

HOUSING AUTHORITY GENERAL MANAGER AGREEMENT

DATED: November ____, 2022

PARTIES: Gateway Phase 2 Limited Partnership (“Partnership”)

AND: CDP Gateway Phase 2 LLC (“General Partner”)

AND: Housing Authority of the City of Salem (“General Manager”)

Recitals

A. Gateway Phase 2 Limited Partnership, an Oregon limited partnership (the “Partnership”) has been formed for the purpose of acquiring a parcel of real property located at 5205 Battle Creek Road SE, Salem, Oregon (which such address may change upon subdivision of the property), upon which the Partnership intends to construct a 129-unit apartment project with 129 residential units in 8 residential buildings, to be commonly known as Gateway Phase 2 Apartments, which common name may be amended at a later date (the “Project”). CDP Gateway Phase 2 LLC, an Oregon limited liability company is the general partner of the Partnership (the “General Partner”).

B. For a period commencing once the Project is completed and ready for legal occupancy (herein called the “Effective Date”) and continuing for a period of ten (10) years, and thereafter so long as this Agreement is in full force and effect, a total of not less than (i) 113 apartment units shall be rented at rents affordable to persons or families at sixty (60) percent of area median and (ii) 16 apartments will be rented at rents affordable to persons or families at eighty (80) percent of area median income adjusted for family size as determined annually by the U.S. Department of Housing and Urban Development (HUD) (collectively, the “Affordable Units”).

C. The Partnership desires that the General Manager act as the General Manager of the Partnership and the General Manager has agreed to act as the General Manager of the Partnership, in accordance with the terms of this Agreement, the provisions of ORS 307.092, and any regulations adopted thereunder.

Agreement

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The Recitals are incorporated into this Agreement as if fully set for the herein.

2. Appointment and Term.

(a) The Partnership hereby retains the General Manager to render services as the General Manager of the Partnership as herein contemplated. The initial term of this Agreement shall begin on the date of this Agreement, shall continue for a period that shall end on the earlier of (i) the 10th anniversary of the date on which the Project is placed into service and legally available for occupancy, or (ii) the date as of which the property exemption accorded by ORS 307.092, or any successor statute, is no longer in force or effect. Thereafter, this Agreement shall be automatically renewed for successive one-year terms unless either party gives notice to the other not less than 120 days before the end of the initial term or any annual renewal term of its desire to terminate this Agreement.

(b) In the event the Partnership ceases to be the owner of the Project, this Agreement shall terminate unless the Partnership notifies the General Manager of its intent to sell the Project at least ninety (90) days before such sale and the party to whom it intends to sell the Project and the General Manager in its reasonable discretion approves of the prospective purchaser. A condition to such approval shall be the undertaking of the prospective purchaser to maintain the affordability of the Affordable Units for the entire initial ten (10) year period of this Agreement. The prospective purchaser shall also agree to be a party to this Agreement with the General Manager and abide by all of its terms and conditions of this Agreement for the initial ten (10) year period.

3. Duties. The General Manager shall:

(a) as requested by the General Partner, review information with respect to tenants in the Project to ensure that the Project is operated as a project for persons of lower income in accordance with the provisions of ORS 307.092.

(b) as the General Manager may elect, review, on an annual basis, inspections, certifications, audits, and/or reports prepared or received by the Partnership pertaining to the Project's condition, operations, and/or regulatory compliance;

(c) provide, upon request of the General Partner, consultation for the benefit of the General Partner regarding the performance by the General Partner of duties of the General Partner under the Agreement of Limited Partnership of the Partnership, as at any time amended or otherwise modified (the "Partnership Agreement");

(d) provide, upon request of the General Partner, advice for the benefit of the General Partner regarding how the General Partner might improve the efficiency with which the General Partner performs its duties under the Partnership Agreement;

(e) provide, upon request of the General Partner, advice for the benefit of the General Partner regarding the performance and/or selection of accountants providing professional partnership accounting services.

4. Duties of the General Partner. The General Partner shall:

(a) So long as this Agreement is in effect, rent the Affordable Units at or below the rent levels set out in Recital B;

(b) As requested by the General Manager, provide copies of monthly rent rolls and other documentation required to show compliance with this agreement's affordability provisions and to show the project is operated as a project for persons of lower income in accordance with the provisions of ORS 307.092; and

(c) Provide a copy of the annual Partnership audit for this property each year when completed to the General Manager.

5. Limitation on Obligations. The Partnership and General Partner hereby agree that the General Manager shall have no fiduciary duty to either of them under this Agreement. Upon the formation of the Partnership, the Partnership will become a party to this Agreement and shall make the same undertaking.

6. Compensation. During the term of this Agreement, the Partnership shall pay the General Manager a fee of Five Thousand Dollars (**\$5,000**) per year for services rendered by or available from the General Manager during the prior year with such payments commencing on the first anniversary date of the Effective Date, and continuing each anniversary date thereafter, for a minimum period of ten (10) years.

