Recording Requested by and
When Recorded Mail to:

CITY OF SANTA CLARA
Office of the City Clerk
1500 Warburton Avenue
Santa Clara, California 95050

SPACE ABOVE THIS LINE FOR RECORDER'S USE

OFFICIAL BUSINESS
Document entitled to free
recording per Government
Code Section 27383

**SUBORDINATED LEASEHOLD DEED OF TRUST,
SECURITY AGREEMENT AND FIXTURE FILING
(WITH ASSIGNMENT OF RENTS)**

This Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) is made as of [_] 1, 202[_] by Monroe Street Housing Partners, L.P., a California limited partnership ("**Trustor**"), whose address is 1111 Broadway, Suite 300, Oakland, CA 94607, to Old Republic Title Company ("**Trustee**"), for the benefit of the CITY OF SANTA CLARA, a public body, corporate and politic ("**Beneficiary**"), whose address is 1500 Warburton Avenue, Santa Clara, California 95050.

WITNESSETH: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust for the benefit of Beneficiary, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION, all of Trustor's title and interest in the following property (the "**Trust Estate**"):

(a) That certain real property in the City of Santa Clara, County of Santa Clara, State of California more particularly described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter referred to as the "**Subject Property**");

(b) All buildings, structures and other improvements now or in the future located or to be constructed on the Subject Property (the "**Improvements**");

(c) all tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefitting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the "**Appurtenances**"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "**Real Property**");

(d) subject to the assignment to Beneficiary set forth in Paragraph 4 below, all rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or

otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "**Rents**");

(e) all present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "**UCC**"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (the "**Goods**," and together with the Real Property, the "**Property**"); and

(f) all present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types on intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the "**Intangibles**").

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estates described above in which a security interest may be created under the UCC (collectively, the "**Personal Property**"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the

rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9313 and 9402(6) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

(1) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:

(a) a promissory note in the original principal amount of $5,000,000, executed by Trustor ("**Borrower**" therein) of even date herewith (the "**City Note**");

(b) the Loan Agreement of even date herewith (the "**City Loan Agreement**"), between Trustor ("**Borrower**" therein) and Beneficiary ("**Lender**" therein);

(c) the City Loan Documents, as defined in the City Loan Agreement; and

(2) payment of indebtedness of the Trustor to the Beneficiary in the principal sum of $5,000,000 ("**City Loan**") or so much thereof as shall be advanced, evidenced by the City Note secured hereby, with interest, according to the terms of the City Note secured hereby.

The City Loan Documents, as described in the City Loan Agreement (collectively referred to as the "**Secured Obligations**") and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby. Any capitalized term that is not otherwise defined in this Deed of Trust shall have the meaning ascribed to such term in the City Loan Agreement.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. That Trustor shall pay the City Note secured hereby at the time and in the manner provided therein, and perform the obligations of the Trustor as set forth in the Secured Obligations at the time and in the manner respectively provided therein;

2. That Trustor shall not permit or suffer the use of any of the Trust Estate for any purpose other than the uses permitted by the Covenants;

3. Upon an event of default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable;

4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of

notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the City Loan Agreement;

5. That upon an event of default hereunder or under the aforementioned agreements, and after the giving of notice and the expiration of any applicable cure period, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom;

6. That Trustor will keep the Improvements insured against loss by fire and such other hazards, casualties, and contingencies as described in the City Loan Agreement;

7. To pay, at least 10 days before delinquency, any taxes and assessments affecting said Property; to pay, when due, all encumbrances, charges and liens, with interest, on said Property or any part thereof which appear to be prior or superior hereto; and to pay all costs, fees, and expenses of this Trust. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as Trustor is contesting the legality thereof in good faith and by appropriate proceedings, and Trustor has adequate funds to pay any liabilities contested pursuant to this Section 7;

8. To keep said property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation, not to remove or demolish any buildings thereon without the consent of Beneficiary; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon (subject to Trustor's right to contest the validity or applicability of laws or regulations); not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law and/or covenants, conditions and/or restrictions affecting said property; not to permit or suffer any material alteration of or addition to the buildings or improvements upon said property without the consent of the Beneficiary;

9. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and reasonable attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear;

