



SAN DIEGO
HOUSING
COMMISSION

REPORT TO THE HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

DATE ISSUED: November 4, 2021

REPORT NO: HAR21-023

ATTENTION: Chair and Members of the Housing Authority of the City of San Diego
For the Agenda of December 7, 2021

SUBJECT: Final Bond Authorization for Rancho Bernardo Senior Housing dba Tizon Apartments (formerly Radisson Hotel Affordable Housing) and Approval of a Determination That Rancho Bernardo Senior Housing is Categorically Exempt from the California Environmental Quality Act

COUNCIL DISTRICT: 5

REQUESTED ACTION

Authorize the issuance of tax-exempt Housing Authority of the City of San Diego Multifamily Housing Revenue Notes, in an amount not to exceed \$24,926,225 to facilitate the acquisition and renovation of Rancho Bernardo Senior Housing dba Tizon Apartments (formerly known as Rancho Bernardo Radisson Hotel Conversion) at 11520 West Bernardo Court, San Diego, which will consist of 175 rental housing units that will remain affordable for 55 years for seniors age 62 and older earning between 40 percent and 60 percent of the San Diego Area Median Income (AMI) and three unrestricted managers' units. Further, approve a resolution determining that Rancho Bernardo Senior Housing dba Tizon Apartments is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301 for Class 1 Existing Facilities and section 15302 for Class 2 Replacement or Reconstruction and that no exception to the application of a categorical exemption set forth in CEQA Guidelines section 15300.2 applies to this project.

STAFF RECOMMENDATIONS

That the Housing Authority of the City of San Diego (Housing Authority) take the following actions as described in this report:

- 1) Authorize the issuance of tax-exempt Multifamily Housing Revenue Notes in an amount not to exceed \$24,926,225 to facilitate the acquisition and renovation of Rancho Bernardo Senior Housing dba Tizon Apartments (formerly known as Radisson Hotel Affordable Housing) at 11520 West Bernardo Court in the Rancho Bernardo Community, which will consist of 175 studio units affordable for 55 years for seniors age 62 and older earning between 40 percent and 60 percent of the San Diego Area Median Income (AMI) and three unrestricted managers' units.
- 2) Authorize the San Diego Housing Commission (Housing Commission) President & CEO, or designee, to execute any and all documents that are necessary to effectuate the transaction and implement these approvals in a form approved by the General Counsel of the Housing Authority and of the Housing Commission and the Bond Counsel, and to take such actions as are necessary,

convenient, and/or appropriate to implement these approvals upon advice of the General Counsel and/or the Bond Counsel. Housing Commission staff will notify the Housing Authority and the City Attorney’s Office about any subsequent amendments or modifications to the transaction, and other required documents, including amendments to any documents.

- 3) Approve a resolution determining that Rancho Bernardo Senior Housing dba Tizon Apartments is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301 for Class 1 Existing Facilities and section 15302 for Class 2 Replacement or Reconstruction and that no exception to the application of a categorical exemption set forth in CEQA Guidelines section 15300.2 applies to this project.

SUMMARY

A Development Summary is at Attachment 1.

Table 1 –Development Details

Address	11520 West Bernardo Court
Council District	District 5
Community Plan Area	Rancho Bernardo Community Planning Board
Developers	RB Radisson Hotel Conversion SH, L.P. c/o Affirmed Housing Group, Inc.
Development Type	Acquisition & Rehabilitation
Construction Type	Type 1 Three-story wood frame slab on grade
Parking Type	166 surface parking spaces
Mass Transit	Bus stop for line 945 is 300 ft from property along W. Bernardo Road
Housing Type	Acquisition and rehabilitation
Lot Size	3.61 Acres, 157,252 square feet
Units	178 (175 affordable and 3 manager’s units)
Density	49 dwelling units per acre (178 units /3.61 acres)
Gross Building Area	84,420 square feet
Net Rentable Area	73,056 square feet
Commercial/Retail Space	4,000 square feet of community space
Project Based Housing Vouchers (PBV)	44 PBVs from the Housing Commission (not for permanent supportive housing for individuals experiencing homelessness)

The Development

Rancho Bernardo Senior Housing dba Tizon Apartments will serve seniors age 62 and older with low income. The proposed project will be located at 11520 West Bernardo Court in Council District 5 (Attachment 2 – Site Map) and includes 175 affordable units, of which 44 units would receive help to pay their rent through Project-Based Housing Vouchers (PBVs) awarded by the Housing Commission. Extensive services will be provided to all of the residents.

Site and construction improvements will convert 178 existing guest rooms into 175 affordable studios for seniors and three two-bedroom managers’ units. Several areas that previously supported hotel operations on the first floor will be converted into apartments, which will allow the creation of two-bedroom units for the on-site management team. The existing facility includes ample common area space such as a large lobby, business center, fitness center, restaurant (both indoor and outdoor space) and significant convention meeting space. An extensive community room with game area, TV lounge and community kitchen will be created within both of the existing convention meeting space areas near

the lobby area on the first floor toward the main entrance. While the jacuzzi will likely be maintained, the main pool area will be filled in with concrete and the developer will create an urban garden area in that space.

The existing convention meeting space will also be utilized to provide property management and social service offices. The existing lobby space will be used to provide mailboxes and a welcome area for the property. The business center will be converted into a computer room for residents. The restaurant space will continue to provide for food preparation for the future senior residents. San Ysidro Health will provide food services three to five days a week for the residents. An existing large laundry room on the first floor will continue to operate as the community's laundry room.

Services

Resident services and case management will be provided by EnGAGE. San Ysidro Health will be providing in-kind services on an as-needed basis. ConAm Management Corp. will be the property manager. Affirmed Housing Group is the sole developer.

EnGAGE will provide all affordable units with the services on-site. Programs and services to the residents of the community will include but not be limited to: classes, programs and events in adult education, health and wellness, lifelong learning, art and creativity and community building, intergenerational programming, community outreach and resource referrals. In addition, EnGAGE shall provide one full-time equivalent (FTE) Service Coordinator with responsibilities including but not limited to: providing tenants with information about available services in the community, assisting tenants to access services through referral and advocacy, and organizing community-building and/or other enrichment activities for tenants (such as holiday events, tenant council, etc.)

Developer's Request

Rancho Bernardo Senior Housing, L.P. and Affirmed Housing Group submitted an application in response to the Housing Commission's Notice of Funding Availability (NOFA) for Traditional Capital Funds and Vouchers (non-permanent supportive housing). On January 8, 2021, Housing Commission staff provided a preliminary recommendation of award for a residual receipts loan of up to \$4,500,000 and 44 Project-Based Housing Vouchers (PBV) for the RB Radisson Hotel Conversion project. On April 2, 2021, the Housing Commission Board of Commissioners approved a not-to-exceed \$4,500,000 loan.

The Property

The site's low-income multifamily residential use allows for affordable housing by-right and has a ground floor commercial requirement that can be eliminated by using a development incentive. Multifamily affordable residential uses are permitted by-right in the CV-1-1 zone, per Land Development Code (LDC) Table 131-05B, and ground floor commercial is required in LDC 131-0540. The affordable housing density bonus program and Assembly Bill (AB) 1763 enable the project to maximize the density on the site over the 177 hotel suites that were approved in the site's existing development permit: PCD 86-0630. Affirmed Housing will utilize the City's 100 percent density bonus program in LDC section 143.0720(i)(7) to allow for up to 210 dwelling units within the 3.61-acre site. In addition, AB 1763 provides an option for 100 percent affordable projects within a half mile of a major transit station to develop with no maximum residential density. Affordable housing density bonus projects qualify for a specific number of development incentives and an unlimited number of waivers. One of the development incentives or waivers can be requested to eliminate the ground floor commercial requirement.

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Appraisal

A January 26, 2021, appraisal of the subject site, conducted by Integra Realty Resources, valued the subject property at \$29,030,000.

Prevailing Wages

Rancho Bernardo Senior Housing dba Tizon Apartments proposes to use U.S. Department of Housing and Urban Development (HUD) Project-Based Housing Vouchers, as well as HOME Investment Partnerships Program funds, which will require the project to pay federal Davis-Bacon prevailing wages.

Project Sustainability

Rancho Bernardo Senior Housing dba Tizon Apartments will be constructed in conformance with the California Tax Credit Allocation Committee's (CTCAC) minimum energy efficiency standards. The project will feature upgraded HVAC units, low-flow water fixtures, native landscaping and low-flow irrigation, recycled trash areas, LED lighting, and a solar photovoltaic and/or solar hot water heating system. The project will be built to Green Point Rated "Build it Green" certification.

Accessibility

CTCAC requires wheelchair accessibility in 10 percent of the units, and 4 percent of the units accessible to residents with visual and/or hearing impairment. In the event HOME funds are used to fund the development, these accessible units will satisfy the HOME accessibility requirement in 5 percent of the units, plus an additional 2 percent of the units accessible for residents with visual and/or hearing impairment. The same units can satisfy both of these accessibility requirements.

Relocation

The site was previously utilized as a hotel and ceased operations on November 1, 2021. There will be no tenant relocation required as the building is unoccupied.

Development Team

Rancho Bernardo Senior Housing, L.P. is a partnership in which Affirmed Housing Group will act as the General Partner and development lead. Affirmed will obtain all necessary funding; oversee all development activities, including but not limited to selection of the development team; direction of all the entitlements, design, and construction related to the project; and management of the limited partnership for the life of the project. The partnership will also include Community Advancement Development Corporation (CADC) as the Managing General Partner, and Raymond James Tax Credit Funds, Inc. as the tax credit investor limited partner (Attachment 3 – Organizational Chart).