7. Indemnification. The Partnership shall indemnify, defend, and hold harmless the General Manager from and against any loss, liability, damage, cost, or expense (including reasonable attorneys' fees) arising out of or alleged to arise out of any demands, claims, suits, actions, or proceedings against the General Manager, by reason of any act or omission performed by it (including its employees and agents) while acting in good faith on behalf of the Partnership and within the scope of the authority of the General Manager pursuant to this Agreement, and any amount expended in any settlement of any such claim of liability, loss, or damage. This indemnity shall be operative only in the context of third-party suits, and not in connection with demands, claims, suits, actions, or proceedings initiated by the Partnership or General Partner or any Affiliate thereof against the other party.

8. Default. If either party fails to perform its duties and obligations under this Agreement (an "Event of Default"), the other party shall be entitled for the ten-year term of this Agreement, as the same may be extended, to specifically enforce the duties and obligations of the other party under this Agreement in addition to any other remedies that may be available at law or in equity to enforce this Agreement. If an Event of Default should occur and be continuing, the non-defaulting party shall give the defaulting party notice and an opportunity to cure within 30 days after receipt of the notice, unless the default is curable, but not capable of being cured within such 30-day period, in which event the defaulting party shall have 90 days to effect a cure.

9. Mediation. Any dispute or controversy arising in connection with this Agreement must be first subject to non-binding mediation. The mediator may be agreed upon by all parties to the dispute, or if agreement is not possible or 30 days have elapsed, whichever shall occur

sooner, chosen by the Arbitration Service of Portland or its successor or equivalent organization. The cost of the mediator shall be shared equally by all participating parties. The mediation must be complete within 30 days of the selection of the mediator. Completion of the process, or the elapse of 30 days from the selection of the mediator, shall be condition precedent to entering into arbitration.

10. Arbitration. Subject to Section 9, any unresolved dispute must be settled by arbitration administered by the Arbitration Service of Portland in accordance with its Commercial Arbitration Rules subject to the following:

(a) Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof, and the resolution of the disputed matter as determined by the arbitrator will be binding on the parties. Any such arbitration must be conducted in Salem, Oregon.

(b) Any party may, without inconsistency with this Agreement, seek from a court any interim or provisional relief that may be necessary to protect the rights or property of that party pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the controversy).

(c) Arbitration proceedings under this Agreement may be consolidated with arbitration proceedings pending between other parties if the arbitration proceedings arise out of the same transaction or relate to the same subject matter. Consolidation will be by order of the arbitrator, in any of the pending cases, or if the arbitrator fails to make such an order, the parties may apply to any court of competent jurisdiction for such an order.

(d) The arbitrator will have the discretion to order a pre-hearing exchange of information by the parties including, without limitation, production of requested documents, exchange of summaries of testimony of proposed witnesses, and examination by deposition of parties.

(e) Except as otherwise provided herein, the arbitrator will have the authority to award any remedy or relief that an Oregon court could order or grant, including, without limitation, specific performance of any obligation created under this Agreement, the awarding of punitive damages, the issuance of an injunction, or the imposition of sanctions for abuse or frustration of the arbitration process.

(f) The arbitration may award costs and fees to the prevailing party if, in the arbitrator's discretion, the non-prevailing party did not prosecute the arbitration or settlement of the dispute in good faith. "Costs and fees" for this purpose means reasonable pre-award expenses of the arbitration, including the arbitrator's fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees and attorneys' fees. Except as otherwise awarded by the arbitrator, all costs and fees will be borne by the party incurring such costs and fees.

(g) The award must be in writing and must be signed by the arbitrator and must include a statement regarding the disposition of any statutory claim. Except to the extent

required by law, no party, nor the arbitrator, may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of the other party.

11. Disclaimer of Partnership. The Partnership and the General Partner, on the one hand, and the General Manager, on the other hand, disclaim any relationship other than as defined in this Agreement. No partnership, joint venture, or other similar interest is intended or created by this Agreement.

12. Amendment. The parties hereto may amend this Agreement at any time only by written amendment executed by all of the parties to this Agreement.

13. Burden and Benefit. The covenants and agreements contained herein shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto. Neither party may assign this Agreement without the consent of the other parties.

14. Severability of Provisions. Each provision of this Agreement shall be considered severable, and if for any reason any provision that is not essential to the effectuation of the basic purposes of the Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement that are valid.

15. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws.

16. Binding Agreement. This Agreement shall be binding on the parties hereto, and their heirs, executors, personal representatives, successors and assigns.

17. Headings. All section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any section.

18. Terminology. All personal pronouns used in this Agreement, whether used in the masculine, feminine and neuter gender, shall include all other genders, the singular shall include the plural, and *vice versa* as the context may require.

In Witness Whereof, the parties have executed this Housing Authority General Manager Agreement as of the date first written above.

PARTNERSHIP:

GATEWAY PHASE 2 LIMITED
PARTNERSHIP,
an Oregon limited partnership

By: CDP GATEWAY PHASE 2 LLC,
an Oregon limited liability company,
Its: Administrative General Partner

By: CDP Manager LLC,
a Delaware limited liability company,
Its: Manager

By: _____
Eric Alan Paine, Manager

GENERAL PARTNER:

CDP GATEWAY PHASE 2 LLC,
an Oregon limited liability company

By: CDP Manager LLC,
a Delaware limited liability company,
its Manager

By: _____
Eric Alan Paine, Manager

GENERAL MANAGER:

HOUSING AUTHORITY OF THE CITY OF
SALEM, a public body corporate and politic of
the State of Oregon

By: _____
Name: _____
Title: _____