10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period, to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Following default, after the giving of notice and the expiration of any applicable cure period, Beneficiary or Trustee being authorized to enter upon said property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; may pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers,

may pay necessary expenses, employ counsel, and pay his reasonable fees. Notwithstanding the foregoing, in the event of default under this Deed of Trust, the Beneficiary may also require Trustor to maintain and submit additional records. Beneficiary shall specify in writing the particular records that must be maintained and the information or reports that must be submitted;

11. Beneficiary shall have the right to pay fire and other property insurance premiums when due should Trustor fail to make any required premium payments. All such payments made by the Beneficiary shall be added to the principal sum secured hereby;

12. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, under permission given under this Deed of Trust, with interest from date of expenditure at the rate specified in the City Note secured hereby;

13. That the funds to be advanced hereunder are to be used in accordance with the Secured Obligations and upon the failure of Trustor, after the giving of notice and the expiration of any applicable cure period, to keep and perform all the covenants, conditions, and agreements of said agreements, the principal sum and all arrears of interest, and other charges provided for in the City Note secured hereby shall at the option of the Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding;

14. Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the property subject to this Deed of Trust any lien or liens except as permitted by the Secured Obligations or otherwise approved by Beneficiary, and further that it will keep and maintain the property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be obligated to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting, provided that Trustor shall, at Beneficiary's written request, within thirty (30) days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request, prior to foreclosure) record in the Office of the Recorder of Santa Clara County, a surety bond in an amount one-and-one-half (1 1/2) times the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary;

15. That any and all improvements made or about to be made upon the premises covered by this Deed of Trust, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office;

16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of the Beneficiary a reasonable charge for providing a statement regarding the obligation secured by this Deed of Trust as provided by Section 2954, Article 2, Chapter 2 Title 14, Division 3, of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, subject to the rights of each Senior Lender, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. Subject to the rights of the Senior Lenders, all such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary. After deducting therefrom all its expenses, including attorney's fees, the balance of the proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, shall be applied to the amount due under the City Note secured hereby. No amount applied to the reduction of the principal shall relieve the Trustor from making payments as required by the City Note secured hereby.

18. Upon an event of default by Trustor in making any payments provided for in the City Note secured hereby or in this Deed of Trust, or in performing any obligation set forth in any of the Secured Obligations, and if such default is not cured within the respective time provided therefor in Section 34 of this Deed of Trust, below, or the other Secured Obligations, whichever is longer, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the Property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the Authority Note and all documents evidencing expenditures secured hereby. Any cure made or tendered by the Investor Limited Partner shall be deemed a cure by the Trustor and shall be accepted or rejected on the same basis as if made by Trustor.

19. (a) Prior to the repayment in full of the City Loan, except as provided in the City Loan Agreement, the Trustor shall not assign or attempt to assign the City Loan Agreement or any right therein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property, the improvements thereon, or any portion thereof or interest therein (referred to hereinafter as a "**Transfer**"), without prior written approval of the Beneficiary. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Beneficiary shall not unreasonably withhold or delay its consent. If consent should be given, any such transfer shall be subject to this Section 19, and any such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein.

(b) Any such proposed transferee shall have the qualifications and financial responsibility necessary and adequate as may be reasonably determined by the Beneficiary, to fulfill the obligations undertaken by Trustor in the City Loan Agreement and the City Loan Documents. Any such proposed transferee, by instrument in writing satisfactory to the Beneficiary and in form recordable among the land records of Santa Clara County, for itself and its successors and assigns, and for the benefit of the Beneficiary shall expressly assume all of the obligations of the Trustor under the City Loan Agreement and the City Loan Documents, and agree to be subject

to all conditions and restrictions applicable to the Trustor in this Deed of Trust. There shall be submitted to the Beneficiary for review all instruments and other legal documents proposed to effect any such transfer; and if approved by the Beneficiary its approval shall be indicated to the Trustor in writing.

(c) In the absence of specific written agreement by the Beneficiary, no unauthorized Transfer, or approval thereof by the Beneficiary, shall be deemed to relieve the Trustor or any other party from any obligations under the City Loan Agreement or any City Loan Document.

(d) Except for Permitted Transfers as described in the City Loan Agreement, in the event of a Transfer prior to the time the City Loan is paid in full without the prior written consent of the Beneficiary, the remaining principal balance of the City Loan and all accrued but unpaid interest shall be immediately due and payable.

