

URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE

URA RESOLUTION NO. 188

A RESOLUTION OF THE URBAN RENEWAL AGENCY AUTHORIZING THE EXECUTION OF A MASTER GROUND LEASE BETWEEN THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE, LESSOR, AND CREEKSIDE WOODS LIMITED PARTNERSHIP, MASTER TENANT, FOR A SENIOR HOUSING DEVELOPMENT.

WHEREAS, the Urban Renewal Agency of the City of Wilsonville (URA) acquired the Wesleyan Church property, a portion of which was acquired to provide a site for the development of senior affordable housing; and

WHEREAS, subsequent to a competitive proposal process, the URA entered into a memorandum of understanding on December 3, 2007 with Northwest Housing Alternatives Inc.(NHA), the awarded proposer, to design and construct affordable senior housing; and

WHEREAS, the URA, the City of Wilsonville and NHA entered into a Disposition and Development Agreement, dated _____, and NHA has subsequently received land use approval from the City's Design Review Board for an affordable senior housing development of 84 units at the Wesleyan Church property site to be known as Creekside Woods; and

WHEREAS, NHA has put together a limited partnership, Creekside Woods Limited Partnership to provide necessary financing for the development of the affordable housing development and to own and operate the affordable housing development; and

WHEREAS, the site will be leased to Creekside Woods Limited Partnership, as designated in the separate Master Ground Lease agreement, for purposes of constructing and operating the affordable senior housing development; and

WHEREAS, in order to provide affordable senior housing NHA is in the process of receiving HUD 202 Award toward the construction of 84 units of affordable senior housing on the site as well as seeking state tax credits through the Oregon Housing Authority; and

WHEREAS, the City, the Urban Renewal Agency, and NHA have worked cooperatively on the development and are hopeful final approvals from the Oregon Housing Authority will be coming forth in time to still capture this construction season, making time of the essence; and

WHEREAS, Agency staff and NHA on behalf of the Creekside Woods Limited Partnership have negotiated a Master Ground Lease for the senior housing development, entry into which is necessary to effectuate construction and occupation of the development;

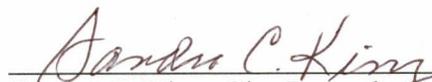
NOW, THEREFORE, THE URBAN RENEWAL AGENCY RESOLVES AS FOLLOWS:

1. The above recitals are incorporated as findings and conclusions of the Urban Renewal Agency.
2. The Urban Renewal Agency authorizes the Executive Director, or her designee, to execute the draft Master Ground Lease with Creekside Woods Limited Partnership, attached as Exhibit A, and as such lease may be further modified by the Director and Partnership as necessary to conform to federal, state and local laws and policies.
3. The resolution is effective upon the date adopted.

ADOPTED by the Urban Renewal Agency at a special meeting thereof this 3rd day of August, 2009 and filed with the Wilsonville City Recorder this date.


TIM KNAPP, CHAIR

ATTEST:


Sandra C. King, City Recorder

SUMMARY OF VOTES:

Board Chair Knapp - Yes
Board Member Kirk - Excused
Board Member Hurst - Yes
Board Member Ripple - Yes
Board Member Núñez - Yes

Attachment:

Exhibit A – Master Ground Lease

[Wilsonville Senior Affordable Housing]

MASTER GROUND LEASE

Dated as of _____, 2009

(Note: Table of Contents to be updated during final draft preparation)

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MASTER GROUND LEASE

THIS MASTER LEASE is made and entered into as of the ___ day of _____, 2009, by and between Creekside Woods Limited Partnership an Oregon Limited Partnership (the "Master Tenant"), and CITY OF WILSONVILLE URBAN RENEWAL AGENCY, an Oregon body corporate and politic (the "Lessor" or the "Agency"). Master Tenant and the Lessor or the Agency are referred to jointly in this Lease as "Parties" and individually as a "Party."

RECITALS:

WHEREAS, Lessor is the owner of land located at 7805 SW Wilsonville Road, Wilsonville, Oregon, legally described in Exhibit A, and attached hereto and incorporated by reference as if fully set forth herein (the "Property"); and

WHEREAS, Master Tenant intends to lease the Property to construct a low-income senior housing project (the "Development") pursuant to the terms hereof, and to hold, maintain, operate, and otherwise manage its interest in the Property hereunder (the "Leasehold Interest"); and

NOW, THEREFORE, in consideration of the foregoing, of mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereby agree as follows:

ARTICLE I. DEFINED TERMS

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Disposition and Development Agreement. In addition to the defined terms set forth in the Recitals to this Master Lease, the following defined terms used herein shall have the meanings specified below:

"Additional Rent" has the meaning set forth in Section 3.3.

"Base Rent" has the meaning set forth in Section 3.1.

"Building" means a total of two buildings containing 84 units of one and two-bedroom units, being built upon the Property by Master Tenant pursuant to this Agreement to be used solely for affordable senior housing.

"City" Means the City of Wilsonville, Oregon.

"Closing" means the date on which this Master Lease is fully executed and delivered by both Lessor and Master Tenant.

“Commencement Date” means the date of the Closing.

“Condemnation Award” means the aggregate amount of any condemnation award or awards payable with respect to a Taking, whether by agreement or pursuant to a judgment or otherwise, including consequential damages, with any interest on such amount, net of any unreimbursed costs and expenses of collecting the same.

“Consent” means the prior written consent or approval of the referenced party, to the action for which the consent is solicited.

“Designated Prime Rate” means the prime commercial rate of interest as published from time to time in The Wall Street Journal, or such other source as the parties may agree, adjusted as such rate adjusts.

“Development” means the Building, fixtures, grounds and landscaping, and other improvements to be constructed by Master Tenant on the Property for low-income senior housing.

“Environmental Laws” means the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 9601 *et seq.*, and/or the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, each as amended from time to time and any other federal, state, or local statute, code, ordinance, rule, regulation, permit, consent, approval, license, judgment, order, writ, judicial decision, common law rule, decree, agency interpretation, injunction or other authorization or requirement whenever promulgated, issued, or modified, including the requirement to register underground storage tanks, relating to:

(i) emissions, discharges, spills, releases, or threatened release of pollutants, contaminants, Hazardous Substances (as hereinafter defined), materials containing Hazardous Substances, or hazardous or toxic materials or wastes into ambient air, surface water, groundwater, watercourses, publicly or privately owned treatment works, drains, sewer systems, wetlands, septic systems or onto land; or

(ii) the use, treatment, storage, disposal, handling, manufacturing, transportation, or shipment of Hazardous Substances, materials containing Hazardous Substances or hazardous and/or toxic wastes, material, products, or by products (or of equipment or apparatus containing Hazardous Substances).

“Event of Default” has the meaning set forth in Section 9.1.

“Force Majeure” means acts of God, terror, fire, storm, strikes, blackouts, labor disputes, riot or civil insurrection, inability to obtain materials, equipment or labor, or unusual weather conditions.

“Foreclosure” has the meaning set forth in Section 10.4(a)(ii).

“Hazardous Substance” means (i) hazardous materials, hazardous wastes, and hazardous substances as those terms are defined under any applicable Environmental Laws, (ii) petroleum and petroleum products including crude oil and any fractions thereof, (iii) natural gas, synthetic gas, and any mixtures thereof, (iv) asbestos and/or any material which contains any hydrated mineral silicate, including but not limited to chrysolite, amosite, crocidolite, tremolite, anthophyllite, and/or actinolite, whether friable or non friable, (v) PCBs, or PCB containing materials or fluids, (vi) radon, (vii) any other hazardous, radioactive, toxic, or noxious substance, materials, pollutant, or solid, liquid or gaseous waste, and (viii) any substance with respect to which a federal, state or local agency requires environmental investigation, monitoring, or remediation.

“HUD” means Department of Housing and Urban Development, in its capacity as a provider of funds under Section 202 of the Housing Act of 1959, as amended (“Section 202”) to the Project.

“HUD Requirements” Mean those Section 202 requirements of HUD which it requires as a condition to the advancement of funds under such program, including, but not limited to the HUD Lease Addendum attached hereto as Exhibit “B” and incorporated by reference herein.

“Impositions” has the meaning set forth in Section 4.2.

“Institutional Lender” means a savings bank; commercial bank; trust company; savings and loan association; insurance company; real estate investment trust; pension trust or fund established for a corporation listed on the New York or American Stock Exchange, for state or municipal employees or for a national trade union; an agency or authority of any federal, state, or local government, any quasi public entity; any private or public for profit or nonprofit entity that provides financing for community development projects.

“Insurance Proceeds” means the proceeds obtained under any insurance policy Master Tenant maintains with respect to the Property, net of the unreimbursed costs and expenses incurred in the collection of such proceeds.

