Company submits this Affordable Housing Plan to set aside “affordable units” that will be made available only to income-qualified buyers. Many aspects of the Affordable Housing Plan are modeled after the City of Evanston single family affordable home ownership program. This Affordable Housing Plan shall govern the sale and ownership of certain affordable units in the Project.

#### *The Affordable Units*

The affordable units shall be indistinguishable from other units in the Project in terms of the standard features and design. Since the one-bedroom units in the Project are anticipated to represent almost two-thirds of the unit mix, and since smaller units tend to be more affordable, approximately two-thirds of affordable units shall be studios and one-bedroom units. The balance of the affordable units shall be two-bedroom units. Within these parameters, affordable units shall include a balance of the standard layouts of one-bedroom and two-bedroom units shown in the plans for the Project. Affordable units shall be dispersed throughout all buildings and not concentrated in any one building or floor. Based on the proposed design, there shall be twelve (12) affordable units.

To implement this Affordable Housing Plan, the Company shall develop a preliminary list of the affordable units as the marketing of units in each phase of construction commences and shall submit such list to the Community Development Department of the City of Evanston. To retain the greatest flexibility in matching the needs of individuals and households who qualify for affordable units, whenever a buyer is otherwise income-qualified but desires to purchase a unit that has not been pre-designated, the Company shall have the right to substitute another unit (of the same bedroom count) as the originally designated unit (i.e., one-bedroom unit can be substituted for a different one-bedroom unit) but the overall mix among one- and two-bedroom units for the Project shall be maintained.

#### *Income Restrictions For Buyers*

Eligible buyers include only those individuals or households:

- With a household income at or below 80% of the area median income level, as adjusted for family size and determined by the City of Evanston Community Planning Department, based on the “Low Income Limit” (80% of median) that represents the maximum allowable income for a family in order to be eligible for any program

funded by Community Development Block Grant (CDBG) funds where there are income eligibility restrictions. The area for which income eligibility shall be determined is the Chicago Metropolitan Statistical Area (Chicago MSA), including Cook County. Current maximum income limits for 80% of area median income for various family sizes are the following (as of February 2003):

<u>Family Size</u>	<u>CDBG Eligibility</u>
	<u>Low Income Limit (80% of area median income)</u>
1	\$39,550
2	\$45,200
3	\$50,850
4	\$56,500
5	\$61,000
6	\$65,550
7	\$70,050
8	\$74,600

In order to determine income eligibility, the Company will obtain third-party verification of all income sources (such as verification of employment letter) for all adult household members age 18 and older, as well as benefits paid on behalf of minors in the household. Income from assets will be included in annual income. The determination of maximum income for a household and the permissible household asset limit shall be made in the same manner as the City of Evanston employs in determining eligibility for the City's single family affordable home ownership program. In the event that the City discontinues such program or otherwise makes eligibility modifications, the standards used in classifying income inclusions and exclusions, calculating income from earnings and benefits, calculating income from assets, classifying assets to be included and excluded and in determining eligibility under this Affordable Housing Plan shall be modeled on federal programs that rely on 80% of area median income levels, as published by the U.S. Department of Housing and Urban Development (HUD), to determine program eligibility, such as the Home Buyer Equity Fund Program administered by the Federal Home Loan Bank of Chicago.

- Full-time students will not be eligible to purchase the units.
- The affordable unit shall not be rented, but must remain occupied by the income-qualified buyer.
- The Company may enter into an agreement with the City of Evanston or non-profit housing organizations to provide for placement of qualified individuals or households from among waiting lists. If required by the City, the Company shall conduct a lottery as the method for selecting among qualified buyers.
- The Company or an agent retained by the Company shall complete a worksheet (the "Income Worksheet") that details the calculation used to arrive at the annual income.

The Company shall submit such worksheet to the Community Development Department of the City of Evanston before the closing of the sale of any unit that will be set aside under this Affordable Housing Plan in order that the City may verify that the program requirements are being met.