(e) (i) As used herein, "Transfer" includes the sale, transfer or conveyance of the Property, the Improvements, or any portion thereof or interest therein, whether voluntary, involuntary, by operation of law or otherwise, or any agreement to do so; the execution of any installment land sale contract or similar instrument affecting all or a portion of the Property or the Improvements; or the lease of all or substantially all of the Property or Improvements.

(ii) "Transfer" shall also include the transfer, assignment, hypothecation or conveyance of legal or beneficial ownership of any interest in Trustor, or any conversion of Trustor to an entity form other than that of Trustor at the time of execution of this Deed of Trust, except for the following: (A) a cumulative change in the ownership interests of any individual limited liability company member of forty-nine percent (49%) or less shall not be deemed a "Transfer" for purposes of this Deed of Trust; and (B) a transfer of a portion or a majority of stock of any corporation to a trust formed in connection with a qualified employee ownership plan shall not, by itself, be deemed to constitute a change in ownership for purposes of this Deed of Trust.

(iii) "Transfer" shall also include the transfer, assignment, hypothecation or conveyance of any general partner interest in Trustor if Trustor is a partnership

(iv) Notwithstanding anything to the contrary herein, a "Transfer" shall not include any "Permitted Transfer" as defined in the City Loan Agreement.

(f) The Beneficiary shall not unreasonably withhold, condition or delay its approval of any matter for which its approval is required hereunder. Any disapproval shall be in writing and contain the Beneficiary's reasons for disapproval.

20. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may

postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. The Trustee shall apply the proceeds of sale to payment of (1) the expenses of such sale, together with the reasonable expenses of this trust including therein reasonable Trustee's fees or attorney's fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (2) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate specified in the City Note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto.

21. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

22. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

23. Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust and the City Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

24. The trust created hereby is irrevocable by Trustor.

25. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder including pledgees, of the City Note secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

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

27. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the following addresses:

Monroe Street Housing Partners, L.P.
c/o Freebird Development Company, LLC
1111 Broadway, Suite 300
Oakland, CA 94607
Attention: Robin Zimbler

With a copy to:

Monroe Street Housing Partners, L.P.
c/o Housing Choices Coalition For Persons With Developmental Disabilities, Inc.
6203 San Ignacio Ave, Suite 108
San Jose CA 95119
Attention: President

With a copy to:

Gubb and Barshay LLP
505 14th Street, Suite 450
Oakland, CA 94612
Attn: Evan A. Gross

With a copy to:

[LP]

28. Trustor agrees that, except as otherwise provided in the City Note secured hereby, upon sale or refinancing of the property, the entire principal balance of the debt secured by this Deed of Trust, plus any accrued but unpaid interest thereon, shall at the option of Beneficiary be immediately due and payable.

29. Subject to the provisions and limitations of this Section 29, the obligation to repay the City Loan is a nonrecourse obligation of the Trustor. Neither Trustor nor any partner of Trustor shall have personal liability for repayment of the City Loan, except as provided in this Section 29. The sole recourse of Beneficiary shall be the exercise of its rights against the Property and any related security for the City Loan. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by the City Note or this Deed of Trust; (b) limit the right of the Beneficiary to name Trustor as a party defendant in any action or suit for judicial foreclosure and sale under this Deed of Trust and the City Note or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Trustor; (c) release or impair the City Note or this Deed of Trust; (d) prevent or in any way hinder Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the City Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder Authority from exercising, or constitute a defense, an

affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the City Note; (f) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to Authority; or (g) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by the City Note and this Deed of Trust. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of an event of default, Trustor shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Trustor, its principals, shareholders, partners or received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property after the occurrence of such default, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the Property, ordinary and reasonable capital improvements to the Property, debt service, real estate taxes in respect of the Property and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Trustor in connection with the operation of the Property, which are then due and payable. Notwithstanding the first sentence of this paragraph, Beneficiary may recover directly from Trustor or from any other party:

(A) any damages, costs and expenses incurred by Beneficiary as a result of fraud or any criminal act or acts of Trustor or any general partner, shareholder, officer, director or employee of Trustor, or of any general or limited partner of such member or general partner;

(B) any damages, costs and expenses incurred by Beneficiary as a result of any misappropriation of funds provided for construction of the Improvements, rents and revenues from operation of the Improvements or proceeds of insurance policies or condemnation proceeds;

(C) any and all amounts owing by Trustor pursuant to the indemnification regarding Hazardous Substances pursuant to the Environmental Indemnity; and

(D) all court costs and reasonable attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that Beneficiary shall pay Trustor's reasonable court costs and attorneys' fees if Trustor is the prevailing party in any such enforcement or collection action).