“Lease Year” means, in the case of the first lease year, the period from the Commencement Date through December 31st of the year which includes the Commencement Date; thereafter, each successive twelve calendar month period following the expiration of the first lease year of the Term; except that in the event of the termination of this Master Lease on any day other than the last day of the last Lease Year then such Lease Year shall be the period commencing with the day following the end of the preceding Lease Year through and including the date of termination.

“Leasehold Interest Value” has the meaning set forth in Section 7.6.

“Leasehold Mortgage” means a mortgage placed against the lease interest of the Master Tenant and any development placed on the Property by Master Tenant.

“Leasehold Mortgagee” means the holder of a Leasehold Mortgage.

“Legal Requirements” shall mean all laws, statutes, ordinances, orders, rules, regulations and requirements of all Federal, state and local governmental or quasi governmental entities, subdivisions, agencies, authorities or instrumentalities and the appropriate officers, departments, and boards thereof applicable to the Property.

“Lessee’s Work” means the rehabilitation and development of the Property in accordance with (i) all applicable requirements of the Operating Documents and the Property Documents, (ii) all Legal Requirements, and (iii) the Plans and Specifications.-

“Master Lease Payment” has the meaning set forth in Section 3.2.

“Master Tenant’s Personal Property” shall mean any personal property of Master Tenant used by Master Tenant in connection with the Property, including without limitation:

- (i) All contracts, contract rights, accounts, warranties, and agreements, including rights to return of deposits, prepaid premiums or other payments; receivables, rents, chattel paper and instruments, property rights, trade names, approvals and general intangibles and all other choses in action now or hereafter existing with respect to the Leasehold Interest, and all proceeds from the foregoing;
- (ii) all insurance proceeds, including interest, payable in connection with any damage or loss to the Leasehold Interest; all eminent domain awards made with respect to the Leasehold Interest; and
- (iii) all books and records maintained by Master Tenant and relating to the operation of the Property.

“Annual Base Rent” has the meaning set forth in Section 3.1.

“Operating Documents” means and includes this Master Lease, , any Leasehold Mortgage, and all other documents relating to the Leasehold Interest by which the Master Tenant is bound, as any of the foregoing may be or has been amended or supplemented from time to time.

“Partial Taking” has the meaning set forth in Section 7.6.

“Permitted Encumbrances” means the encumbrances and exceptions set forth in the Title Policy, as may be imposed by governmental entities in conjunction with their financing, and such open space trail as may be constructed in the future set forth in the City's Master Plan. These documents include, but are not limited to, the following:

- HUD Capital Advance Program Regulatory Agreement and Rider, if any
- HUD Capital Advance Program Use Agreement and Rider, if any
- Oregon Housing and Community Services Project Use Agreement, Declaration of Restrictive Covenants and Equitable Servitudes—Low Income Weatherization Grant Program

Oregon Housing and Community Services Housing Development Grant Program Grant Agreement, Declaration of Restrictive Covenants and Equitable Servitudes
Oregon Housing and Community Services Low-Income Housing Tax Credit Declaration of Land Use Restrictive Covenants
Trust Deeds associated with Permitted Mortgages

Lessor consents to the recording of these listed documents against the Development placed on the Property by Master Tenant.

“Permitted Mortgagee” means the holder of any of the Permitted Mortgages.

“Permitted Mortgages” means any Approved Mortgages and/or Trust Deeds together with any other Leasehold Mortgage and/or Consented to by the Lessor as provided for herein.

“Person” means any individual, partnership, joint venture, limited liability company, corporation, trust or other entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so requires.

“Plans and Specifications” means the plans and specifications described in the Disposition and Development Agreement entered into between Lessor and Northwest Housing Alternatives, Inc dated of even date herewith (“DDA”), as amended through the date hereof, as such plans and specifications may be changed from time to time with the approval of City, Agency, and any applicable governmental entities, if such approval shall be required.

“Property Development Period” means the period commencing upon Closing and terminating upon completion of Lessor’s Work evidenced by the issuance of a temporary or final certificate of occupancy with respect to the Property.

“Property Documents” means any document securing, evidencing or relating to any Construction Contracts; the Master Lease, or any other document relating to the Property, as any of the foregoing may be or has been amended or supplemented from time to time, along with any other documents relating to the Property by which the Lessor is bound.

“Repairs” means, other than the Lessor’s Work, and any warranty work associated with Lessor’s Work, all necessary or customary maintenance, replacements, renewals, alterations, additions and betterments made in the ordinary course of the operation of the Property, both interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, of every nature, kind and description.

“Sky Bridge” means the pedestrian bridge, including all structural elements, connecting the Development and the Community Center building on adjacent City-owned property.

“Taking” means any taking of the title to, access to, or use of all or any part of the Property and/or the Building, or any interest therein or right accruing thereto, as a result of the exercise of the right of condemnation or eminent domain affecting the Property or any part thereof. A conveyance in lieu of or in anticipation of the exercise of any such right of condemnation or

eminent domain shall be considered a Taking. Any such Taking shall be deemed to have occurred upon the earlier to occur of (a) the date on which the property, right or interest so taken must be surrendered to the condemning authority, or (b) the date title vested in a condemning authority or other party pursuant to any Taking. A Taking may be total or partial, permanent or temporary.

“Temporary Taking” means a Taking that does not extend beyond the Term, so that Lessor’s reversionary interest hereunder is unaffected by such Taking.

“Term” means the term commencing on the Commencement Date and ending 75 years from such Commencement Date.

“Utility Charges” has the meaning set forth in Section 4.3.

“Work” has the meaning set forth in Section 7.1.

ARTICLE II. PROPERTY, TERM AND MORTGAGE

2.1 Property

Lessor hereby leases and demises to Master Tenant, and Master Tenant hereby leases from Lessor, subject to and with the benefit of the terms, covenants, conditions and provisions of this Master Lease, the Property and Exhibits A and B, attached hereto and incorporated by reference.

2.2 Term

The Property is hereby leased unto Master Tenant and its permitted successors and assigns for the Term. In the event of any early termination of the Term, the Lessor and Master Tenant agree to execute and deliver, in form suitable for recording, a termination of the Memorandum of Lease or other recordable document, reflecting such termination.

2.3 Delivery; Title

Lessor shall deliver possession of the Property to Master Tenant on the Commencement Date, in substantially the same condition as it now is, except for sewer line improvements provided for in the DDA, and Master Tenant shall hold the Leasehold Interest free of all title defects and encumbrances except the Permitted Encumbrances.

ARTICLE III. MASTER LEASE PAYMENT

3.1 Base Rent

Master Tenant shall pay an annual base rent (hereinafter referred to as "Base Rent") to the Lessor for the Property for each Lease Year, payable in annual y installments (hereinafter referred to as "Annual Base Rent") of One Hundred and no/100 Dollars (\$100.00) payable on the Fifth (5th) day of each year.

3.2 Manner of Payment

Base Rent and all other amounts becoming due from Master Tenant to Lessor hereunder (hereinafter collectively referred to as the "Master Lease Payment") shall be paid in lawful money of the United States to the Lessor at the office of Lessor, or as otherwise designated from time to time by written notice from the Lessor to Master Tenant.

3.3 Additional Rent

Lessor shall receive the Master Lease Payment set forth in Section 3.3 hereof free and clear of any and all expenses for which the Master Tenant is responsible pursuant to Article IV hereof. During the Term, all of such charges, costs and expenses when due shall constitute additional rent hereunder ("Additional Rent"), even though not necessarily payable to Lessor, and upon the failure of Master Tenant to pay any of such costs, charges or expenses, Lessor shall have the same rights and remedies as otherwise provided in this Master Lease for the failure of Master Tenant to make any Master Lease Payment. Any Master Lease Payment, Additional Rent and all other sums payable hereunder by Master Tenant shall be paid (except as otherwise provided for herein) without notice or demand; provided, however that Master Tenant shall be entitled to notice and a reasonable cure period within which to pay any Additional Rent hereunder which is or may become late subject to Section 4.3 hereof. Nothing herein contained shall obligate Master Tenant for the payment of any expenses payable by the Lessor pursuant to Section 6.7 herein below or any income or franchise taxes payable by the Lessor of the type described in Section 4.1.

