**FIRST AMENDMENT TO AFFORDABLE HOUSING AGREEMENT AND
ASSIGNMENT OF RIGHTS**

**by and between the**

**CITY OF MORENO VALLEY**

**and**

**RB BOULDER RIDGE LIMITED PARTNERSHIP**

**FIRST AMENDMENT TO AFFORDABLE HOUSING AGREEMENT AND ASSIGNMENT OF RIGHTS**

This **FIRST AMENDMENT TO AFFORDABLE HOUSING AGREEMENT** **AND ASSIGNMENT OF RIGHTS** (the “First Amendment”), dated, for identification purposes only, as of \_\_\_\_\_\_\_\_\_ \_\_, 2018 (the “First Amendment Date”), is entered into by and between the **CITY OF MORENO VALLEY**, a municipal corporation (“City”), and **RB BOULDER RIDGE LIMITED PARTNERSHIP,** a California limited partnership (“Developer”). City and Developer each constitute a “Party” and, together, the “Parties.”

R E C I T A L S

A. City and Developer previously entered into that certain unrecorded agreement entitled “Disposition and Development/Affordable Housing Agreement” dated as of March 15, 2016 (the “AHA”); a copy of the AHA is on file with City as a public record. It was contemplated that pursuant to the AHA, City would acquire certain property designated therein as the “Site” and that Developer would obtain financing for proceed to develop a rental housing project on the Site for affordable housing purposes (the “Proposed Project”).

B. The City proceeded to acquire the Site, however both City and Developer have determined that the development of the Site for affordable housing purposes as contemplated by the AHA is not presently feasible. Moreover it has been determined that the development of the Site as proposed, or under other development approaches for affordable rental housing, is likely not to be feasible in the foreseeable future.

C. In recognition of the efforts of City with respect to the Site, Developer agrees to assign to City any and all land use entitlements, environmental approvals, and any other public approvals as heretofore given by City with respect to the Proposed Project (together, the “Approvals”). The Parties further mutually agree that, effective as of the approval of this First Amendment by City following execution by Developer, all executory provisions of the AHA shall cease to be of force and effect; the AHA shall be deemed to be superseded *en toto* by this First Amendment.

D. This First Amendment is in the vital and best interest of the City of Moreno Valley, California, and the health, safety and welfare of its residents.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

# Capitalized Terms. Except to the extent expressly defined herein, capitalized terms shall have the meanings established under the AHA.

# Assignment. Developer hereby assigns to City the Approvals. Upon execution hereof, Developer disclaims and shall have no further rights with respect to the Approvals or the Site.

# AHA Superseded. Effective immediately upon the execution of this First Amendment by City following the execution of the First Amendment by Developer, the AHA shall be deemed to be fully superseded by this First Amendment and all executory provisions of the AHA shall cease to be of force and effect. As a matter between City and Developer, City shall retain ownership of the Site and the Approvals; provided that City may dispose of the Site at any time, to an entity or entities of City’s choosing, and under such terms and conditions as City shall determine, all of such considerations being matters with which Developer is not concerned. Effective as of the First Amendment Date, Developer shall have no rights with respect to the Site or the Approvals or with respect to the AHA.

# No Third Party Beneficiaries. This First Amendment is made for the purpose of setting forth rights and obligations of Developer and City, and no other person shall have any rights hereunder or by reason hereof. There shall be no third party beneficiaries of the AHA or this First Amendment.

# Interpretation. This First Amendment shall be interpreted to effectuate the terms hereof in accordance with the laws of the State of California, and as if prepared and reviewed equally by both Parties.

# Notice. Notice shall be given to the Parties at the addresses and in the manner set forth in the AHA.

(signatures on following page)

**IN WITNESS WHEREOF**, the Parties hereto have caused this First Amendment to be executed as of the First Amendment Date.

**DEVELOPER:**

**RB BOULDER RIDGE LIMITED PARTNERSHIP,**a California limited partnership

By: Rancho Belago Developers, Inc.,
a California corporation
its General Partner

By:

 James M. Jernigan, President

**CITY:**

**CITY OF MORENO VALLEY**, a municipal corporation

By:

City Manager

**Approved as to form for City:**

**STRADLING YOCCA CARLSON & RAUTH, A PROFESSIONAL CORPORATION**

**Special Counsel**

By:

Mark J. Huebsch