30. Notwithstanding specific provisions of this Deed of Trust, Trustor shall not be deemed to be in default for failure to perform any non-monetary performance hereunder where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the Beneficiary or any other public or governmental agency or entity, or any causes beyond the control or without the fault of the Trustor. An extension of time for any such cause (a "**Force Majeure Delay**") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by Trustor is sent to the Beneficiary within ten (10) days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the Trustor delivers to the Beneficiary written notice describing the event, its cause, when and how Trustor obtained knowledge, the date and the event commenced, and the

estimated delay resulting therefrom. Trustor shall deliver such written notice within ten (10) days after it obtains actual knowledge of the event. Times of performance under this Deed of Trust may also be extended in writing by the Beneficiary and Trustor.

31. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the unsecured portion of such obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the obligations.

32. (a) Subject to the extensions of time set forth in Section 30, and subject to the further provisions of this Section 32, failure or delay by Trustor to perform any material term or provision of this Deed of Trust or any of the other City Loan Documents constitutes a default under this Deed of Trust.

(b) Beneficiary shall give written notice of default to Trustor, specifying the default complained of by the Beneficiary. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of the City Loan Documents, or any deed of trust securing the Senior Loan or Permanent Loan prior to exercising any remedies hereunder or thereunder Beneficiary shall give Trustor written notice of such default. Trustor shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Beneficiary under the Authority Note and/or this Deed of Trust. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of the City Loan Documents, prior to exercising any remedies hereunder or thereunder, Beneficiary shall give Trustor notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Trustor shall have such period to effect a cure prior to exercise of remedies by the Beneficiary under the City Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Trustor (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within sixty (60) days after the notice of default is first given.

(f) If Trustor fails to take corrective action or to cure the default within a reasonable time, Beneficiary shall give Trustor and each of the general and limited partners of Trustor's partnership written notice thereof, whereupon the limited partner, subject to the terms of the Trustor's partnership agreement, may remove and replace the general partner with a substitute general partner who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. The Beneficiary agrees to accept cures tendered by any Senior Lender or the limited partner within the time period provided herein. Additionally, in the event the Senior Lender or limited partner is precluded from curing a non-monetary default due to an inability to remove the general partner as a result of a bankruptcy, injunction, or similar proceeding by or against the Trustor or its general partner, Beneficiary agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period during which the Senior Lender or limited partner is so precluded from acting, not to exceed ninety (90) days, provided such Senior Lender and limited partner are otherwise in compliance with the foregoing provisions. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within one hundred eighty (180) days after the notice of default is received or deemed received.

(g) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Trustor; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

33. This Deed of Trust securing the City Note and all other City Loan Documents have been made subordinate and junior to the claims, liens or charges of the Construction Loan deed of trust and all other instruments securing the Construction Loan by that certain Subordination Agreement by and among Beneficiary, Trustor and Construction Lender which is being recorded concurrently with the execution and delivery of this Deed of Trust and will also be subordinate and junior to the claims, liens or charges of the Permanent Loan deed of trust and all other instruments securing the Permanent Loan.

34. This Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the "**Extended Use Agreement**") recorded against the Project; provided that such Extended Use Agreement, by its Willis, must terminate upon foreclosure under this Deed of Trust or upon a transfer of the Project by instrument in lieu of foreclosure or comparable conversion of the loan, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code. The following rule contained in Section 42(h)(6)(E)(ii) of the Internal Revenue Code of 1986, as amended, shall also apply: for a period of three (3) years from the date of foreclosure, with respect to any unit that had been regulated by the Extended Use Agreement, (i) none of the tenants occupying those units at the time of foreclosure may be evicted or their tenancy terminated (other than for good cause), (ii) nor may any rent be increased except as otherwise permitted under Section 42 of the Code. Trustor acknowledges and agrees that any default, event of default, or breach (however such terms may be defined) under the Extended Use Agreement shall be an event of default under this Deed of Trust and that any costs, damages or other amounts, including reasonable attorneys' fees incurred by

Beneficiary as a result of an event of default by Trustor, and any amounts paid by Beneficiary to cure any default under the Extended Use Agreement shall be an obligation of Trustor and become a part of the debt evidenced by the City Note and secured by this Deed of Trust.