Affirmed is an award-winning, San Diego-based, for-profit development company that specializes in affordable housing. Since its inception in 1992, Affirmed has completed and is under construction on a total of 61 communities with more than 4,700 affordable rental and for-sale apartments and homes. The Affirmed pipeline of projects currently includes more than 1,300 apartments throughout California, each at various stages of development. Affirmed has secured more than \$1.85 billion of tax credit, conventional, and other financing for affordable housing projects since 1992. Recent notable projects in City of San Diego include the 88-unit Link apartments, 160-unit Bluewater & Stella Apartments and the 85-unit Zephyr Apartments. Affirmed has successfully developed multiple affordable rental housing developments in San Diego using Housing Commission loan funds and is in compliance on its previous Housing Commission-funded loans.

Table 2 Development Team Summary

ROLE	FIRM/CONTACT
Developer	Affirmed Housing Group
Owner/Borrower	Rancho Bernardo Senior Housing, L.P.
Managing General Partner	Community Advancement Development Corporation (CADC)
Administrative General Partner	AHG Rancho Bernardo Senior, LLC
Tax Credit Investor Limited Partner	Raymond James Tax Credit Funds, Inc.
Architect	Basis Architecture & Consulting
General Contractor	HA Builder Group
Property Management	ConAm
Construction and Permanent Lender	Orix Real Estate Capital, LLC, dba Lument Capital
Tenant Services Provider	EnGAGE and San Ysidro Health

Property Management

Rancho Bernardo Senior Housing dba Tizon Apartments will be managed by ConAm Management Corporation (ConAm). ConAm is a nationwide management company with a management portfolio of approximately 53,000 units in more than 26 metropolitan areas. It was established in 1975 and is experienced in property management, marketing, leasing, maintenance, renovations, and tax credit developments.

Housing Commission Board of Commissioners Action

On November 12, 2021, the Housing Commission Board of Commissioners voted 4-0 to recommend that the Housing Authority take the staff-recommended actions and that the San Diego City Council adopt a Tax Equity and Fiscal Responsibility Act (TEFRA) resolution approving the issuance of tax-exempt Multifamily Housing Revenue Notes in an amount not to exceed \$24,926,225 to facilitate the development of Rancho Bernardo Senior Housing dba Tizon Apartments.

FINANCING STRUCTURE

Rancho Bernardo Senior Housing dba Tizon Apartments has an estimated total development cost of \$50,377,343 (\$283,019/unit). The developer's pro forma is included as Attachment 4 as well as summarized below. Financing will include a combination of federal 4 percent tax credits, tax-exempt Multifamily Housing Revenue Notes, a Housing Commission loan, deferred developer fee and working capital.

Table 3 – Tizon Apartments Estimated Permanent Sources and Uses

Financing Sources		Financing Uses		Per Unit
Permanent Loan (FHA)	\$28,572,660	Acquisition	\$28,000,000	\$157,303
SDHC Loan	4,017,167	Construction	10,783,794	60,583
Federal Tax credits	17,006,309	Architecture	790,000	4,438

Release of Working Capital	298,374	Financing & Legal	1,201,458	6,750
Deferred Developer Fee	482,833	Taxes and Insurance	641,400	3,603
		Soft costs	2,785,361	15,648
		City permits and impact fees	1,543,330	8,670
		Developer's fee	4,060,000	22,809
		Reserves	572,000	3,213
Total Sources	50,377,343	Total Uses	\$50,377,343	\$283,019

The Housing Commission's residual receipts loan will be funded with HOME Investment Partnerships program (HOME) funds, awarded by HUD to the City of San Diego and administered by the Housing Commission, and the City of San Diego's Housing Trust Fund, which the Housing Commission administers. The total amount of funding sources shall not exceed the Housing Commission Board-approved amount of \$4,500,000. A final determination of Housing Commission funding sources will be made by the Housing Commission's President & CEO, or designee, contingent upon budget availability.

The Housing Commission requires affordable housing developers to pursue all viable sources of funding to reduce the financing gap and amount of Housing Commission subsidy required. If other funding is secured, proceeds will first be used to make an adjustment to reduce the Housing Commission's loan.

Developers' Fee

\$4,060,000 – gross developer fee

- 482,822 – deferred developer fee

\$3,577,167 – net cash developer fee

On April 25, 2017, the Housing Authority approved the "Request for Approval of Updated Developer Fees" (Report No. HAR17-011; Resolution No. HA-1727). That report approved certain developer fee guidelines for multifamily loans and bond issuances. Attachment 1 to that report stated: "Developer Fee [for] 4% tax credits, in project costs: 15% eligible basis...." The developer is proposing a \$4,060,000 preliminary developer fee associated with the residential portion of development, which complies with HAR17-011. The proposed fee is in conformance with the "Request for Approval of Updated Developer Fees" guidelines approved by the Housing Authority on April 25, 2017.

Development Cost Key Performance Indicators

Housing Commission staff has identified development cost performance indicators that are used to evaluate proposed developments and make a funding recommendation. The key performance indicators listed in Table 4 are commonly used by real estate industry professionals and affordable housing developers.

Table 4 – Rancho Bernardo Senior Housing dba Tizon Apartments Key Performance Indicators

Development Cost Per Unit	\$50,377,343 ÷ 178 units =	\$283,019
Housing Commission Subsidy Per Unit	\$4,017,167 ÷ 178 units =	\$22,568
Acquisition Cost Per Unit	\$28,000,000 ÷ 178 units =	\$157,303
Gross Building Square Foot Hard Cost	\$10,783,794 ÷ 84,420 sq. ft. =	\$128
Net Rentable Square Foot Hard Cost	\$10,783,794 ÷ 73,056 sq. ft. =	\$148

Project Comparison Chart

Multiple factors and variables influence the cost of developing multifamily affordable housing, including but not limited to project location, site conditions, environmental factors, land use approval process, community involvement, construction type, design requirements/constraints, economies of scale, City fees, developer experience and capacity, and the mission and goals of the organization developing the project. Similar construction-type developments (completed or approved) over recent years are listed in Table 5. These developments are similar in terms of new construction, target population, and construction type and are provided as a comparison to the Tizon Apartments development.

Table 5 – Rancho Bernardo Senior Housing dba Tizon Apartments Comparable Development Projects

Project Name	Year	Unit mix	Units	Prevailing Wage	Total Development Cost	Cost Per Unit	HC Subsidy Per Unit	Gross Hard Cost Sq. Ft.
Subject – Rancho Bernardo Senior Housing dba Tizon Apartments	2021	175 Studios 3 mgr. units	178	Yes	\$50,377,343	\$283,019	\$22,568	\$128
West Park	2019	91 Studios & 1 mgr. unit	92	Yes	\$15,593,274	\$331,772	\$76,453	\$457
New Palace	2017	79 Studios & 1 mgr. unit	80	Yes	\$21,804,349	\$272,555	\$38,750	\$230
Zephyr	2017	79 Studios, 5 One Br. & 1 mgr. unit	85	Yes	\$27,225,500	\$320,300	\$35,294	\$180
Benson	2020	82 Studios & 1 mgr. unit	83	Yes	\$24,706,411	\$297,668	\$58,554	\$329

TAX-EXEMPT MULTIFAMILY HOUSING REVENUE NOTESProposed Housing Revenue Notes

The Housing Commission utilizes the Housing Authority's tax-exempt borrowing status to pass on lower interest rate financing (and make 4 percent low-income housing tax credits available) to developers of affordable rental housing. The Housing Authority's ability to issue bonds is limited under the U.S. Internal Revenue Code.

On April 2, 2021, prior to submitting an application to CDLAC, the proposed development was presented to the Housing Commission (Report HCR21-045). A bond inducement resolution was obtained prior to application submittal to CDLAC. On May 25, 2021, an application was submitted to CDLAC for a \$24,926,225 bond allocation. On August 11, 2021, CDLAC approved a \$24,926,225 bond allocation, and CTCAC approved an allocation of 4 percent tax credits.

The developer proposes that the notes be issued through a tax-exempt private placement note issuance. The notes will meet all requirements of the Housing Commission's Multifamily Housing Revenue Bond Program policy and will fully comply with the City of San Diego's (City) ordinance on bond disclosure. The financing amount that will ultimately be set will be based upon development costs, revenues, and interest rates prevailing at the time of the notes issuance. The financing proceeds will be used for both construction financing and permanent financing.

Attachment 5 provides a general description of the Multifamily Housing Revenue Bond Program and the actions that must be taken by the Housing Authority and by the City Council to initiate and finalize proposed financings.

Public Disclosure and Bond/Note Authorization

The notes will be issued in one series. The series will be a \$24,926,225 tax-exempt note (Series 2022 A).

The tax-exempt debt, will be sold through a private placement, purchased initially by Orix Real Estate Capital, LLC, dba Lument Capital. Lument Capital is a "qualified institutional buyer" within the meaning of the U.S. securities laws. At closing, Lument Capital will sign an "Investor's Letter" certifying, among other things, that it is buying the notes for its own account and not for public distribution. Because the notes are being sold through a private placement, an Official Statement will not be used. In addition, the notes will be neither subject to continuing disclosure requirements, nor credit enhanced, nor rated.

Transfer of the notes to any subsequent noteholder will comply with Housing Commission policy number PO300.301. Moreover, any subsequent noteholder would be required to represent to the Housing Authority that they are a qualified institutional buyer or accredited investor who is buying the notes for investment purposes and not for resale, and that they have made due investigation of any material information necessary in connection with the purchase of the notes.

The following documents will be executed on behalf of the Housing Authority: Indenture, Loan Agreement, Assignment of Deed of Trust, Regulatory Agreement, and other loan documents. At the time of docketing, bond/note documents in substantially final form will be presented to members of the Housing Authority. Any changes to the documents following Housing Authority approval require the consent of the City Attorney's Office and Bond Counsel.