3.4 Off-Set

Except as otherwise expressly provided herein, this Master Lease shall not terminate, nor shall Master Tenant have any right to terminate this Master Lease, nor shall Master Tenant be entitled to any abatement or reduction of any Master Lease Payment hereunder, nor shall the obligations of Master Tenant hereunder be affected, by reason of any default on the part of the Lessor under this Lease, or under any other agreement to which the Lessor and Master Tenant may be parties. Notwithstanding the foregoing, in the event that: (i) the Lessor has not substantially complied with any material provisions of this Agreement, or (ii) any financing commitment of the Lender or any other lender, or any agreement entered into by the Lessor for financing related to the Property, has terminated, or (iii) Foreclosure proceedings have been commenced against the Property by the Lender to Lessor, then the Lessor shall be in default of this Agreement, and Master Tenant, at its sole election, may withhold payment of any Annual Base Rent otherwise payable to the Lessor; provided however, if a payment of all or any portion of the Annual Base Rent then due would cure the event justifying the withholding, then Master Tenant shall pay such Annual Base Rent otherwise payable if it is applied to cure such event. It is the intention of the parties hereto that the obligations of Master Tenant hereunder shall be separate and independent

covenants and agreements, that the Master Lease Payment, and all other sums payable by Master Tenant hereunder shall continue to be payable in all events and that the obligations of Master Tenant hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Master Lease. Nothing herein shall preclude Master Tenant from pursuing or realizing upon its other remedies at law or in equity by reason of any default hereunder by the Lessor.

3.5 Default Rate of Interest

Master Lease Payments not paid within ten (10) days from the date when due shall bear interest from the date due until paid at the annual rate of three percent (3%) in excess of the Designated Prime Rate unless such amount would violate any applicable usury or other law, in which event such unpaid amounts shall bear interest at the highest rate then allowed by law.

ARTICLE IV. TAXES AND OPERATING EXPENSES

4.1 Real Estate Taxes

Master Tenant will take reasonable best efforts to obtain a property tax exemption pursuant to ORS §307.242 and Lessor agrees to cooperate with Master Tenant in supporting Master Tenant's application for tax exemption and to assist in efforts to obtain consent from any other pertinent taxing bodies. Master Tenant covenants and agrees to file all reports and provide all documentation to confirm and preserve, to the extent reasonably possible, such status.

4.2 Impositions

Master Tenant shall pay, directly to the authority charged with the collection thereof, all real estate taxes, assessments, and all other impositions, ordinary and extraordinary, general and special, of every kind and nature whatsoever, as well as any payments in lieu of taxes, which may be levied, assessed, charged or imposed during the Term of this Master Lease upon the Property, or any part thereof, or upon any improvements at any time situated thereon (such taxes and installments of assessments being hereinafter together referred to as "Impositions") for each tax or installment period wholly included in the Term, all such payments to be made not less than 5 days prior to the last date on which the same may be paid without interest or penalty.

Master Tenant, at its sole cost and expense, in its own name or in the name of Lessor, may contest the validity or amount of any Impositions relating to all or any portion of the Property, in which event Master Tenant may (i) make such payment under protest or (ii) if postponement of such payment will not jeopardize Lessor's title to the Property or subject Lessor or the Master Tenant to the risk of any criminal liability or civil penalty, the Master Tenant may postpone the same.

As may be necessary or desirable, Master Tenant, upon the request of Lessor, shall use its best reasonable efforts to assist in any such proceeding to contest the validity or amount of any

Impositions. In the event Master Tenant pays any Impositions, it shall be entitled to recover, receive and retain for its own benefit all abatements and refunds of such Impositions unless previously reimbursed by the other party with respect thereto.

Nothing contained in this Section 4.2, however, shall be construed to allow any such contested Impositions to remain unpaid for a length of time which shall permit the Property, or any part thereof, to be sold by any governmental authorities for the non-payment of such Impositions. The Master Tenant shall promptly furnish the Lessor with copies of all notices, appeals, pleadings, motions and orders in any proceedings commenced with respect to such contested Impositions.

The Master Tenant agrees to save Lessor harmless from all costs and expenses incurred on account of the Master Tenant's participation in such proceedings or as a result of the Master Tenant's failure to pay any Impositions or other related charges with respect to the Property. The Lessor shall promptly furnish to the Master Tenant a copy of any notice of any Impositions received by the Lessor. If the Master Tenant fails to make any payment referred to in this Section 4.2 when due pursuant to the terms hereof, the Lessor shall have the right after 5 days notice to the Master Tenant to make any such payment on behalf of the Master Tenant and charge the Master Tenant therefor.

4.3 Utilities

Master Tenant shall pay or cause to be paid any and all utility charges including, but not limited to, all charges for water, gas, sewer, electricity, heat or power, telecommunication and cable services, garbage, and storm water fees rendered or supplied to Master Tenant in connection with the Property ("Utility Charges") and shall not contract for the same in Lessor's name.

4.4 Other

Master Tenant covenants to pay and discharge, when the same shall become due, all other amounts, liabilities and obligations which Master Tenant assumes or agrees to pay or discharge pursuant to this Master Lease, together with every fine, penalty, interest and cost which may be added for nonpayment or late payment thereof and which payment Master Tenant has failed to make when due.

ARTICLE V. INDEMNITY, LIENS AND INSURANCE

5.1 Indemnification

Master Tenant agrees to pay and to defend, indemnify and hold harmless the Lessor from and against any and all liabilities, losses, damages, causes of action, suits, claims, demands, judgments, costs and expenses of any kind or any nature whatsoever (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable expert's and attorneys' fees and expenses), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by, or asserted or awarded against Lessor, its employees, agents, members, or other persons serving in an advisory capacity to any of them or against the Property or any portion thereof, arising from: any injury to or death of or

claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property on the Property otherwise, in each case arising out of the use, possession, ownership, condition or occupation of the Property, the Building or any part thereof (but not of any other property) from and after the date hereof; violation by Master Tenant, its employees, agents, or members, or invitees of any of them, of any Environmental Law affecting the Property or the Building or any part thereof or the ownership, occupancy or use thereof from and after the date hereof; provided, however, that notwithstanding the foregoing, Master Tenant shall not have any liability to Lessor for any loss or damage arising out of acts of Lessor, or persons under the control or direction of Lessor, including claims with respect to Lessor's Work, or out of any release or threat of release of Hazardous Substance for which Lessor is responsible under Section 8.4 hereof. The Lessor shall give Master Tenant prompt and timely notice of any claim made or suit instituted against it or any other party of which it has knowledge, relating to any matter which in any way may result in indemnification pursuant to this Section 5.1. The obligations of Master Tenant under this Section 5.1 shall survive the Term. The foregoing indemnification shall not be construed as creating any rights in or conferring any rights to any third parties.

5.2 Repairs to the Property

At its sole cost and expense throughout the Term, Master Tenant shall (a) take good care of the Property; (b) keep the same in good order and condition; and (c) make and perform all repairs. All repairs made by Master Tenant shall be at least equal in quality and cost to the original improvements, and shall be made by Master Tenant in accordance with all Legal Requirements. The necessity for or adequacy of repairs shall be measured by the standards which are appropriate for improvements of similar construction and class, provided that Master Tenant shall in any event make all repairs reasonably necessary to avoid any structural damage or other damage or injury to the Building.

Lessor, and/or its representative shall make an annual inspection of the Property to determine the necessity for or adequacy of repairs. Maintenance of the Property and any necessary repairs shall include maintenance of and repairs to the entire Development, including grounds and landscaping in addition to the Building. The Master Tenant shall also be responsible for maintenance of and minor repairs to the Sky Bridge connecting the Building to adjacent property owned by the City. Costs of maintenance and minor repairs shall be pro rated 40% to the Lessor and 60% to the Lessee. Major repairs and/or replacement shall be at the Lessor's expense. Lessor shall Notice Master Tenant of any required maintenance or minor repair that Lessee has failed to accomplish after which Master Tenant shall have thirty (30) days to complete the required maintenance or minor repairs unless otherwise agreed to by the Parties.

Except as otherwise provided herein, the Lessor shall not be required to furnish any services or facilities or to make any repairs in, about or to the Property or any improvements hereafter erected thereon. Master Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, and management of the Property hereafter erected thereon.

Master Tenant shall not do or suffer any permanent waste or damage to the Property.

5.3 Alterations

Except for repairs, Master Tenant shall not, without the Consent of the Lessor (which shall not be unreasonably withheld, delayed or conditioned) make any alterations, additions or improvements to the Property which shall cost more than \$50,000 per occurrence. Any such Master Tenant work (i) must be completed in a good and workmanlike manner, with new first class materials and equipment, and in conformity with all applicable Legal Requirements, and (ii) shall not cause a material change in the nature of the Building or its occupancy. Any and all buildings, fixtures and improvements placed in, on, or upon the Property shall vest in Master Tenant until the expiration or earlier termination of the Term of this Master Lease, at which time said buildings, fixtures and improvements shall vest in the Lessor subject to the rights of Master Tenant in Master Tenant's Personal Property.

Before commencement of any work for which Lessor's Consent is required, Master Tenant shall furnish to the Lessor for approval plans and specifications, names and addresses of contractors, copies of contracts, necessary permits and licenses, and instruments of indemnification against any and all claims, costs, expenses, damages and liabilities which may arise in connection with such work, all in such form, substance and amount as may be reasonably satisfactory to the Lessor.