35. Provisions Regarding Ground Lease. Trustor's interest in the Land is a leasehold interest under that certain Ground Lease between Trustor and the City of Santa Clara ("**Fee Owner**") (the "**Ground Lease**"). This Section 35 is subject to the rights of Senior Lenders.

(a) Representations and Warranties Regarding Ground Lease. Trustor hereby warrants and represents as follows: (i) The lessor's interest in the Ground Lease is now held by Fee Owner. (ii) The Ground Lease is in full force and effect, unmodified by any writing or otherwise (except as recited in the definitions section of this Deed of Trust). (iii) All rent, additional rent and other amounts to be paid by Trustor under the Ground Lease have been paid to the extent they are payable to the date of this Deed of Trust. (iv) Trustor enjoys the quiet and peaceful possession of the property demised under the Ground Lease. (v) Trustor is not in default under the Ground Lease and there is no event or condition which with notice and the expiration of any applicable cure period would be a default under the Ground Lease. (vi) Trustor has not received any notice from Fee Owner of any default that has not been timely cured. (vii) To the best of Trustor's knowledge, Fee Owner is not in default under the Ground Lease.

(b) Covenants Regarding Ground Lease. Trustor covenants and agrees as follows: (i) Trustor shall promptly and faithfully observe, perform and comply with all of the terms, covenants and provisions of the Ground Lease and to do all things necessary to preserve unimpaired its rights thereunder. (ii) Trustor shall not do, permit, suffer or refrain from doing anything, as a result of which, could give rise to any default under the Ground Lease. (iii) Trustor shall not exercise any right or option to cancel or otherwise terminate the Ground Lease. (iv) Trustor shall not cancel, surrender, modify, amend or in any way alter or permit the alteration of the Ground Lease and shall not release Fee Owner from any obligations imposed upon it under the Ground Lease. (v) Trustor shall give Beneficiary immediate written notice of any default by anyone under the Ground Lease and to immediately deliver to Beneficiary copies of each notice of default and copies of all other notices, communications, plans, specifications and other similar instruments received or delivered by Trustor in connection with such default notice. (vi) Trustor shall furnish to Beneficiary such information and evidence as Beneficiary may reasonably require concerning Trustor's due observance, performance and compliance with the terms, covenants and provisions of the Ground Lease.

(c) Default under Ground Lease. Any default by Trustor under the Ground Lease (taking into account any applicable notice and cure periods set forth therein) is an event of default under the City Loan Documents without the requirement of any notice under this Deed of Trust.

(d) Beneficiary's Rights to Cure Ground Lease Default. In the event of any default by Trustor under the Ground Lease, including, without limitation, any default in the payment of rent or any other monetary obligation due from Trustor under the Ground Lease, and in addition to other rights and remedies of Beneficiary under this Deed of Trust and the other City Loan Documents, Beneficiary may, in each and every case and at its sole option and without notice, cause the default or defaults to be remedied and otherwise exercise any and all of the rights of

Trustor thereunder in the name of and on behalf of the Trustor but no such action by Beneficiary shall release Trustor from any event of default under this Deed of Trust or the other City Loan Documents. Trustor shall, on demand, reimburse Beneficiary for all advances made and expenses incurred by Beneficiary in curing any such default (including, without limitation, attorneys' fees and disbursements), together with interest thereon at the default interest rate set forth in the City Note, from the date that an advance is made or expense is incurred, to and including the date Beneficiary is reimbursed such amount(s). All such amounts so expended by Beneficiary, with interest thereon, are secured by this Deed of Trust.

(e) New Lease. If the Ground Lease is canceled or terminated, and if Beneficiary or its nominee shall acquire an interest in any new lease of the property demised thereby, Trustor shall have no right, title or interest in or to any new lease with respect to the property demised thereby or the leasehold estate created by such new lease.