The notes will be issued pursuant to an Indenture between the Housing Authority and a to-be-selected Trustee. Based upon instructions contained in the Indenture, or similar document, the Trustee will disburse notes proceeds for eligible costs, collect project revenues and make payments to the noteholder. Under the terms of the Loan Agreement, the Housing Authority will loan the proceeds of the notes to the borrower in order to develop the project. The Loan Agreement sets out the terms of repayment and the security for the loan, and the Housing Authority assigns its rights to receive repayments under the loan

to the Trustee. An Assignment of Deed of Trust and other Loan Documents, which assigns the Housing Authority’s rights and responsibilities as the notes issuer to the Trustee, will be signed by the Housing Authority and the Trustee. Rights and responsibilities that are assigned to the Trustee include the right to collect and enforce the collection of loan payments, monitor project construction and related budgets, and enforce insurance and other requirements. These rights will be used by the Trustee to protect its financial interests. A Regulatory Agreement will be recorded against the property to ensure the long-term use of the project as affordable housing. The Regulatory Agreement will also ensure that the project complies with all applicable federal and state laws.

Financial Advisor’s Recommendation

Orrick Herrington & Sutcliffe will be the Bond Counsel and Ross Financial will be the Financial Advisor on the note issuance. After evaluating the terms of the proposed financing and the public benefits to be achieved, it is the Financial Advisor’s recommendation that the Housing Authority should proceed with the note issuance. The Financial Advisor’s analysis and recommendation is included as Attachment 6.

AFFORDABLE HOUSING IMPACT

Project-Based Vouchers (PBV)

Housing Commission has provided a preliminary award recommendation of 44 PBVs for Rancho Bernardo Senior Housing dba Tizon Apartments, which are for senior (62+) households with low income earning up to 80 percent of AMI. The recommendation for these vouchers is contingent upon completion of a subsidy layering review, execution of an Agreement to Enter into Housing Assistance Payment and verification of services. Under the Project-Based Voucher program, the tenant’s rent portion is determined by using the applicable minimum rent or a calculated amount based on their income level, whichever is higher, with the remainder being federally subsidized up to a gross rent level approved by the Housing Commission. The Housing Assistance Payment provides a rental subsidy for residents in the development’s 44 voucher-assisted units. The PBV units are all studio units. The tenants will be selected from the Housing Commission’s low-income PBV Wait List. Supportive Services will be provided by EnGAGE to the residents. San Ysidro Health will be providing in-kind services on an as-needed basis.

Affordability

Rancho Bernardo Senior Housing dba Tizon Apartments will be subject to a Housing Commission Declaration of Covenants and Restrictions, in addition to applicable tax credit and bond regulatory agreements, which will restrict affordability of 175 units for 55 years. The rent and occupancy restrictions required by the CTCAC will be applicable.

Table 6 Affordability and Monthly Estimated Rent Table

Unit Type	AMI	Number of Units	Gross Rents
Studio (with PBVs)	40%	44	\$1,526
Studio	50%	88	\$1,061
Studio	60%	43	\$1,273
Manager	-	3	-
Total Units	-	178	-

FISCAL CONSIDERATIONS

The funding sources and uses proposed for approval by this action are included in the Housing Authority-approved Fiscal Year (FY) 2022 Housing Commission Budget. Approving this action will not change the FY 2022 total budget.

Funding sources approved by this action will be as follows

Bond Issuer Fee – \$24,926,225 X 0.0025 = \$62,316

Total Funding Sources – up to \$62,316

Funding uses approved by this action

Administrative costs - \$62,316

Total Funding Uses - up to \$62,316

Development Schedule

The estimated development timeline is as follows:

Milestones	Estimated Dates
Housing Commission Board Final Bond Authorization	November 12, 2021
Housing Authority Final Bond Authorization	December 7, 2021
Close Construction Financing	February 15, 2022
Estimated Start of Construction	February 15, 2022
Estimated Completion of Construction	March 15, 2023

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS

The project is by-right. Affirmed presented to the Rancho Bernardo Community Council Land Use Committee on April 6, 2021, and to the Rancho Bernardo Community Planning Board on May 20, 2021. The presentations were informational as the entitlements/project is only subject to ministerial approval.

KEY STAKEHOLDERS & PROJECTED IMPACTS

Stakeholders include Affirmed Housing Group as the developer, San Ysidro Health and EnGAGE as the service providers, the Housing Commission as a lender and administrator of Multifamily Housing Revenue Bonds, and the Rancho Bernardo Community Planning Board. The project is anticipated to have a positive impact on the community, as it will contribute to the quality of the surrounding neighborhood and create 175 new affordable rental homes for low-income seniors in San Diego.

STATEMENT FOR PUBLIC DISCLOSURE

Developer Disclosure Statements for Affirmed Housing Group are provided at Attachment 7.

ENVIRONMENTAL REVIEW

California Environmental Quality Act (CEQA)

These actions are exempt under CEQA because they do not have the potential for causing a significant effect on the environment pursuant to State CEQA Guidelines Section 15301 (Existing Facilities), which allows the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use; and Section 15302 (Replacement or Reconstruction), which allows the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and

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capacity as the structure replaced. The exceptions listed in CEQA Section 15300.2 would not apply in that no cumulative impacts were identified; no significant effects on the environment were identified; the project is not adjacent to a scenic highway; no historical resources would be affected by the action; and the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

National Environmental Policy Act

Federal funds will constitute a portion of the funding for the project. A final reservation of federal funds shall occur only upon satisfactory completion of the environmental review and receipt by the City of San Diego of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58 of the National Environmental Policy Act (NEPA). The parties agree that the provision of any federal funds to the project is conditioned on the City of San Diego's determination to proceed with, modify, or cancel the project based on the results of a subsequent environmental review under NEPA. Final NEPA approvals were obtained from the City of San Diego on April 28, 2021 and November 1, 2021.

Respectfully submitted,

Jennifer Kreutter

Jennifer Kreutter

Director of Real Estate Finance Operations
Real Estate Division

Approved by,

Jeff Davis

Jeff Davis

Deputy Chief Executive Officer
San Diego Housing Commission

- Attachments:
1. Development Summary
 2. Site Map
 3. Organization Chart
 4. Developers' Project Pro Forma
 5. Multifamily Housing Revenue Bond Program
 6. Financial Advisor's Analysis
 7. Developers' Disclosure Statement

Docket materials are available in the "Governance & Legislative Affairs" section of San Diego Housing Commission website at www.sdhc.org

Development Summary

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Administrative General Partner	AHG Rancho Bernardo Senior, LLC
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Architect	Basis Architecture & Consulting
General Contractor	HA Builder Group
Property Management	ConAm
Construction and Permanent Lender	Orix Real Estate Capital, LLC, dba Lument Capital
Tenant Services Provider	EnGAGE and San Ysidro Health

Table 3 –Estimated Sources and Uses of Financing

Financing Sources		Financing Uses		Per Unit
Permanent Loan (FHA)	\$28,572,660	Acquisition	\$28,000,000	\$157,303
SDHC Loan	4,017,167	Construction	10,783,794	60,583
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		City permits and impact fees	1,543,330	8,670
		Developer's fee	4,060,000	22,809
		Reserves	572,000	3,213
Total Sources	50,377,343	Total Uses	\$50,377,343	\$283,019

Table 4 – Key Performance Indicators

Development Cost Per Unit	$\$50,377,343 \div 178 \text{ units} =$	\$283,019
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Acquisition Cost Per Unit	$\$28,000,000 \div 178 \text{ units} =$	\$157,303
Gross Building Square Foot Hard Cost	$\$10,783,794 \div 84,420 \text{ sq. ft.} =$	\$128
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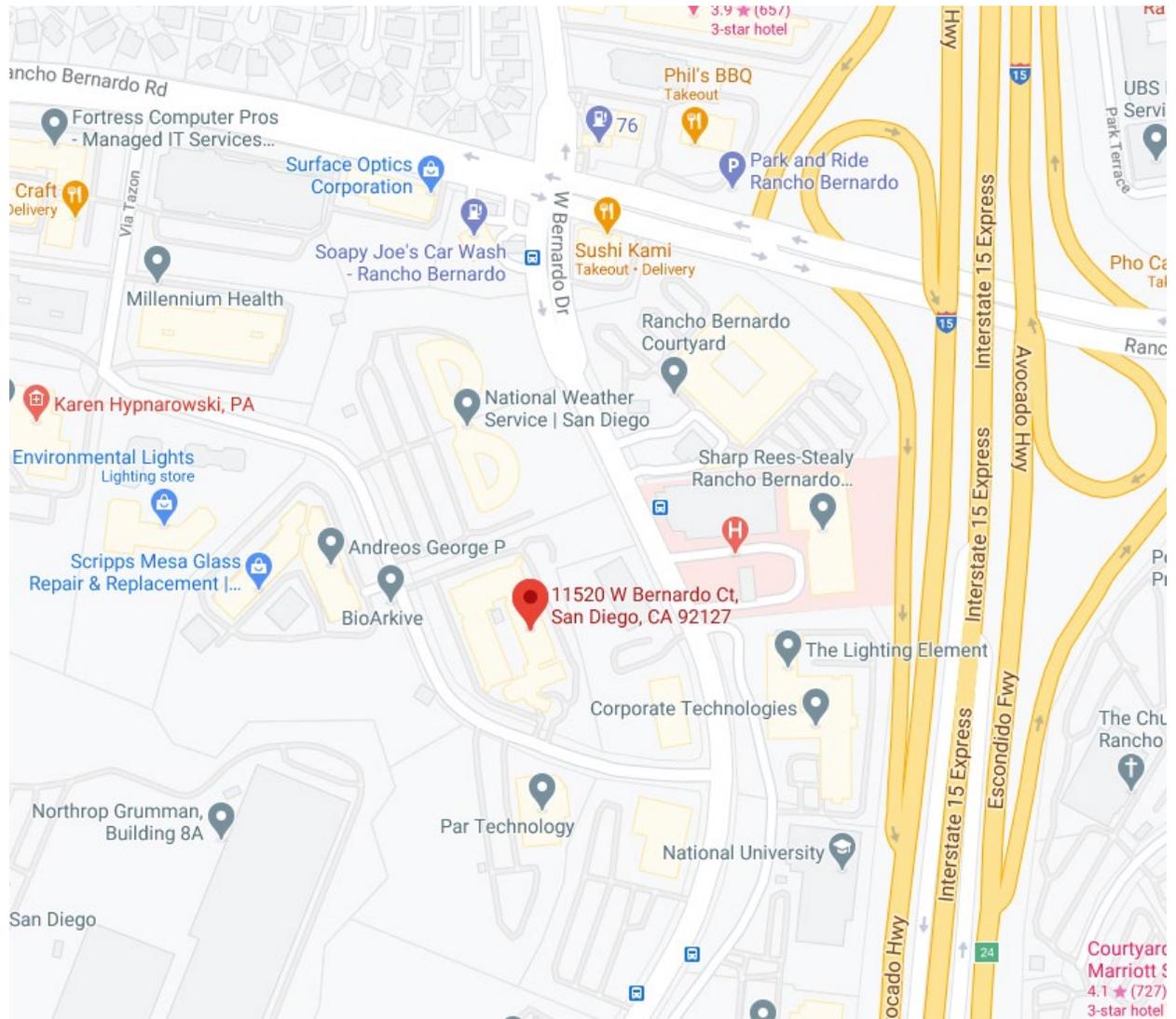
Table 5 – Comparable Development Projects