In addition, except for repairs, for any work which shall cost, in any one occurrence, in excess of \$100,000, prior to commencement of any such work or delivery of any materials into the Property, the Lessor shall have the right to approve material contracts entered into by Master Tenant with respect to the Property, which approval shall not be unreasonably withheld, conditioned or delayed. Except as otherwise provided in Section 6.7, Master Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons, firms and corporations doing any work, furnishing any materials or supplies or renting any equipment to Master Tenant or any of its contractors or subcontractors in connection with the reconstruction, furnishing, repair, or operation of the Property, and in all events will bond or cause to be bonded, with surety companies reasonably satisfactory to Lessor, or pay or cause to be paid in full forthwith, any mechanic's, materialmen's or other lien or encumbrance that arises, whether due to the actions of Master Tenant or any person under the control of Master Tenant, against the Property.

Master Tenant shall have the right to contest any such lien or encumbrance by appropriate proceedings which shall prevent the collection of or other realization upon such lien or encumbrance so contested, and the sale, forfeiture or loss of the Property to satisfy the same, provided that such contest shall not subject Lessor to the risk of any criminal liability or civil penalty, and provided further that Master Tenant shall give such reasonable security as may be requested by Lessor to insure payment of such lien or encumbrance and to prevent any sale or forfeiture of the Property by reason of such nonpayment, and Master Tenant hereby indemnifies Lessor for any such liability or penalty. Upon the termination after final appeal of any proceeding relating to any amount contested pursuant to this Section 5.3, Master Tenant shall immediately pay any amount determined in such proceeding to be due, and in the event Master Tenant fails to make such payment, Lessor shall have the right after giving 5 days notice to

Master Tenant to make any such payment on behalf of Master Tenant and charge Master Tenant therefor.

5.4 Insurance.

The following types of insurance shall be maintained by Master Tenant to the extent required and in form and amounts satisfactory to the Leasehold Mortgagee and Lessor:

- (i) Commercial General Liability Insurance (Bodily Injury and Property Damage);
- (ii) Boiler and Machinery: Comprehensive Form Insurance;
- (iii) Worker's Compensation and Employees Liability Insurance to be provided in name of Master Tenant or, where appropriate, the parent of its manager or the property manager, if applicable; and
- (iv) Property Insurance.

ARTICLE VI. USE AND ASSIGNMENT

6.1 Use

Master Tenant shall use and occupy the Property only for purposes of operation and maintenance of a senior affordable residential rental property and for incidental uses thereto, and for no other use or purposes. Master Tenant shall not use any Hazardous Substances, except to the extent reasonable or appropriate in connection with the lawful use of the Property in the ordinary course of Master Tenant's business, and Master Tenant shall comply with all Environmental Laws in connection with such use.

6.2 Transfer or Assignment

- (a) Master Tenant shall have the right, subject to the Legal Requirements, to sublease the Property for residential units therein to low income seniors without Lessor's approval.
- (b) Master Tenant may not sell or assign its interest in, to and under this Master Lease without the Consent of the Lessor, which Consent shall not be unreasonably withheld.
- (c) Lessor currently owns the Property that is the subject of this Lease and it is the intent of the Lessor that it may assign and or transfer the property ownership interest in the Property of the Lessor to the City and assign its interests in this Lease to the City. Any such assignment and or transfer to the City of the ownership of the Property and or to this Lease shall not affect the obligations or rights under this Lease and the City shall simply be a successor in interest to this Lease.

6.3 Compliance with Law

Master Tenant shall, at its expense, perform all its activities on the Property in compliance, and shall use its best efforts to cause all subtenants to comply, with the Legal Requirements, as the same may be administered by authorized governmental officials, and, to the extent that it should fail to do so beyond any applicable grace or cure period, the Lessor shall have the right to cause such requirements to remain in compliance and the amount expended or advanced on behalf of Master Tenant by Lessor on account thereof shall constitute Additional Rent.

6.4 Mechanics' Liens

Master Tenant shall use its best efforts throughout the Term hereof to prevent any mechanic's liens or other liens for work, labor, services or materials from being filed or recorded against the Property or any portion thereof; in the event that any such lien shall be filed, Master Tenant shall procure the release or discharge thereof within thirty (30) days either by payment or in such other manner as may be prescribed by law, and shall hold the other party harmless from and indemnified against any loss or damage related thereto.

6.5 Surrender of Property

At the termination of this Master Lease or any portion thereof, Master Tenant shall peaceably leave, quit and surrender the Property or the portion thereof so terminated. Upon such termination, the Property or portion thereof so terminated shall become the sole property of Lessor at no cost to the Lessor and shall be free of all liens and encumbrances (except for Permitted Encumbrances) and in "as is, where is" condition, and, in the event of a casualty, shall be subject to the provisions of Article VII hereof.

6.6 Easements; Annexation

The Lessor agrees that it shall not unreasonably withhold or delay its Consent, and shall join with Master Tenant from time to time during the Term in the following: (a) the granting of easements affecting the Property which are for the purpose of providing utility services (including those provided by Lessor) for the Building; (b) the dedication or conveyance, as required, of portions of the Land for road, highway and other public purposes to provide access to the Building or to permit widening of existing roads or highways (including those provided by Lessor); and (c) the granting of easements affecting the Property which are for the purpose of providing ingress and egress access, parking and storm water flow and detention for the Building or adjacent properties. If any monetary consideration is received by Master Tenant as a result of the granting of any such easement or the dedication or conveyance of any portion of the Property as provided, such consideration shall be apportioned as provided for in Section 7.6(b)(ii). As a condition precedent to the exercise by Master Tenant of any of the powers granted to Master Tenant in this Section, Master Tenant shall give notice to Lessor of the action to be taken, shall certify to Lessor, that in Master Tenant's opinion such action will not adversely affect either the value or the use of the Property for the Building, and shall deliver all instruments required of Master Tenant by any holder of a Permitted Mortgage.

6.7 Tax Attributes

The Lessor and Master Tenant agree that Master Tenant shall be entitled to any investment tax credits or depreciation attributable to improvements made by or property installed by Master Tenant and paid for by Master Tenant following the Commencement Date.

ARTICLE VII. CASUALTY AND TAKING

7.1 Casualty

If any improvements from time to time constructed on the Land are damaged or destroyed by fire or other casualty, the Master Tenant shall proceed promptly to establish and collect all valid claims which may have arisen against insurers or others based upon any such damage or destruction. Subject to the rights of the Leasehold Mortgagee, the Master Tenant, using the Insurance Proceeds to the extent available, shall within 180 days after the Insurance Proceeds become available, initiate the repair, restoration, replacement or rebuilding of the improvements to substantially the same condition as existed immediately prior to the damage or destruction and substantially in accordance with the originally approved Property Documents for the development, subject to additional code requirements in place at that time (the "Work"). Notwithstanding the foregoing, subject to Section 7.2 hereof, in the event of substantial damage or destruction by casualty (i) which damage Master Tenant and the Lessor in good faith determine is such that the reconstruction of an economically viable Building is not practicable, either because (a) the Insurance Proceeds made available to the Master Tenant and, if applicable, available to the Lessor through a Lessor's policy are not sufficient to repair such loss or damage (provided that in all events the Master Tenant shall have been in compliance with the insurance requirements set forth in Article 5.4 of this Master Lease), or (b) such reconstruction cannot be carried out under applicable laws, including then current building or zoning laws, or (ii) which damage occurs during the last three (3) years of the Term, then the Lessor shall have the right to terminate this Master Lease upon 90 days' written notice to Master Tenant.

7.2 Insurance Proceeds: Deficits or Excess

If the Master Tenant elects to reconstruct the Building as provided for in Section 7.1 above, and if the Insurance Proceeds received by the Master Tenant and, if applicable, the Lessor, are insufficient to pay the entire cost of the Work, then the amount of any such deficiency shall be funded by the Lessor and Master Tenant in an amount equal to the product of the deficiency as the parties mutually determine is equitable. For example: Assuming only building damage and no damage to utilities, landscaping or pavement, the parties could look at the proportional amount the Lessor provided for upgrades to the building divided by the total cost of the building at the time of construction to establish Lessor's funding percentage for deficiency and then subtracting Lessor's percentage from 100% to establish a funding percentage for Master Tenant. If the Insurance Proceeds received by the Lessor shall exceed the entire cost of the Work, then such excess proceeds shall be apportioned as the parties determine as equitable. If the Lessor

elects to terminate the Master Lease in accordance with Section 7.1, the Insurance Proceeds shall be allocated as provided for in Section 7.6(b) below.