#### Affordable Unit Initial Sales Prices

The initial sales prices for the affordable units ("Affordable Unit Prices") shall be set by the Company at amounts that are no higher than two-thirds ( $2/3^{\text{rds}}$ ) of the actual, base list prices for the same or comparable units in the Project when such units are not restricted for sale to income-qualified buyers. Base list prices shall be the prices assigned by the Company before any modifications for upgrades or custom alternates are added to the base price. When base prices among different units have factors that cannot be exactly compared (i.e., unique, floor plans due to the ziggurat step-backs, differences due to views, terrace features or other factors not exactly reproducible in the comparison), the Company shall assign the same weight to such factors in determining the underlying base price for an affordable unit as the Company shall regularly employ for calculating all other base list prices in the Project.

#### Subsidy Provided As Second Mortgage With Shared Appreciation

The difference between the actual, base price of an affordable unit and the Affordable Unit Price for such unit shall become the principal amount of a loan made by the Company to the buyer, to be evidenced by a note and secured by a second mortgage ("Second Loan") that shall be subordinated to any first mortgage loan obtained by the buyer for the purchase of the affordable unit (including any refinancing of the first mortgage loan).

Under most circumstances, unless the Company elects to provide a higher loan amount, the principal amount of the Second Loan will be one-third ( $1/3^{\text{rd}}$ ) of the base list price for the affordable unit.

The Second Mortgage shall have a term of fifteen (15) years, with principal and interest repayable in accordance with the following provisions:

- (I) Prior to maturity, after any sale of the affordable unit to an income-qualified buyer or other exempt transaction (i.e., certain transfers in the event of death or among related parties), the Second Loan shall transfer to the new buyer and no principal or interest shall be due upon such sale.
- (II) Prior to maturity, if there is a sale to a non-income qualified buyer or other non-exempt disposition, or at maturity, the principal shall be repaid and interest shall be due in an amount equal to the greater of:

Stated Interest equal to three percent (3.0%) per annum; or



Net Appreciation Interest equal to the Company's share [i.e., thirty-three percent (33%)] of the unit's "Net Appreciation".

Net Appreciation shall be based on the net sale proceeds after sale of the unit to a non-income qualified buyer or, in the case of the Second Loan maturing prior to the sale of the unit, on an appraisal issued not less than one hundred twenty (120) days prior to maturity.

The buyer's share of net appreciation shall be an increasing percentage correlated with the number of years that occupancy of the unit by such qualifying individuals or households is maintained. The buyer's share of appreciation shall be based on the following scale, providing for an increase of 1/10<sup>th</sup> of 2/3<sup>rds</sup> of the net appreciation in each of the first ten (10) years of ownership, and leveling out thereafter. This structure discourages the unit from being sold out of the affordable housing program in the early years of the program, while at the same time allowing qualified buyers to enjoy the long-term financial advantages of home ownership. The Company's share of Net Appreciation will remain fixed at 33%, so that if the unit is transferred to a non-exempt buyer before year 10, then a portion of the appreciation that otherwise would have accrued to the unit owner will instead be paid by the Company to the City to allow the City to continue sponsoring affordable homes.

<u>Years of Ownership</u>	<u>Buyer Share of Appreciation</u>	<u>City's Payment From Company after sale to non-qualified buyer</u>
1	6.66%	60.01%
2	13.32%	53.35%
3	19.98%	46.69%
4	26.64%	40.03%
5	33.33%	33.34%
6	39.96%	27.91%
7	46.62%	20.05%
8	53.28%	13.39%
9	59.94%	6.73%
10+	66.67%	0.00%

The buyer's share of appreciation shall remain at 66.67% of the net appreciation for the last five years of the Second Loan. The Second Loan will require the owner of an affordable unit to give prior notice of any proposed sale. If the unit owner desires to market the unit for sale to income-qualified buyers, then the Company shall assist the owner in performing the functions necessary to locate and determine the income eligibility of such buyers.

#### *Monitoring and Enforcement*

The Company shall provide its Income Worksheets to the City before the closing of the sale of any affordable unit and when determining, at any time during the term of the

Second Loan, whether the secondary sale of the affordable unit to any new individual or household continues to satisfy the income eligibility standards. The Company shall be required to give notice to the City at any time that Second Loan is paid off prior to maturity and to pay to the City any surplus appreciation as indicated above that becomes due upon the sale of the unit to a non-qualified buyer. The City shall have the right to injunctive relief to enforce the provisions of this Affordable Housing Plan.