Project Name	Year	Unit mix	Units	Prevailing Wage	Total Development Cost	Cost Per Unit	HC Subsidy Per Unit	Gross Hard Cost Sq. Ft.
Subject – Tizon Apartments	2021	175 Studios 3 mgr. units	178	Yes	\$50,377,343	\$283,019	\$22,568	\$128
West Park	2019	91 Studios & 1 mgr. unit	92	Yes	\$15,593,274	\$331,772	\$76,453	\$457
New Palace	2017	79 Studios & 1 mgr. unit	80	Yes	\$21,804,349	\$272,555	\$38,750	\$230
Zephyr	2017	79 Studios, 5 One Br. & 1 mgr. unit	85	Yes	\$27,225,500	\$320,300	\$35,294	\$180
Benson	2020	82 Studios & 1 mgr. unit	83	Yes	\$24,706,411	\$297,668	\$58,554	\$329

Table 6 Affordability and Monthly Estimated Rent Table

Unit Type	AMI	Number of Units	Gross Rents
Studio (with PBVs)	40%	44	\$1,526
Studio	50%	88	\$1,061
Studio	60%	43	\$1,273
Manager	-	3	-
Total Units	-	178	-

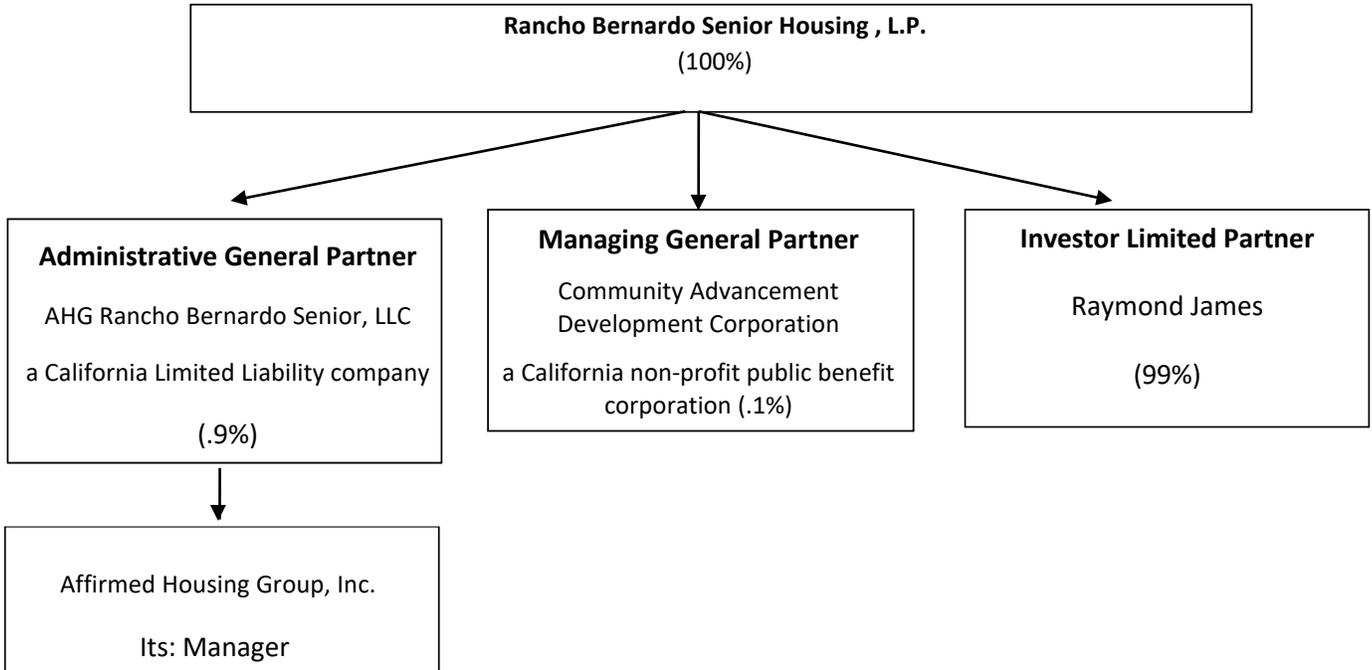
Site Map



**Rancho Bernardo Senior Housing DEVELOPMENT SITE
OWNERSHIP STRUCTURE:**

Limited Partnership

Affirmed Housing Group, Inc., a Delaware for-profit corporation, has formed a Limited Partnership that will be the 100% ownership entity of the affordable housing project. AHG Rancho Bernardo Senior, LLC, a California single purpose entity filed with the state will be the Administrative General Partner, owning .9% interest; Community Advancement Development Corporation, a California nonprofit public benefit corporation, will act as the Managing General Partner and will own .1% interest and the Investor Limited Partner will have 99% interest in the limited partnership.



OFFICERS AND/OR MANAGERS RESPONSIBLE FOR THE PROJECT:

- | | |
|--|--|
| <p>1. James Silverwood
President
Affirmed Housing Group, Inc. 13520
Evening Creek Dr. N, #160 San
Diego, CA 92128</p> | <p>3. Shonda Herold
Senior Project Manager
Affirmed Housing Group, Inc.
13520 Evening Creek Dr. N, #160 San
Diego, CA 92128</p> |
| <p>2. Jimmy Silverwood
Executive Vice President
Affirmed Housing Group, Inc. 13520
Evening Creek Dr. N, #160 San Diego,
CA 92128</p> | <p>4. Randall Simmrin
Executive Director
Community Advancement
Development Corporation
310 S. Twin Oaks Valley Rd. #107-287
San Marcos, CA 92078</p> |

Affirmed Housing Group, Inc. (AHG) will act as the Administrative General Partner in the development of the affordable housing project. Affirmed's role of the development will be to obtain all the necessary funding to develop and operate the project, process entitlements, select consultants, General Contractor and property management company, oversee architectural design, construction management and other aspects of the development process as well as manage the limited partnership for the life of the project.

Radisson Hotel Conversion
 Rancho Bernardo, San Diego
 175 Senior Apts; 30-60% AMI; 3 MGR Apts
 4% Tax Credit Equity + FHA 221(d)(4) + SDHC Capital + 25% Reg PBV
 Adaptive Reuse of Existing Hotel
 11/2/2021

SOURCES

Name of Lender/Source	Amount of Funds	Per Unit	%
Permanent Loan (FHA)	\$ 28,572,660	160,521	56.7%
SDHC Capital	\$ 4,017,167	22,568	8.0%
Release of Working Capital	\$ 298,374	1,676	0.6%
Deferred Developer Fee	\$ 482,833	2,713	1.0%
Federal Tax Credit Equity	\$ 17,006,308	95,541	33.8%
TOTAL SOURCES	\$ 50,377,343	283,019	100.0%

USES

Land/Acquisition Cost	\$ 28,000,000	157,303	55.6%
Total Rehabilitation Costs	\$ 9,984,995	56,095	19.8%
Hard Cost Subtotal	\$ 9,984,995	56,095	19.8%
Construction Contingency	\$ 798,799	4,488	1.6%
Architecture & Engineering	\$ 790,000	4,438	1.6%
Construction Interest & Fees	\$ 1,201,458	6,750	2.4%
Capitalized Reserves	\$ 572,000	3,213	1.1%
Taxes & Insurance	\$ 641,400	3,603	1.3%
Construction Services	\$ 30,000	169	0.1%
Escrow & Title	\$ 55,000	309	0.1%
Legal Fees/Cost of Issuance	\$ 582,730	3,274	1.2%
Devel Impact Fees & Permits	\$ 1,543,330	8,670	3.1%
Tax Credit Fees	\$ 95,000	534	0.2%
Misc. Soft Costs	\$ 1,691,129	9,501	3.4%
Soft Cost subtotal	\$ 7,202,047	40,461	14.3%
Soft Cost Contingency	\$ 331,502	1,862	0.7%
Developer Fee	\$ 4,060,000	22,809	8.1%
TOTAL USES	\$ 50,377,343	283,019	100.0%