7.3 Taking

If a Taking occurs at any time during the Term, then the provisions of this Article VII shall apply to the condemnation proceedings and the distribution of any Condemnation Award pertaining to such Taking. The parties recognize that as a practical matter it is unlikely the Lessor would be initiating condemnation proceedings as a municipal government involving its own property and the leasehold interests of the Master Tenant under a lease to which the municipal government is the Lessor, or that Clackamas County, the State of Oregon or the federal government would be initiating such proceedings given the property is within the City. Nevertheless, the parties have provided this section in the unlikely event a taking or partial taking should occur to provide guidance for an equitable apportionment of condemnation proceeds.

7.4 Apportionment of Condemnation Award

Whether or not separate awards are made to the Lessor and Master Tenant, any Condemnation Award attributable to the respective interest of the Lessor and Master Tenant in the Property shall be apportioned between the Lessor and Master Tenant as provided in Subsections 7.6(b) and 7.6(c), as applicable.

7.5 Requests for Separate Awards by Court

The court in such condemnation proceedings shall, if not prohibited by law, be requested by Lessor and Master Tenant to make separate Condemnation Awards to Lessor and Master Tenant apportioned in accordance with Subsections 7.6(b) and 7.6(c) hereof. The provisions of Subsections 7.6(b) and 7.6(c) concerning termination of the Term and receipt and payment of the award shall also apply to circumstances governed by this Section 7.5 and the court shall be requested to take such matters into account in rendering separate awards.

7.6 Single Award by Court

- (a) General. If the court in such condemnation proceedings is prohibited by law from making separate Condemnation Awards to Lessor and Master Tenant, or declines to do so, then the provisions of this Section 7.6 shall apply to the distribution of the single Condemnation Award made by such court.
- (b) Total Taking. If a Total Taking (other than a Temporary Taking) occurs, then the Master Lease Payment shall be prorated between Lessor and Master Tenant as of the Date of Taking, and this Master Lease shall be terminated as of the Date of Taking. The following provisions shall apply to the apportionment of any Condemnation Award for such Total Taking:

- (i) All sums, including damages and interest, constituting the Condemnation Award shall be deposited promptly with a mutually agreeable escrow agent, and shall be apportioned pursuant to the terms of this Subsection 7.6(b); and
 - (ii) Subject to the rights of any Leasehold Mortgagee, the Condemnation Award, after the payment of all reasonable fees and expenses related thereto, shall be apportioned and disbursed in the following amounts and priority:
 - (A) To Lessor, a sum equal to the product of the Condemnation Award applicable to Lessor's property interest in the land and any property interest it may have in the sky bridge, building upgrades, and/or utilities; and
 - (B) To Master Tenant, a sum equal to the product of the Condemnation Award applicable to its property/leasehold interest in the buildings, structures, skybridge, parking, landscaping, and/or utilities.
- (c) Partial Taking: Procedures and Criteria for Course of Action. In the event of a permanent Taking of less than all of the Property (a "Partial Taking"),
- (i) if the Lessor and Master Tenant reasonably determine that the continued use and occupancy of the remainder of the Property by Master Tenant is or can reasonably be made to be economically viable, structurally sound, consistent with any Mortgage or Leasehold Mortgage, then this Master Lease shall remain in effect as to the remainder of the Property, and, if otherwise feasible based upon the amount of the Condemnation Award and any other funds of the Lessor and/or Master Tenant as are available for the purpose of paying for such restoration (the "Restoration Criteria"), then the Property shall be restored pursuant to Section 7.9 hereof,
 - (ii) if the continued use and occupancy of the remainder of the Property by Master Tenant is not or cannot reasonably be made to be economically viable, structurally sound, consistent with any Leasehold Mortgages, and otherwise feasible, then this Master Lease may be terminated and the Condemnation Award shall be applied in accordance with Subsection 7.6(b).
- (d) Temporary Taking. If a Temporary Taking occurs, then the Term shall not be reduced or affected in any way and Master Tenant shall continue to pay in full the Master Lease Payment, without reduction or abatement, in the manner and at the times specified in this Master Lease. Except only to the extent that Master Tenant is prevented from so doing pursuant to the terms of the order of the condemning authority, Master Tenant shall continue to perform and observe all of the other covenants, agreements, terms and provisions of this Master Lease as though such Taking had not occurred. Upon any such Temporary Taking, Master Tenant shall be entitled to receive the entire amount of any Condemnation Award made for such Temporary Taking whether such award is paid by

way of damages, Master Lease Payment or otherwise; provided, however, if the period of temporary use or occupancy shall extend beyond the date of the expiration or termination of the Term, then such Condemnation Award shall be prorated by the Lessor and Master Tenant as of such date of expiration.

7.7 Condemnation Proceedings

Master Tenant, Lessor and each Leasehold Mortgagee shall each have the right, at its own expense, to appear in any condemnation proceeding and to participate in any and all negotiations, hearings, trials and appeals in such proceeding.

7.8 Notice of Condemnation

If Lessor or Master Tenant receives notification of any proposed or pending condemnation proceeding affecting the Property, then the party receiving, such notification shall promptly give notice to the other party.

7.9 Restoration

If a decision is made pursuant to Subsection 7.6(c) following a Partial Taking to restore the remainder of the Property, and/or Building(s), as applicable, Master Tenant and the Lessor, shall reasonably agree upon and approve plans and specifications for doing so. Upon approval of said plans and specifications, Master Tenant shall promptly proceed to commence and complete the restoration pursuant to the approved plans and specifications. The entire Condemnation Award shall be used for such restoration; provided, however, any portion of the Condemnation Award remaining after the completion of the restoration shall be applied in accordance with Subsection 7.6(b).

ARTICLE VIII. CONDITION OF PROPERTY

8.1 Condition; Title

Except for the obligations of the Lessor regarding Lessor's Work or as specifically provided for elsewhere herein, the Property is demised and let in an "as is" condition as of the Closing Date. The Property is demised and let to Master Tenant subject to:

- (a) zoning regulations, restrictions, rules, laws and ordinances now in effect or hereafter adopted by any governmental authority;
- (b) use of the Property which is consistent with the terms of this Master Lease; and
- (c) all Permitted Encumbrances.

8.2 No Encumbrances

The Lessor covenants that it has good and marketable fee simple title to the Property, subject to the provisions of Section 8.1, and that Lessor has full right and lawful authority to enter into this Master Lease in accordance with the terms hereof and to grant the estate demised hereby, and that, other than the Subtenants, no other party has any right, lease or option to or in connection with the Property. Lessor covenants that, except for the Mortgage and the memoranda of leases with respect to this Master Lease, it will not encumber the title of the Property or cause or permit said title to be encumbered in any manner whatsoever after the date of the Master Lease without the Consent of Master Tenant, and Master Tenant may reduce or discharge any such encumbrance or lien by payment or otherwise at any time after giving ten (10) days' written notice thereof to Lessor and recover or recoup all costs and expenses thereof from Lessor. Lessor further covenants other than the Permitted Encumbrances that the Lessor has received no written notice and has no knowledge of the intention of any party holding an easement affecting the Property or any part thereof to expand the exercise of any such easement beyond the scope of the present exercise thereof (as by replacing, or expanding existing facilities, conduits (including underground or overhead wires, cables or pipes) or systems for sewers, water, electric, gas, cable and other utilities). None of the Permitted Encumbrances has or will have a material adverse effect upon the construction or operation of the Development.

8.3 Quiet Enjoyment

Lessor covenants and warrants that Master Tenant, upon payment of all sums herein provided and upon performance and observance of all of its covenants herein contained, shall peaceably and quietly have, hold, occupy, use and enjoy and shall have the full, exclusive and unrestricted use and enjoyment of, all of the Property during the Term, subject only to the provisions of this Master Lease and all applicable Legal Requirements, including without limitation the use restrictions set forth in Section 6.1. With respect to the Permitted Encumbrances, Lessor agrees to warrant and forever defend the title to the Property against the claims of any and all persons whomsoever lawfully claiming by, through or under Lessor, but not otherwise, subject only to the provisions of this Master Lease and all applicable Legal Requirements. Notwithstanding the foregoing, Lessor in person or through its agents, upon reasonable prior notice to Master Tenant, shall have the right to enter upon the Property for purposes of reasonable inspections performed during reasonable business hours in order to assure compliance by Master Tenant with its obligations under this Master Lease. In addition, during the Property Development Period, Master Tenant shall provide the Lessor, the general construction contractor and their agents with a revocable license entitling them to full access to the Property, including the Buildings, rights of way and easements for access thereto, subject to preexisting rights of other parties, if any, for purposes of performing Lessor's Work. The Lessor hereby agrees to indemnify Master Tenant from any and all loss, damage, or claim incurred by it as a result of any negligence, misfeasance, malfeasance on the part of the Lessor, its employees, agents, or contractor in connection with such activities on the Property. Lessor shall provide such insurance as may be necessary with respect to any activity to be undertaken on the site by the Lessor under said license.