(f) Estoppel. Trustor shall use its diligent efforts to obtain and deliver to Beneficiary from time to time within twenty (20) days after written demand by Beneficiary, an estoppel certificate from Fee Owner, as requested by Beneficiary, setting forth (i) the name of Fee Owner under the Ground Lease, (ii) that the Ground Lease has not been modified or, if it has been modified, the date of each modification (together with copies of each such modification), (iii) the basic rent and additional rent payable under the Ground Lease, (iv) the date to which all rental charges have been paid by Trustor under the Ground Lease, and (v) whether there are any alleged defaults of Trustor under the Ground Lease or if there are any events which have occurred which with notice, such passage of time or both, would constitute a default under the Ground Lease, and, if there are, setting forth the nature thereof in reasonable detail.

(g) No Liability of Beneficiary. Beneficiary shall have no liability or obligation under the Ground Lease by reason of its making of the City Loan or acceptance of the City Loan Documents. No release or forbearance of any of Trustor's obligations under the Ground Lease, pursuant to the Ground Lease or otherwise, shall release Trustor from any of its obligations under the City Loan Documents.

(h) Rights and Obligations under Ground Lease. Trustor shall enforce the obligations of Fee Owner under the Ground Lease to the end that Trustor may enjoy all of the rights granted to it under the Ground Lease and will immediately notify Beneficiary of any default by Fee Owner, or by Trustor as lessee, in the performance or observance of any of the terms, covenants and conditions on the part of such Fee Owner or Trustor, as the case may be, to be performed or observed under the Ground Lease. If Beneficiary receives a copy of any notice of default given by Fee Owner to Trustor, such notice shall constitute full authority and protection to Beneficiary for any action taken or omitted to be taken by Beneficiary hereunder, in good faith and in reliance thereon.

(i) Rejection in Bankruptcy. If the Ground Lease is rejected in any case, proceeding or other action commenced by or against Fee Owner under the Ground Lease (or any person or party constituting or having an interest in the Ground Lease) under the Bankruptcy Code or any comparable federal or state statute or law, (i) Trustor, immediately after obtaining notice thereof, shall give notice thereof to Beneficiary, (ii) Trustor, without the prior written consent of Beneficiary, shall not elect to treat the Ground Lease as terminated pursuant to Section

365(h)(1)(A)(i) of the Bankruptcy Code or any comparable federal or state statute or law, and any election by Trustor made without such consent shall be void and (iii) this Deed of Trust and all the liens, terms, covenants and conditions hereof shall extend to and cover Trustor's possessory rights under Section 365(h) of the Bankruptcy Code and to any claim for damages due to Fee Owner's rejection of the Ground Lease. In addition, Trustor hereby assigns to Beneficiary all of Trustor's rights to remain in possession of the property demised under the Ground Lease and to offset rents under the Ground Lease under Section 365(h)(1)(A)(ii) of the Bankruptcy Code in the event any case, proceeding or other action is commenced by or against Fee Owner under the Ground Lease under the Bankruptcy Code or any comparable federal or state statute or law.

(j) Assignment of Rights in Bankruptcy. Trustor hereby assigns to Beneficiary the Trustor's right to seek an extension of the one hundred twenty (120) day period within which Trustor must accept or reject the Ground Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Trustor under the Bankruptcy Code or comparable federal or state statute or law. Furthermore, if Trustor intends to reject the Ground Lease under the Bankruptcy Code or any comparable federal or state statute or law, then it shall so notify Beneficiary and, at Beneficiary's request, Trustor shall assign its interest in the Ground Lease to Beneficiary in lieu of rejecting the Ground Lease.

[Signatures appear on next page.]

IN WITNESS WHEREOF Trustor has executed this Deed of Trust as of the day and year set forth above.

TRUSTOR:

Monroe Street Housing Partners, L.P.,
a California limited partnership

By: Housing Choices Coalition For Persons With Developmental Disabilities, Inc.,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Name: _____
Title: _____

By: Freebird Development Company, LLC,
a California limited liability company,
its administrative general partner

By: _____
Robin Zimbler, Manager

[SIGNATURES MUST BE NOTARIZED]

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

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2019, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

_____
Signature

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

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2019, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

_____
Signature

EXHIBIT A

LEGAL DESCRIPTION

The land situated in the County of Santa Clara, City of Santa Clara, State of California, described as follows:

[Insert]

APN: 224-37-068