FINANCING ASSUMPTIONS

Permanent Loan Amount	\$28,572,660
Permanent Loan Interest Rate	2.90%
Permanent Loan Term (yr.)	40
Permanent Loan Amort (yr.)	40
Net Operating Income	\$1,518,699
Debt Service	\$1,289,182
Debt Coverage Ratio	1.18
Construction Loan Amt (TE)	\$24,926,225
Construction Loan Interest Rat	2.90%
Construction Loan Term (mo.)	24
Loan to Value	49.48%

INCOME

Type	Qty.	%AMI	Net Income	Total Income
Studio Reg PBV	44	40%	\$ 1,526	\$ 67,144
Studio	88	50%	\$ 1,061	\$ 93,368
Studio	43	60%	\$ 1,273	\$ 54,739
2BR MGR	3		\$ -	\$ -
TOTAL	178			\$ 215,251
Annual Residential Income				\$ 2,225,556
Excess PBV Income				\$ 357,456
Other Income				\$ 24,680
Total Gross Annual Income				\$ 2,607,692
Vacancy @		5.0%		\$ (129,151)
TOTAL NET ANNUAL INCOME				\$ 2,478,541

EXPENSES

Administrative	\$ 697	\$ 124,000
Management	\$ 720	\$ 128,160
Utilities	\$ 1,096	\$ 195,000
Payroll	\$ 1,346	\$ 239,532
Total Insurance:	\$ 191	\$ 34,000
Maintenance	\$ 801	\$ 142,500
Other: Agency Monitoring Fees	\$ 45	\$ 8,000
Subtotal	\$ 4,894	\$ 871,192
Resident Services	\$ 225	\$ 40,000
Replacement Reserves	\$ 300	\$ 53,400
Real Estate Taxes	\$ 51	\$ 9,000
Legal/Insurance Reserve:	\$ -	\$ -
Other: Agency Monitoring Fees (\$ 147	\$ 26,250
ANNUAL EXPENSES	\$ 999,842	

TAX CREDIT ASSUMPTIONS

9% Tie Breaker Score	N/A
Federal Tax Credits Requested	\$2,020,952
Federal Tax Credit Pricing	\$0.85
State Tax Credits Requested	N/A
State Tax Credit Pricing	N/A
LP Interest	99.00%
Applicable Rate	4.00%
50% Test	51.09%

PROPOSED BASIS LIMITS CALCULATIONS AND BOOSTS

Radisson Hotel Conversion

Basis Limits Used: **TCAC 2021** County: **SAN DIEGO**
 Application Type: **4%** Housing Type: **At Risk and Non-Targeted**

Unit Size	Unit Basis Limit	No. of Units	(Basis) X (No. of Units)
SRO/STUDIO	\$260,566	175	\$45,599,050
1	\$300,430	0	\$0
2	\$362,400	3	\$1,087,200
3	\$463,872	0	\$0
4+	\$516,782	0	\$0
TOTAL UNITS:		178	
TOTAL UNADJUSTED THRESHOLD BASIS LIMIT:			\$46,686,250
			Yes/No
(a)	Plus (+) 20% basis adjustment for projects required to pay state or federal prevailing wages.	<input type="checkbox"/> Yes	\$9,337,250
(b)	Plus (+) 7% basis adjustment for new construction projects which are required to provide parking beneath residential units (but not "tuck under" parking).	<input type="checkbox"/> No	\$0
(c)	Plus (+) 2% basis adjustment for projects where a day care center is part of the development.	<input type="checkbox"/> No	\$0
(d)	Plus (+) 2% basis adjustment for projects where 100 percent of the units are for Special Needs populations.	<input type="checkbox"/> No	\$0
(e)	Plus (+) up to 10% basis adjustment for projects applying under Section 10325 or Section 10326 of these regulations that includes Item (e) Features. If yes, enter total % boost: <input type="text" value="0%"/>	<input type="checkbox"/> No	\$0
(f)	Plus (+) the lesser of the associated costs or up to a 15% basis adjustment for projects requiring seismic upgrading of existing structures, and/or projects requiring toxic or other environmental mitigation as certified by the project architect/ engineer +costs. If Yes, select type: <input type="text" value="Seismic Upgrading"/>	<input type="checkbox"/> No	\$0
(g)	Plus (+) local development impact fees required to be paid to local government entities. Certification from local entities assessing fees also required.	<input type="checkbox"/> Yes <small>Please Enter Amount:</small>	\$1,259,800
(h)	Plus (+) 10% basis adjustment for projects wherein at least 95% of the project's upper floor units are serviced by an elevator.	<input type="checkbox"/> Yes	\$4,668,625
(i)	Plus (+) 10% basis adjustment for a project that is: (i) in a county that has an unadjusted 9% threshold basis limit for a 2-bedroom unit equal to or less than \$400,000; AND (ii) located in a census tract designated on the TCAC/HCD Opportunity Area Map as Highest or High Resource.	<input type="checkbox"/> Yes	\$4,668,625
4% Projects			
(j)	Plus (+) 1% basis adjustment for each 1% of project's Low-Income and Market Rate Units restricted between 35% and 50% of AMI. Affordable Units: <input type="text" value="175"/> Total Affordable Units @ 50% to 35% of AMI: <input type="text" value="132"/>	<input type="text" value="75%"/>	\$35,214,771
(k)	Plus (+) 2% basis adjustment for each 1% of project's Low-Income and Market Rate Units restricted at or below 35% of AMI. Affordable Units: <input type="text" value="175"/> Total Affordable Units @ 35% of AMI or Below: <input type="text" value="0"/>	<input type="text" value="0%"/>	\$0
TOTAL ADJUSTED THRESHOLD BASIS LIMIT:			\$101,835,321

HIGH COST TEST

Total Eligible Basis

Percentage of the Adjusted Threshold Basis Limit 42.413%

UNADJUSTED THRESHOLD BASIS - 39% TEST

Total of (a), (b), (c), (d), & (h) cannot exceed 39% 30.000%

CONFIDENTIAL

CONSTRUCTION & PERMANENT FINANCING
Radisson Hotel Conversion

Construction Financing				
Name of Lender/Source	Term (months)	Interest Rate	Amount of Funds	Int. Reserve
Construction Loan (TE FHA)	24	2.90%	24,926,225	912,000
Construction Loan (TAXABLE FHA)	24	2.90%	3,646,435	
SDHC Capital	24	4.00%	4,017,167	
Tax Credit Equity (Fed)			15,305,678	
Costs Deferred Until Perm			2,481,838	
Total Funds for Construction			50,377,343	

Permanent Financing				
Name of Lender/Source	Term (months)	Interest Rate	Amount of Funds	Debt Service
Permanent Loan (FHA)	480	2.90%	28,572,660	1,279,182
SDHC Capital	660	4.00%	4,017,167	10,000
Release of Working Capital			298,374	
Deferred Developer Fee		2.00%	482,833	
Total Permanent Financing			33,371,034	
Federal Tax Credit Equity			17,006,308	
Total Sources of Project Funds			50,377,343	

DEVELOPMENT BUDGET

Radisson Hotel Conversion

	TOTAL PROJECT COST	RESIDENTIAL COST	COMMERCIAL COST	Tax Credit Equity	Permanent Loan (FHA)	SDHC Capital		Release of Working Capital	-	Deferred Developer Fee	70% PVC for New Construction/ Rehabilitation	30% PVC for Acquisition
LAND COST/ACQUISITION												
Land Value	3,940,000	3,940,000	-	-	-	-	-	-	-	-	-	-
Land Carry Cost + Misc. Fees	100,000	100,000	-	-	-	-	-	-	-	-	-	-
Land Carry Cost	-	-	-	-	-	-	-	-	-	-	-	-
Total Land Cost or Value	4,040,000	4,040,000	-	-	-	-	-	-	-	-	-	-
Existing Improvements Value	23,960,000	23,960,000	-	-	-	-	-	-	-	-	-	23,960,000
Off-Site Improvements	-	-	-	-	-	-	-	-	-	-	-	-
Total Acquisition Cost	23,960,000	23,960,000	-	-	-	-	-	-	-	-	-	23,960,000
Total Land Cost / Acquisition Cost	28,000,000	28,000,000	-	-	-	-	-	-	-	-	-	23,960,000
REHABILITATION												
Site Work	170,000	170,000	-	-	-	-	-	-	-	-	170,000	-
Structures	8,098,445	8,098,445	-	-	-	-	-	-	-	-	8,098,445	-
General Requirements	537,227	537,227	-	-	-	-	-	-	-	-	537,227	-
Contractor Overhead	175,153	175,153	-	-	-	-	-	-	-	-	175,153	-
Contractor Profit	477,460	477,460	-	-	-	-	-	-	-	-	477,460	-
Other: Solar/FFE	300,000	300,000	-	-	-	-	-	-	-	-	300,000	-
General Liability Insurance/Bond Prem.	226,710	226,710	-	-	-	-	-	-	-	-	226,710	-
Contractor Contingency	-	-	-	-	-	-	-	-	-	-	-	-
Total Rehabilitation Costs	9,984,995	9,984,995	-	-	-	-	-	-	-	-	9,984,995	-
Total Relocation Expenses	-	-	-	-	-	-	-	-	-	-	-	-
NEW CONSTRUCTION												
Site Work	-	-	-	-	-	-	-	-	-	-	-	-
Structures	-	-	-	-	-	-	-	-	-	-	-	-
General Requirements	-	-	-	-	-	-	-	-	-	-	-	-
Contractor Overhead	-	-	-	-	-	-	-	-	-	-	-	-
Contractor Profit	-	-	-	-	-	-	-	-	-	-	-	-
Demolition & Abatement	-	-	-	-	-	-	-	-	-	-	-	-
Prevailing Wages	-	-	-	-	-	-	-	-	-	-	-	-
General Liability Insurance/ Bond Prem	-	-	-	-	-	-	-	-	-	-	-	-
Solar	-	-	-	-	-	-	-	-	-	-	-	-
Other: Site Security	-	-	-	-	-	-	-	-	-	-	-	-
Total New Construction Costs	-	-	-	-	-	-	-	-	-	-	-	-