8.4 Lessor Right of Access to Boeckman Creek Sewer Line.

Notwithstanding any provision to the contrary, Lessor has a sewer trunk line known as the Boeckman Creek Sewer Line located within the Boeckman Creek natural area adjacent to the leased premises. Lessor anticipates that this trunk line will need maintenance as well as improvement in the future and it reserves the right to take reasonable ingress and egress over the leased premises to access the trunk sewer line. Lessor shall indemnify Lessee to the extent allowable under the law for any claims or damages associated with the use of such access and to restore any property or vegetation damage should any such damage occur.

8.5 Environmental Indemnity

Master Tenant covenants and agrees to indemnify, protect, defend (by counsel reasonably satisfactory to Lessor), and save Lessor, its employees, agents, managing member and members, and any successor thereof, harmless against and from any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable attorneys' and experts' fees and disbursements), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by or asserted or awarded against Lessor, its employees, agents, managing member and members, or the Property or any portion thereof and arising directly or indirectly, in whole or in part, from or out of any Hazardous Substances on, in, under or affecting all or any portion of the Property, (i) from and after the Commencement Date of this Master Lease, or (ii) which migrate off of the Property hereafter, except that any increase in scope or exacerbation of any such release or threat of release covered in clauses (i) and (ii) above is excluded from the forgoing indemnity if said increase in scope or exacerbation arises out of Lessor's negligence or willful misconduct.

Lessor covenants and agrees to indemnify, protect, defend (by counsel reasonably satisfactory to Master Tenant), and save Master Tenant, its employees, agents, manager and members, and any successor thereof, harmless against and from any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable attorneys' and experts' fees and disbursements), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by or asserted or awarded against Master Tenant, its employees, agents, manager and members, or the Property or any portion thereof and arising directly or indirectly, in whole or in part, from or out of any Hazardous Substances on, in, under or affecting all or any portion of the Property, (i) which exist as of the date of this Master Lease,; (ii) which arises from and after the Commencement Date of this Master Lease as a result of Lessor's negligence or willful misconduct; or (iii) which migrate onto the Property hereafter from any other property owned by Lessor, except that any increase in scope or exacerbation of any such release or threat of release covered above is excluded from the foregoing indemnity if said increase in scope or exacerbation arises out of Master Tenant's negligence or willful misconduct.

8.6 Representations and Warranties of Lessor

Lessor hereby represents and warrants to Master Tenant as follows:

- (a) The execution and delivery of this Master Lease and the performance of all acts heretofore or hereafter made or taken or to be made or taken, pertaining to the Lessor or the Property by the Lessor have been or will be duly authorized by all necessary agency or other action, and the consummation of any such transactions with or on behalf of the Lessor will not constitute a breach or violation of, or a default under, the charter or by laws or other governing documents of the Lessor or any agreement by which Lessor, nor constitute a violation of any law, administrative regulation or court decree;
- (b) The Property is not subject to any pending or, to the best of Lessor's knowledge, threatened Taking.

8.7 Representations and Warranties of Master Tenant

Master Tenant hereby represents and warrants to Lessor as follows:

- (a) The execution and delivery of this Master Lease, the incurrence of the obligations set forth in this Agreement, and the consummation of the transactions contemplated by this Agreement do not violate or conflict with any provision of any federal, state, municipal or local laws, ordinances, rules, regulations, requirements, or any order, judgment, decree, determination, or award of any court binding on Master Tenant or its manager, or their assets including the Leasehold Interest; nor do they conflict with, result in a breach of, constitute a default under, result in the acceleration of, or create in any party the right to accelerate, terminate, modify, or cancel, or require any notice (which notice has not been furnished) under any agreement, contract, lease, license, instrument, or other arrangement to which Master Tenant or its manager is a party or by which it is bound or to which any of its assets is subject;
- (b) No consent, authorization, approval or permit of or from, or notice to or filing with, any governmental body or any party to any contract, agreement or instrument to which Master Tenant is a party or by which Master Tenant is bound, is required for the execution, delivery or compliance with the terms of the Master Lease by Master Tenant; and
- (c) In connection with the transactions contemplated hereby, Master Tenant has not retained or incurred any obligation to any broker.

**ARTICLE IX.
DEFAULTS**

9.1 Default

The occurrence of any of the following events shall constitute an event of default (“Event of Default”) hereunder:

- (a) if Master Tenant fails to pay when due any Base Rent, or Additional Rent, and any such default shall continue for ten (10) days after the receipt of written notice thereof from the Lessor; or
- (b) if Master Tenant fails in any material respect to observe or perform any covenant, condition, agreement or obligation hereunder not addressed by any other event described in this Section 9.1, unless such failure is not monetary in nature such that it cannot be cured by the payment of a sum certain to Lessor (or other required payee), is, in the best judgment of Lessor, reasonably exercised, susceptible to cure, but cannot with due diligence be cured within such thirty (30) day period, in which case the time within which Master Tenant may cure such failure shall be extended so long as Master Tenant proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof within a reasonable period of time; or
- (c) if Master Tenant files for or is adjudged Bankrupt or permits or suffers foreclosure with respect to any Leasehold Mortgage.

9.2 Rights and Remedies

- (a) Upon the occurrence of any Event of Default hereunder (after the expiration of all applicable grace periods), Lessor, subject in all respects to the provisions of this Master Lease with respect to Lessor’s rights to cure defaults by Master Tenant and with respect to the rights of any holder of a Permitted Mortgage, shall have the right to petition any court of competent jurisdiction for appropriate relief including, without limitation, one or more of the following: preliminary or permanent injunction, specific performance or other equitable relief; actual (but not consequential or punitive) damages; and termination of this Master Lease.
- (b) No default in the performance of the terms, covenants or conditions of this Master Lease on the part of Master Tenant or the Lessor (other than in the payment of any Master Lease Payment or Additional Rent) shall be deemed to continue if and so long as the Lessor or Master Tenant, as the case may be, shall be delayed in or prevented from remedying the same due to a default under Force Majeure; but if and when the occurrence or condition which delayed or prevented the remedying of such default shall cease or be removed, it shall be the obligation of the Lessor or Master Tenant, as the case may be, without further delay, to commence the correction of such default or to continue and complete the correction thereof.

- (c) Upon a dissolution of the Lessor, the successor entity to Lessor shall assume the obligations of the Lessor pursuant to this Master Lease and shall execute any documents necessary to evidence such assumption of obligations, and this Master Lease shall remain in full force and effect.
- (d) The defaulting party shall be liable for the reasonable legal expenses of the non-defaulting party in connection with any collection of funds owed under this Master Lease, the remedying of any Event of Default under this Master Lease or any termination of this Master Lease where such collection, remedying or termination results from an Event of Default, as finally determined by a court of competent jurisdiction. If a default is alleged and it shall be determined that no Event of Default exists the court may determine for just cause that the alleging party shall be liable for the legal costs and expenses of the other party in defending such claim.

9.3 Termination of Master Lease for Master Tenant's Default

Upon a termination of this Master Lease pursuant to Section 9.2(a), the Leasehold Interest shall automatically revert to the Lessor, Master Tenant shall promptly quit and surrender the Property to Lessor, without cost to Lessor, and Lessor may, without demand and further notice, reenter and take possession of the Property, or any part thereof, and repossess the same as Lessor's former estate by summary proceedings, ejectment or otherwise without being deemed guilty of any manner of trespass and without prejudice to any remedies which Lessor might otherwise have for arrearages of any Master Lease Payment or for a prior breach of the provisions of this Master Lease. The obligations of Master Tenant under this Master Lease which arose prior to termination shall survive such termination.

9.4 Rights Upon Termination

Upon termination of this Master Lease pursuant to Section 9.3, the Lessor may:

- (a) at the time of such termination, collect any unpaid Master Lease Payment due hereunder, without any deduction, offset or recoupment whatsoever; and
- (b) enforce its rights under any bond outstanding at the time of such termination; and
- (c) require Master Tenant to deliver to Lessor, or otherwise effectively transfer to Lessor any and all governmental approvals and permits, and any and all rights of possession, ownership or control Master Tenant may have in any to, any and all financing arrangements, plans, specifications, and other technical documents or materials related to the Property.

9.5 Performance by Lessor

If Master Tenant shall fail to make any payment or perform any act required under this Master Lease, Lessor may (but need not) after giving not less than ten (10) additional days Notice (except in case of emergencies and except where a shorter time period is specified elsewhere in

this Master Lease) to Master Tenant and without waiving any default or releasing Master Tenant from any obligations, cure such failure for the account of Master Tenant. Master Tenant shall promptly pay the Lessor the amount of such charges, costs and expenses as the Lessor shall have incurred in curing such default, together with interest at the rate of twelve percent (12%) per annum.