DEVELOPMENT BUDGET

Radisson Hotel Conversion

	TOTAL PROJECT COST	RESIDENTIAL COST	COMMERCIAL COST	Tax Credit Equity	Permanent Loan (FHA)	SDHC Capital		Release of Working Capital	-	Deferred Developer Fee	70% PVC for NC/Rehab or 30% PVC for Fed Subsidized NC/Rehab	30% PVC for Acquisition
ARCHITECTURAL FEES												
Design (incl ADA, GPR, etc)	540,000	540,000	-	-	-	-	-	-	-	-	540,000	-
Other:	-	-	-	-	-	-	-	-	-	-	-	-
Total Architectural Costs	540,000	540,000	-	-	-	-	-	-	-	-	540,000	-
Total Survey and Engineering	250,000	250,000	-	-	-	-	-	-	-	-	250,000	-
CONST. INTEREST & FEES												
Construction Loan Interest (TE)	631,000	631,000	-	-	-	-	-	-	-	-	631,000	-
Origination Fee (FHA)	289,458	289,458	-	-	-	-	-	-	-	-	289,458	-
Cost of Issuance	397,730	397,730	-	-	-	-	-	-	-	-	-	-
Taxes	491,400	491,400	-	-	-	-	-	-	-	-	491,400	-
Insurance	150,000	150,000	-	-	-	-	-	-	-	-	150,000	-
Title and Recording	55,000	55,000	-	-	-	-	-	-	-	-	55,000	-
Construction Service Fees (Bank)	30,000	30,000	-	-	-	-	-	-	-	-	30,000	-
Other: Const Mgmt & Deputy Services	-	-	-	-	-	-	-	-	-	-	-	-
Other: HUD Fees	1,226,140	1,226,140	-	-	-	-	-	-	-	-	1,226,140	-
Total Const. Interest & Fees	3,270,728	3,270,728	-	-	-	-	-	-	-	-	2,872,998	-

PERMANENT FINANCING

Loan Origination Fee	-	-	-	-	-	-	-	-	-	-	-	-	-
Credit Enhancement/Application Fee	-	-	-	-	-	-	-	-	-	-	-	-	-
Title and Recording	-	-	-	-	-	-	-	-	-	-	-	-	-
Taxes	-	-	-	-	-	-	-	-	-	-	-	-	-
Insurance	-	-	-	-	-	-	-	-	-	-	-	-	-
Other: SDHC Fees	86,250	86,250	-	-	-	-	-	-	-	-	-	-	-
Other: Interest Prior to Conversion	281,000	281,000	-	-	-	-	-	-	-	-	-	-	-
Total Perm. Financing Costs	367,250	367,250	-	-	-	-	-	-	-	-	-	-	-
LEGAL FEES													
Lender Legal Pd. by Applicant	60,000	60,000	-	-	-	-	-	-	-	-	-	60,000	-
Other : Partnership & Transaction	125,000	125,000	-	-	-	-	-	-	-	-	-	50,000	-
Total Attorney Costs	185,000	185,000	-	-	-	-	-	-	-	-	-	110,000	-
RESERVES													
Rent Reserves	-	-	-	-	-	-	-	-	-	-	-	-	-
Transition Reserve	-	-	-	-	-	-	-	-	-	-	-	-	-
*3- Month Operating Reserve	572,000	572,000	-	-	-	-	-	-	-	-	-	-	-
Other:	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Reserve Costs	572,000	572,000	-	-	-	-	-	-	-	-	-	-	-

DEVELOPMENT BUDGET

Radisson Hotel Conversion

	TOTAL PROJECT COST	RESIDENTIAL COST	COMMERCIAL COST	Tax Credit Equity	Permanent Loan (FHA)	SDHC Capital		Release of Working Capital	-	Deferred Developer Fee	70% PVC for NC/Rehab or 30% PVC for Fed Subsidized NC/Rehab	30% PVC for Acquisition
Total Appraisal Costs	8,000	8,000	-	-	-	-	-	-	-	-	8,000	-
Total Hard Cost Contingency	798,799	798,799	-	-	-	-	-	-	-	-	798,799	-
OTHER PROJECT COSTS												
TCAC App/Allocation/Monitoring	95,000	95,000	-	-	-	-	-	-	-	-	-	-
Environmental Audit	35,000	35,000	-	-	-	-	-	-	-	-	35,000	-
Local Dev. Impact Fees	1,259,800	1,259,800	-	-	-	-	-	-	-	-	1,259,800	-
Permit Fees	283,530	283,530	-	-	-	-	-	-	-	-	283,530	-
Marketing/PM Lease Up Fees	78,919	78,919	-	-	-	-	-	-	-	-	-	-
Furnishings, Fixtures, Equipment	211,820	211,820	-	-	-	-	-	-	-	-	211,820	-
Market Study	10,000	10,000	-	-	-	-	-	-	-	-	10,000	-
Accounting/Reimbursables	35,000	35,000	-	-	-	-	-	-	-	-	35,000	-
Soft Cost Contingency	331,502	331,502	-	-	-	-	-	-	-	-	331,502	-
PSH Lease-Up Fees	-	-	-	-	-	-	-	-	-	-	-	-
Other: Financial Consulting	-	-	-	-	-	-	-	-	-	-	-	-
Other: Entitlements Consulting	-	-	-	-	-	-	-	-	-	-	-	-
Other:	-	-	-	-	-	-	-	-	-	-	-	-
Total Other Costs	2,340,571	2,340,571	-	-	-	-	-	-	-	-	2,166,652	-
SUBTOTAL PROJECT COST	46,317,343	46,317,343	-	-	-	-	-	-	-	-	16,731,444	23,960,000
	Total Project Cost	Total Residential	Total Commercial					Subtotal Eligible Basis			16,731,444	23,960,000
DEVELOPER COSTS												
Developer Overhead/Profit	4,060,000	4,060,000	-	-	-	-	-	-	-	-	2,509,716	1,550,284
Consultant/Processing Agent	-	-	-	-	-	-	-	-	-	-	-	-
Project Administration	-	-	-	-	-	-	-	-	-	-	-	-
Broker Fees Paid to a Related Party	-	-	-	-	-	-	-	-	-	-	-	-
Construction Oversight by Developer	-	-	-	-	-	-	-	-	-	-	-	-
Other: (Specify)	-	-	-	-	-	-	-	-	-	-	-	-
Total Developer Costs	4,060,000	4,060,000	-	-	-	-	-	-	-	-	2,509,716	1,550,284
TOTAL PROJECT COSTS	50,377,343	50,377,343	-	-	-	-	-	-	-	-	19,241,160	25,510,284
								Bridge Loan Expense During Construction			-	-
								Total Eligible Basis			19,241,160	25,510,284

**ELIGIBLE AND QUALIFIED BASIS
Radisson Hotel Conversion**

	70% PVC for New Construction/ Rehabilitation	30% PVC for Acquisition
Total Eligible Basis:	19,241,160	25,510,284
Ineligible Amounts	-	
Subtract all Grant Proceeds Used to Finance Costs in Eligible Basis:	-	-
Subtract Non-Qualified Non-Recourse Financing:	-	-
Subtract Non-Qualifying Portion of Higher Quality Units:	-	-
Subtract Photovoltaic Credit (as applicable):		-
Subtract Historic Credit (residential portion only):	-	-
Total Ineligible Amounts:	-	-
Total Eligible Amount Voluntarily Excluded:		-
Total Basis Reduction:	-	-
Total Requested Unadjusted Eligible Basis:	19,241,160	25,510,284
Total Adjusted Threshold Basis Limit		101,835,321
*Qualified Census Tract (QCT) or Difficult to Develop Area (DDA) Adjustment:	130%	100%
Total Adjusted Eligible Basis:	25,013,508	25,510,284
Applicable Fraction:	100%	100%
Qualified Basis	25,013,508	25,510,284
Total Qualified Basis		50,523,792
**Total Credit Reduction:	-	0
Total Adjusted Qualified Basis:		50,523,792

*130% boost if your project is located in a DDA or QCT

**to be calculated in "Points System"

BASIS AND CREDITS
Radisson Hotel Conversion

	New Construction /Rehabilitation	Acquisition	
Adjusted Qualified Basis, After Credit Reduction:	25,013,508	25,510,284	
Applicable Percentage - 30% PV (4%, varies)	4.00%	4.00%	
Project's Applicable Percentage:	4.00%	4.00%	
Subtotal Annual Federal Credit:	1,000,540	1,020,411	
Total Combined Annual Federal Credit:		2,020,952	<--- \$2.5M Max

Determination of Minimum Federal Credit Necessary For Feasibility

Total Project Cost	50,377,343		
Permanent Financing	33,371,034		
Funding Gap	17,006,309	0.850	Equity Pricing
Federal Tax Credit Factor **	0.84	99.00%	LP Interest
Total Credits Necessary for Feasibility	20,209,517		
Annual Federal Credit Necessary for Feasibility	2,020,952		
Maximum Annual Federal Credits	2,020,952		
Equity Raised From Federal Credit	17,006,308		
Remaining Funding Gap	0		

BASIS AND CREDITS: STATE

Determination of State Credit	NC/Rehab	Acquisition	
Adjusted Qualified Basis	19,241,160	-	
Factor Amount *	30%	13%	
Maximum Total State Credit	5,772,348	-	
Determination of Minimum State Credit Necessary for Feasibility			
State Tax Credit Factor **	-	99.00%	Equity Pricing
Maximum Total State Credit	5,772,348		LP Interest
State Credit Necessary for Feasibility	-		
Equity Raised from State Credit	-		
Remaining Funding Gap	0		

PROJECT INCOME INFORMATION
Radisson Hotel Conversion

(a) # of Bedrooms	(b) # of Units	(c) Proposed Monthly Rent Less Utilities	(d) Total Monthly Rents (bxc)	(e) Monthly Utility Allow.	(f) Monthly Rent Plus Utilities (c + e)	(g) % of Area Mediam Income	PBVs Rents	PBV Add Mo. Rent Above TCAC	Total Add. Mo. Rents
Studio Reg PBV	44	\$ 849	\$ 37,356	\$ -	\$ 849	40%	\$ 1,526	\$ 677	\$ 29,788
Studio	88	\$ 1,061	\$ 93,368	\$ -	\$ 1,061	50%	\$ -	\$ -	\$ -
Studio	43	\$ 1,273	\$ 54,739	\$ -	\$ 1,273	60%	\$ -	\$ -	\$ -
2BR MGR	3	\$ -	\$ -	\$ -	\$ -	MKT	\$ -	\$ -	\$ -
Affordable Units	175	Total Rent	\$ 185,463				Total Tranche B:		\$ 29,788

Aggregate Monthly Rents for All Units:	\$ 185,463
Aggregate Annual Rents for All Units:	\$ 2,225,556

Avg Affordability	49.94%
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Total Affordable Plus Manager Units:	178
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Annual Income from Laundry Facilities	\$ 10,680	5.00 per unit per month
Annual Income from Vending Machines	-	
Annual Interest Income	-	
Other Annual Income (Specify)	14,000	
Total Miscellaneous Income:	\$ 24,680	
Total Annual Potential Gross Income:	\$ 2,250,236	

Excess PBV Income	\$ 357,456
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Total Gross Annual Income	\$ 2,607,692
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Utility Allowances					
	Studio	1 BR	2 BR	3 BR	4 BR
Space Heating:	-	-	-	-	-
Water Heating:	-	-	-	-	-
Cooking:	-	-	-	-	-
Lighting:	-	-	-	-	-
Electricity:	-	-	-	-	-
Water:*	-	-	-	-	-
AC	-	-	-	-	-
City's Fee	-	-	-	-	-
Total:	-	-	-	-	-

**Owner paid utilities*

ANNUAL RESIDENTIAL OPERATING EXPENSES
Radisson Hotel Conversion

		Per Unit		
Administrative	Advertising:	2,000	11	
	Legal:	5,000	28	
	Accounting/Audit:	12,000	67	
	Security:	70,000	393	
	General Office Costs:	35,000	197	
	Total Administrative:	124,000	697	
Management	Total Management Fee:	128,160	720	
Utilities	Fuel:	-	-	
	Gas:	10,000	56	
	Electricity:	95,000	534	
	Water/Sewer:	90,000	506	
	Total Utilities:	195,000	1,096	
Payroll / Payroll Taxes	On-site Manager(s):	91,520	514	
	Maintenance Personnel:	76,960	432	
	Other: Payroll Burden/Taxes	71,052	399	
	Total Payroll/Payroll Taxes:	239,532	1,346	
	Total Insurance:	34,000	191	
Maintenance	Painting:	7,500	42	
	Repairs:	30,000	169	
	Trash Removal:	35,000	197	
	Exterminating:	10,000	56	
	Grounds:	40,000	225	
	Other: Elevator	15,000	84	
	Other: Cleaning & Building Supplies	5,000	28	
	Total Maintenance:	142,500	801	
Other Expenses	Other: Fire Monitor	8,000	45	
	Other:	-	-	
	Other:	-	-	
	Other:	-	-	
	Other:	-	-	
	Total Other:	8,000	45	
Total Expenses				
Total Annual Residential Operating Expenses:		871,192		
Total Number of Units in the Project:		178		
Total Annual Operating Expenses Per Unit:		4,894	4,900 min per unit	
Total 3-Month Operating Reserve:		572,000		
Legal/Insurance Reserve:				
Total Annual Service Amenities Budget (Res Serv Coordinator):		40,000	225 per unit	
Total Annual Reserve for Replacement:		53,400	300 per unit	
Total Annual Real Estate Taxes:		9,000		
Other: Agency Monitoring Fees (26,250	150 per affordable uni	
TOTAL:		999,842	5,617 per unit 468 per month	
Commercial Income				
Total Annual Commercial/Non Residential Revenue:		-		
Total Annual Commercial/Non Residential Expenses:		-		
Total Annual Commercial/Non Residential Debt Service:		-		
Total Annual Commercial/Non Residential Net Income:		-		

Borrower: TBD
Project Name: Radisson Hotel Conversion
Proforma Type: 175 Senior Apts; 30-60% AMI; 3 MGR Apts
Location: Rancho Bernardo, San Diego

Month	Equity	Dev Fee	Description
0	25%	30%	Loan Closing
2	25%	0%	April 1, 2022
5	23%	0%	50% Completion
9	17%	20%	Construction Completion
10	0%	0%	Final Payment
13	0%	0%	100% Occupancy
17	8%	43%	Conversion to Perm
18	2%	7%	8609
19	0%	0%	Operations

PROJECTED TE CONSTRUCTION LOAN: \$ 24,926,225
 LOAN-TO-VALUE: 49.48%
 Interest Rate Construction - TE 2.90%

PROJECTED TAXABLE CONSTRUCTION LOAN: \$ 3,646,435
 Interest Rate Construction - TAXABLE 2.90%

Loan Closing Date	2/15/2022
Construction Schedule (# mo)	9
Lease Up Schedule (# mo)	4
Conversion Schedule (# mo)	17

CONSTRUCTION USES:	Total Budget	Loan Closing	April 1, 2022		50% Completion					Construction Completion	Final Payment	100% Occupancy					
		0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
		Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23
Total Land Cost / Acquisition Cost	28,000,000	28,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Direct Costs	9,984,995	0	599,100	998,500	998,500	998,500	998,500	998,500	1,098,349	1,098,349	1,098,349	1,098,349	0	0	0	0	0
Constr. Contingency @ 8.0%	798,799	0	47,928	79,880	79,880	79,880	79,880	79,880	87,868	87,868	87,868	87,868	0	0	0	0	0
Total Architectural Costs	540,000	479,797	6,689	6,689	6,689	6,689	6,689	6,689	6,689	6,689	6,689	6,689	0	0	0	0	0
Total Survey and Engineering	250,000	200,000	5,556	5,556	5,556	5,556	5,556	5,556	5,556	5,556	5,556	0	0	0	0	0	0
Construction Loan Interest (TE)	631,000	0	70,010	70,010	70,010	70,010	70,010	70,010	70,010	70,010	70,010	0	0	0	0	0	0
Origination Fee (FHA)	375,708	375,708	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cost of Issuance	397,730	397,730	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Taxes	491,400	327,600	0	0	0	0	0	0	0	0	0	163,800	0	0	0	0	0
Insurance	150,000	150,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Title and Recording	55,000	55,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Construction Service Fees (Bank)	30,000	6,000	2,667	2,667	2,667	2,667	2,667	2,667	2,667	2,667	2,667	0	0	0	0	0	0
Other: Const Mgmt & Deputy Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other: HUD Fees	1,226,140	1,226,140	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other: Interest Prior to Conversion	281,000	0	0	0	0	0	0	0	0	0	0	70,010	70,010	70,010	70,010	0	0
Lender Legal Pd. by Applicant	60,000	60,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other : Partnership & Transaction	125,000	125,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Reserve Costs	572,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Appraisal	8,000	8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TCAC App/Allocation/Monitoring	95,000	95,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Environmental Audit	35,000	35,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Local Dev. Impact Fees & Permit Fees	1,543,330	1,543,330	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Market Study/Marketing/FF&E/Misc.	300,739	25,000	0	0	0	0	0	0	132,870	132,870	0	10,000	0	0	0	0	0
Accounting/Reimbursables	35,000	7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Soft Cost Contingency	331,502	49,725	31,309	31,309	31,309	31,309	31,309	31,309	31,309	31,309	31,309	0	0	0	0	0	0
Developer Overhead/Profit - Paid	3,577,167	1,073,150	0	0	0	0	0	0	0	0	715,433	0	0	0	0	0	0
Deferred Developer Fee	482,833	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL BUDGET	50,377,343	34,239,180	763,257	1,194,609	1,194,609	1,194,609	1,194,609	1,194,609	1,435,316	1,435,316	2,017,880	1,430,027	70,010	70,010	70,010	0	0
Compared to Development Budget Tab	BALANCED																

SOURCES:		0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
		Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23
Permanent Loan (FHA)	28,572,660	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SDHC Capital	4,017,167	3,414,592	0	0	0	0	401,717	0	0	0	0	200,858	0	0	0	0	0
Release of Working Capital	298,374	0	0	0	0	0	0	0	0	0	0	0	0	0	298,374	0	0
Deferred Developer Fee	482,833	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Federal Tax Credit Equity	17,006,308	4,251,577	0	1,194,609	1,194,609	1,194,609	667,750	1,194,609	1,435,316	1,281,525	2,017,880	873,192	0	0	0	0	0
Total Monthly Sources	50,377,343	7,666,169	0	1,194,609	1,194,609	1,194,609	1,069,467	1,194,609	1,435,316	1,281,525	2,017,880	1,074,050	0	0	298,374	0	0
Compared to Uses on this tab	BALANCED																

LOAN BALANCE:		0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
		Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23
Cumulative Monthly Constr. Loan Balance (TE + TAX)		26,573,011	27,336,269	27,336,269	27,336,269	27,336,269	27,461,411	27,461,411	27,461,411	27,615,202	27,615,202	27,971,178	28,041,188	28,111,198	27,882,833	27,882,833	27,882,833
Remaining Balance Less Interest Reserve (TE + TAX)		1,087,649	394,401	464,411	534,420	604,430	549,297	619,307	689,317	605,535	675,545	389,578	389,578	389,578	687,952	687,952	687,952