In addition to any other remedies of the Lessor under this Master Lease, Master Tenant agrees to reimburse Lessor for any and all actual expenditures incurred by Lessor by reason of such failure, whether or not such failure shall constitute an Event of Default or termination, however caused, including all costs, claims, losses, liabilities, damages and expenses (including without limitation, reasonable attorneys' fees and costs) incurred by Lessor as a result thereof.

9.6 Remedies Cumulative

Unless otherwise specifically provided in this Master Lease, no remedy herein shall be exclusive of any other remedy or remedies, and each such remedy shall be cumulative and in addition to every other remedy; and every power and remedy given by this Master Lease may be exercised from time to time and as often as may be deemed expedient by either party. No delay or omission by the Lessor to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein.

9.7 Default by Lessor

- (a) Default. Lessor shall be in default of this Master Lease if it fails to perform any provision of this Master Lease, the Operating Documents or any other Property Document that it is obligated to perform or if any of Lessor's representations or warranties is untrue or becomes untrue in any material respect, and if the failure to perform or the failure of such representation or warranty is not cured within thirty (30) days after Notice of the default has been given to Lessor. If the default cannot reasonably be cured within thirty (30) days, Lessor shall not be in default of this Master Lease if Lessor commences to cure the default within such thirty day period and diligently and in good faith continues to cure the default until completion within a reasonable period of time, but in no event shall such period exceed ninety (90) days.
- (b) Right to Cure: Master Tenant's Remedies. If Lessor shall have failed to cure a default by Lessor after expiration of the applicable time for cure of such default, Master Tenant, at its election, but without obligation therefor (i) may offset against the Master Lease Payment the amount of any loss resulting from Lessor's default, (ii) may seek specific performance of any obligation of Lessor after which Master Tenant shall retain and may exercise and enforce any and all rights that Master Tenant may have against Lessor as a result of such default, (iii) from time to time without releasing Lessor in whole or in part from the obligations to be performed by Lessor hereunder, may cure the default at Lessor's cost, or (iv) may exercise any other remedy given hereunder or now or hereafter existing at law or in equity. Any reasonable costs incurred by Master Tenant in order to

cure such a default by Lessor shall be due immediately from Lessor, and may be offset against any amounts due from Master Tenant to Lessor.

9.8 Default Notices

Notices given by Lessor or by Master Tenant under this Article IX shall specify the alleged default and the applicable Master Lease provisions, and shall demand that Master Tenant or Lessor, as applicable, perform the appropriate provisions of this Master Lease within the applicable period of time for cure. No such notice shall be deemed a forfeiture or termination of this Master Lease unless expressly set forth in such notice.

ARTICLE X. LEASEHOLD MORTGAGEE'S RIGHTS

10.1 Leasehold Mortgages

Lessor acknowledges and agrees that Master Tenant may enter into the Approved Mortgages. The documentation evidencing any Approved Mortgages shall be in a form reasonably acceptable to Lessor and Master Tenant. Except for the Approved Mortgages, Permitted Encumbrances, and except as otherwise provided for herein, Master Tenant may not assign or encumber its Leasehold Interest without the Consent of the Lessor, which Consent may be withheld by Lessor in its reasonable discretion.

10.2 No Subordination of Fee

At no time shall Lessor's fee title in the Property, or Lessor's interest in the Master Lease be subordinated in any manner to the interest of any holder of a Leasehold Mortgage or any person claiming by or through Master Tenant.

10.3 Leasehold Mortgage Not An Assignment

The making of a Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of this Master Lease or of the Leasehold Interest, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Master Lease or of the Leasehold Interest so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of Master Tenant to be performed hereunder, but the purchaser at any Foreclosure of any Leasehold Mortgage, or the assignee or transferee under any assignment or transfer in lieu of the Foreclosure shall be deemed to be an assignee or transferee within the meaning of this Section, and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of Master Tenant to be performed hereunder from and after the date of such purchase and assignment or transferee, but only for so long as such purchaser or assignee or transferee is the owner of the Leasehold Interest.

10.4 Rights of Permitted Mortgagee

- (a) In connection with any Permitted Mortgage, Lessor agrees with and for the benefit of each Permitted Mortgagee as follows:
- (i) When delivering any notice, demand, election or other communication (any of the same being referred below in this Article as a “notice”) to Master Tenant with respect to this Master Lease or any exercise of any right to terminate this Master Lease, the Lessor will also deliver a copy of any such notice by registered or certified mail to any Permitted Mortgagee of which it has notice;
 - (ii) Should Master Tenant default in respect of any of the provisions of this Master Lease, any Permitted Mortgagee shall have the right, but not the obligation, to cure such default, and Lessor shall accept performance by or on behalf of such Permitted Mortgagee as though, and with the same effect as if, it had been done or performed by Master Tenant. Each Permitted Mortgagee will have a period of time after the service of such notice upon it within which to cure the default specified in such notice, or cause it to be cured, which is the same period for cure, if any, as is given to Master Tenant under this Master Lease in respect of the specified default after the giving of such notice to Master Tenant. In the event of a default under this Master Lease which cannot reasonably be cured within said periods, the periods of time for cure shall be extended for so long as such Permitted Mortgagee has initiated and is diligently proceeding to cure such default, or, in the case of a default under this Master Lease, if such default, by its nature, is not susceptible of being cured by such Permitted Mortgagee until it has taken lawful possession of the Leasehold Interest, then such Permitted Mortgagee shall have the right to obtain possession of the Leasehold Interest by itself by foreclosure or other enforcement proceedings, or by obtaining an assignment of this Master Lease or the Leasehold Interest in lieu of foreclosure or through settlement of or arising out of any pending or threatened foreclosure proceeding (herein collectively referred to as “Foreclosure”), without Lessor’s consent, subject to the applicable terms and provisions of this Master Lease including Lessor’s right to cure any subsequent defaults, and such Permitted Mortgagee may assign this Master Lease without Lessor’s consent to any assignee at any time thereafter, provided it obtains the Consent of Lender, if required, and provided such assignee expressly assumes the obligations of Master Tenant hereunder;
 - (iii) In case of a default by Master Tenant in the performance or observance of any term, covenant, condition or agreement on Master Tenant’s part to be performed under this Master Lease, if Lessor shall elect, in lieu of any other remedy available to Lessor under this Master Lease, to bring a proceeding to dispossess Master Tenant and/or other occupants of the Property or to re enter the Property or to terminate this Master Lease, by reason of such default, pursuant to any statute now or hereafter enacted, then Lessor shall, before commencing such proceeding, give to each Permitted Mortgagee ten (10) business days Notice of

such default and shall allow each Leasehold Mortgagee such ten (10) business day period within which to cure such default. The rights of each Permitted Mortgagee hereunder are in addition to such rights as are given to each Permitted Mortgagee under any other section or subsection of this Master Lease; and

- (iv) Lessor shall not, in the event of the Bankruptcy of Master Tenant or the Lessor, (x) surrender its estate, or any portion thereof, nor terminate, cancel or acquiesce in the rejection of this Master Lease; or (y) modify, change, supplement, alter or amend this Master Lease in any respect, either orally or in writing.

10.5 Requirements for Notice

Any notice or other communication which Lessor shall desire or is required to give to or serve upon each Permitted Mortgagee shall be in writing and shall be served by registered or certified mail, addressed to each Permitted Mortgagee at its address as set forth in its Permitted Mortgage, or at such other address as shall be designated from time to time by each Permitted Mortgagee by notice in writing given to Lessor by registered or certified mail. Any notice or other communication which each Permitted Mortgagee shall desire or is required to give to or serve upon Lessor shall be deemed to have been given or served if sent by registered or certified mail addressed to Lessor at Lessor's address as set forth in Section 12.9 below, or at such other address as shall be designated from time to time by Lessor by notice in writing given to each Permitted Mortgagee by registered or certified mail. Any such notice or communication shall be effective on the date such notice or communication is delivered to the party to whom it is given.

ARTICLE XI. ESTOPPEL CERTIFICATE

Master Tenant agrees that, from time to time upon not less than ten (10) days' prior request by Lessor or the holder of any Mortgage or Mortgagee, Master Tenant (or any permitted assignee, subtenant, licensee, concessionaire or other occupant of the Property claiming by, through or under Master Tenant) will deliver to Lessor, or to the holder of any Mortgage, a statement in writing signed by Master Tenant certifying (a) that this Master Lease is unmodified and in full force and effect (or if there have been modifications, that this Master Lease as modified is in full force and effect and identifying the modifications); (b) the date upon which Master Tenant began paying Base Rent and the dates to which the Base Rent and any other Master Lease Payment have been paid; (c) that Lessor is not in default under any provision of this Master Lease, or, if in default, the nature thereof in detail; (d) that (if applicable) the Property has been completed in accordance with the terms hereof and Master Tenant is in occupancy and paying Base Rent on a current basis as and when due with no offsets or claims; (e) that there has been no prepayment of Base Rent other than that provided for in this Master Lease; (f) that there are no actions, whether voluntary or otherwise, pending against Master Tenant under the bankruptcy laws of the United States or any state thereof; and (g) such other matters as may be required by Lessor or the holder of the Mortgage or any Mortgagee. Lessor shall provide a statement of like tenor if and as requested by Master Tenant, Bank or any Permitted Mortgagee.

ARTICLE XII. MISCELLANEOUS

12.1 Construction

Lessor and Master Tenant agree that all the provisions hereof are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate section thereof.

12.2 Performance Under Protest

In the event of a dispute or difference between Lessor and Master Tenant as to any obligation which either may assert the other is obligated to perform or do, then the party against whom such obligation is asserted shall have the right and privilege to carry out and perform the obligation so asserted against it without being considered a volunteer or deemed to have admitted the correctness of the claim, and shall have the right to bring an appropriate action at law, equity or otherwise against the other for the recovery of any sums expended in the performance thereof and in any such action, the successful party shall be entitled to recover in addition to all other recoveries such reasonable attorneys' fees as may be awarded by the court.

12.3 Waiver

Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any other provision of this Master Lease shall be deemed a waiver of a breach of any other provision of this Master Lease or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on the cause of any subsequent occasion. Except as expressly limited by the terms of this Master Lease, any and all rights and remedies which either party may have under this Master Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other; and no one of them whether exercised by said party or not, shall be deemed to be in exclusion of any other; and two or more or all of such rights and remedies may be exercised at the same time.

12.4 Headings

The headings used for the various articles and sections of this Master Lease are used only as a matter of convenience for reference, and are not to be construed as part of this Master Lease or to be used in determining the intent of the parties of this Master Lease.

12.5 Partial Invalidity

If any terms, covenant, provision or condition of this Master Lease or the application thereof to any person or circumstances shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, the remaining terms, covenants, provisions and conditions of this Master Lease and their application to persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the parties, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable, provision mutually agreeable to Lessor and Master Tenant which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.

12.6 Bind and Inure

Unless repugnant to the context, the words "Lessor" and "Master Tenant" shall be construed to mean the original parties, their respective permitted successors and assigns and those claiming through or under them respectively. Subject to the provisions of Section 6.2, the agreements and conditions in this Master Lease contained on the part of Master Tenant to be performed and observed shall be binding upon Master Tenant and its permitted successors and assigns and shall inure to the benefit of Lessor and its permitted successors and assigns, and the agreements and conditions in this Master Lease contained on the part of the Lessor to be performed and observed shall be binding upon Lessor and its permitted successors and assigns and shall inure to the benefit of Master Tenant and its successors and assigns. No holder of a Leasehold Mortgage shall be deemed to be the holder of said Leasehold Interest until such holder shall have acquired indefeasible title to said Leasehold Interest.

12.7 Time of Essence

Time is of the essence of this Master Lease and of all provisions hereof.

12.8 Recordable Form of Master Lease

Simultaneously with the delivery of this Master Lease the parties have delivered a notice or short form of this Master Lease which Master Tenant shall record in the Clackamas County, Oregon Clerk's office. If this Master Lease is terminated before the Term expires, the parties shall execute, deliver and record an instrument acknowledging such fact and the date of termination of this Master Lease.

12.9 Notices

Notices will be in writing and will be either given by U.S. registered or certified mail, return receipt requested, with postage prepaid (except in the event of a postal disruption, by strike or otherwise, in the United States), or sent by telex or facsimile promptly confirmed in writing, or sent by personal delivery by a nationally recognized courier service for next day delivery. The current addresses and telecopy numbers of the parties to which any notice provided for herein shall be sent, are as follows:

If to the Lessor: City of Wilsonville Urban Renewal Agency
29799 SW Town Center Loop E
Wilsonville, Oregon 97070
Attention: Kristin Retherford
Telephone: (503) 682-1015
Facsimile: (503) 682-7025

If to Master Tenant: Creekside Woods Limited Partnership
c/o Northwest Housing Alternatives, Inc.
2316 SE Willard Street
Milwaukie, Oregon 97222
Telephone: (503)654-1007
Facsimile: (503) 654-1319

Any party may designate another addressee (and/or change its address or telecopy number) for notices hereunder by a notice given pursuant to this Section 12.9. Notices delivered personally or by facsimile will be effective upon delivery to an authorized representative of the party at the designated address; notices sent by mail in accordance with the above paragraph will be effective upon execution by the addressee of the Return Receipt Requested.

12.10 Entire Agreement

Except as provided in the Disposition and Development Agreement between the Parties with respect to Master Tenant's investment in Lessor, this instrument contains all the agreements made between the parties hereto and may not be modified in any other manner than by an instrument in writing executed by the parties or their respective successors in interest and to which each holder of a Permitted Mortgage, if applicable, has Consented.

12.11 Governing Law

This Master Lease, and the rights and obligations of the Parties hereunder, shall be governed by and construed in accordance with the substantive laws of the State of Oregon.

12.12 Place of Enforcement.

Any action or suit to enforce or construe any provision of this Agreement by any Party shall be brought in the Circuit Court of the State of Oregon for Clackamas County, or the United States District Court for the District of Oregon in Portland, Oregon.

12.13 Relationship of Parties

Except as provided in the DDA, no relationship exists between Lessor and Master Tenant other than Lessor and Master Tenant. The parties hereto expressly declare that, in connection with the activities and operations contemplated by this Master Lease, they are neither partners nor joint

venturers, nor does a debtor creditor, principal agent or any other relationship except as aforesaid, exist between them.

[Signatures on Following Page.]

SIGNATURE PAGE TO MASTER LEASE

IN WITNESS WHEREOF, the parties have hereunto set their signatures and seals to this Master Lease as of the date first above written.

LESSOR:

CITY OF WILSONVILLE URBAN RENEWAL AGENCY

By: _____
Name: _____
Title: _____

MASTER TENANT:

Creekside Woods Limited Partnership

By: _____
Name: _____
Title: _____

EXHIBITS

Exhibit A: Description of Property

HUD Lease Addendum

EXHIBIT A

DESCRIPTION OF PROPERTY

Real property situated in the South one-half of Section 13, Township 3 South, Range 1 West of the Willamette Meridian, in the City of Wilsonville, Clackamas County, Oregon being a portion of Parcel I, Parcel III and Parcel IV described in Statutory Warranty Deed to the Urban Renewal Agency of the City of Wilsonville recorded in Document No. 2007-092115, more particularly described as follows:

Commencing at the Southwest Corner of Section 13; thence North $89^{\circ}19'15''$ East along the South line of Section 13, also being the centerline of Wilsonville Road (Market Road No. 12) a distance of 1486.79 feet to the southerly projection of a north-south line in the North right of way line; thence North $00^{\circ}40'45''$ West along said southerly projection and said right of way line a distance of 40.00 feet to an angle point therein; thence North $79^{\circ}53'57''$ East along said North right of way line a distance of 86.57 feet to the Southwest Corner of said Parcel IV, being the **Point of Beginning**; thence North $00^{\circ}01'13''$ West along the West line of said Parcel IV a distance of 233.05 feet to the South line of said Parcel III; thence South $89^{\circ}58'59''$ East along said South line a distance of 88.91 feet to a point being 31.00 feet west of, when measured at right angles to, the East line of said Parcel III; thence North $00^{\circ}01'54''$ East along a line being parallel to said East line a distance of 235.09 feet to the South line of the Plat of Boeckman Creek Condominium; thence South $89^{\circ}59'33''$ East along said South line a distance of 225.16 feet to an angle point in the South and East line of said Boeckman Creek Condominium; thence South $00^{\circ}01'54''$ West, parallel with the East line of said Parcel III, a distance of 235.13 feet to the North line of Parcel I; thence continuing along said parallel line South $00^{\circ}01'54''$ West a distance of 80.29 feet; thence South $52^{\circ}11'55''$ East a distance of 114.26 feet to an angle point in said North right of way line, said point being 132.00 feet north of, when measured at right angles to, the centerline of said Wilsonville Road; thence South $77^{\circ}08'15''$ West along said North right of way line a distance of 217.00 feet to an angle point in said North right of way line; thence South $79^{\circ}53'57''$ West along said North right of way line a distance of 195.71 feet to the **Point of Beginning**.

Containing 121,043 sq. ft. or 2.78 acres.

Subject to easements and restrictions of record.

HUD LEASE ADDENDUM
(ATTACHED HERETO)

415892.2[37068-00100]