Borrower: TBD
Project Name: Radisson Hotel Conversion
Proforma Type: 175 Senior Apts; 30-60% AMI; 3 MGR Apts
Location: Rancho Bernardo, San Diego

PROJECTED TE CONSTRUCTION LOAN: \$ 24,926,225
 LOAN-TO-VALUE: 49.48%
 Interest Rate Construction - TE 2.90%

PROJECTED TAXABLE CONSTRUCTION LOAN \$ 3,646,435
 Interest Rate Construction - TAXABLE 2.90%

	Total Budget	Conversion to Perm		8609 Operations		TOTAL		
		16 Jun-23	17 Jul-23	18 Aug-23	19 Sep-23			
CONSTRUCTION USES:								
Total Land Cost / Acquisition Cost	28,000,000	0	0	0	0	28,000,000	100%	-
Direct Costs	9,984,995	0	0	0	0	9,984,995	100%	-
Constr. Contingency @ 8.0%	798,799	0	0	0	0	798,799	100%	-
Total Architectural Costs	540,000	0	0	0	0	540,000	100%	-
Total Survey and Engineering	250,000	0	0	0	0	250,000	100%	-
Construction Loan Interest (TE)	631,000	0	0	0	0	630,087	100%	913
Origination Fee (FHA)	375,708	0	0	0	0	375,708	100%	-
Cost of Issuance	397,730	0	0	0	0	397,730	100%	-
Taxes	491,400	0	0	0	0	491,400	100%	-
Insurance	150,000	0	0	0	0	150,000	100%	-
Title and Recording	55,000	0	0	0	0	55,000	100%	-
Construction Service Fees (Bank)	30,000	0	0	0	0	30,000	100%	-
Other: Const Mgmt & Deputy Services	0	0	0	0	0	0	NA	-
Other: HUD Fees	1,226,140	0	0	0	0	1,226,140	100%	-
Other: Interest Prior to Conversion	281,000	0	0	0	0	280,039	100%	961
Lender Legal Pd. by Applicant	60,000	0	0	0	0	60,000	100%	-
Other : Partnership & Transaction	125,000	0	0	0	0	125,000	100%	-
Total Reserve Costs	572,000	0	572,000	0	0	572,000	100%	-
Appraisal	8,000	0	0	0	0	8,000	100%	-
TCAC App/Allocation/Monitoring	95,000	0	0	0	0	95,000	100%	-
Environmental Audit	35,000	0	0	0	0	35,000	100%	-
Local Dev. Impact Fees & Permit Fees	1,543,330	0	0	0	0	1,543,330	100%	-
Market Study/Marketing/FF&E/Misc.	300,739	0	0	0	0	300,739	100%	-
Accounting/Reimbursables	35,000	0	28,000	0	0	35,000	100%	-
Soft Cost Contingency	331,502	0	0	0	0	331,502	100%	-
Developer Overhead/Profit - Paid	3,577,167	0	1,524,261	264,323	0	3,577,167	100%	-
Deferred Developer Fee	482,833	0	0	0	482,833	482,833	100%	-
TOTAL BUDGET	50,377,343	0	2,124,261	264,323	482,833	50,375,468		1,875
Compared to Development Budget Tab	BALANCED							

SOURCES:

Permanent Loan (FHA)	28,572,660	0	28,572,660	0	0	28,572,660	100%	-
SDHC Capital	4,017,167	0	0	0	0	4,017,167	100%	-
Release of Working Capital	298,374	0	0	0	0	298,374	100%	-
Deferred Developer Fee	482,833	0	0	0	482,833	482,833	100%	-
Federal Tax Credit Equity	17,006,308	0	1,400,605	300,026	0	17,006,308	100%	-
Total Monthly Sources	50,377,343	0	29,973,265	300,026	482,833	50,377,343	100%	0
Compared to Uses on this tab	BALANCED							

LOAN BALANCE:

Cumulative Monthly Constr. Loan Balance (TE + TAX)	27,882,833	33,828	(1,875)	(1,875)				
Remaining Balance Less Interest Reserve (TE + TAX)	687,952	28,536,957	24,926,225	24,926,225				

15-YEAR CASH FLOW PROJECTION

Radisson Hotel Conversion

	Inflation Factor	Year 1 2024	Year 2 2025	Year 3 2026	Year 4 2027	Year 5 2028	Year 6 2029	Year 7 2030	Year 8 2031	Year 9 2032	Year 10 2033	Year 11 2034	Year 12 2035	Year 13 2036	Year 14 2037	Year 15 2038
Rental Income	2.5%	2,225,556	2,281,195	2,338,225	2,396,680	2,456,597	2,518,012	2,580,963	2,645,487	2,711,624	2,779,414	2,848,900	2,920,122	2,993,125	3,067,954	3,144,652
PBV INCOME IF APPLICABLE	2.5%	357,456	366,392	375,552	384,941	394,565	404,429	414,539	424,903	435,525	446,414	457,574	469,013	480,739	492,757	505,076
TOTAL GROSS POTENTIAL REVENUE		2,583,012	2,647,587	2,713,777	2,781,621	2,851,162	2,922,441	2,995,502	3,070,390	3,147,149	3,225,828	3,306,474	3,389,136	3,473,864	3,560,711	3,649,728
Vacancy @	5.0%	129,151	132,379	135,689	139,081	142,558	146,122	149,775	153,519	157,357	161,291	165,324	169,457	173,693	178,036	182,486
Other Income	2.5%	24,680	25,297	25,929	26,578	27,242	27,923	28,621	29,337	30,070	30,822	31,592	32,382	33,192	34,022	34,872
TOTAL NET RENTAL INCOME		2,478,541	2,540,505	2,604,018	2,669,118	2,735,846	2,804,242	2,874,348	2,946,207	3,019,862	3,095,359	3,172,743	3,252,061	3,333,363	3,416,697	3,502,114
Advertising:	3.5%	2,000	2,070	2,142	2,217	2,295	2,375	2,459	2,545	2,634	2,726	2,821	2,920	3,022	3,128	3,237
Legal:	3.5%	5,000	5,175	5,356	5,544	5,738	5,938	6,146	6,361	6,584	6,814	7,053	7,300	7,555	7,820	8,093
Accounting/Audit:	3.5%	12,000	12,420	12,855	13,305	13,770	14,252	14,751	15,267	15,802	16,355	16,927	17,520	18,133	18,767	19,424
Security:	3.5%	70,000	72,450	74,986	77,610	80,327	83,138	86,048	89,060	92,177	95,403	98,742	102,198	105,775	109,477	113,309
General Office Costs:	3.5%	35,000	36,225	37,493	38,805	40,163	41,569	43,024	44,530	46,088	47,701	49,371	51,099	52,887	54,738	56,654
Total Management Fee:	3.5%	128,160	132,646	137,288	142,093	147,067	152,214	157,541	163,055	168,762	174,669	180,782	187,110	193,659	200,437	207,452
Gas:	3.5%	10,000	10,350	10,712	11,087	11,475	11,877	12,293	12,723	13,168	13,629	14,106	14,600	15,111	15,640	16,187
Electricity:	3.5%	95,000	98,325	101,766	105,328	109,015	112,830	116,779	120,867	125,097	129,475	134,007	138,697	143,552	148,576	153,776
Water/Sewer:	3.5%	90,000	93,150	96,410	99,785	103,277	106,892	110,633	114,505	118,513	122,661	126,954	131,397	135,996	140,756	145,683
On-site Manager(s):	3.5%	91,520	94,723	98,039	101,470	105,021	108,697	112,501	116,439	120,514	124,732	129,098	133,616	138,293	143,133	148,143
Maintenance Personnel:	3.5%	76,960	79,654	82,441	85,327	88,313	91,404	94,603	97,915	101,342	104,889	108,560	112,359	116,292	120,362	124,575
Other: Payroll Burden/Taxes	3.5%	71,052	73,539	76,113	78,777	81,534	84,387	87,341	90,398	93,562	96,837	100,226	103,734	107,364	111,122	115,011
Total Insurance:	3.5%	34,000	35,190	36,422	37,696	39,016	40,381	41,795	43,257	44,772	46,339	47,960	49,639	51,376	53,175	55,036
Painting:	3.5%	7,500	7,763	8,034	8,315	8,606	8,908	9,219	9,542	9,876	10,222	10,579	10,950	11,333	11,730	12,140
Repairs:	3.5%	30,000	31,050	32,137	33,262	34,426	35,631	36,878	38,168	39,504	40,887	42,318	43,799	45,332	46,919	48,561
Trash Removal:	3.5%	35,000	36,225	37,493	38,805	40,163	41,569	43,024	44,530	46,088	47,701	49,371	51,099	52,887	54,738	56,654
Exterminating:	3.5%	10,000	10,350	10,712	11,087	11,475	11,877	12,293	12,723	13,168	13,629	14,106	14,600	15,111	15,640	16,187
Grounds:	3.5%	40,000	41,400	42,849	44,349	45,901	47,507	49,170	50,891	52,672	54,516	56,424	58,399	60,443	62,558	64,748
Other: Elevator	3.5%	15,000	15,525	16,068	16,631	17,213	17,815	18,439	19,084	19,752	20,443	21,159	21,900	22,666	23,459	24,280
Other: Cleaning & Building Supplies	3.5%	5,000	5,175	5,356	5,544	5,738	5,938	6,146	6,361	6,584	6,814	7,053	7,300	7,555	7,820	8,093
Other: Fire Monitor	3.5%	8,000	8,280	8,570	8,870	9,180	9,501	9,834	10,178	10,534	10,903	11,285	11,680	12,089	12,512	12,950
Other: Agency Monitoring Fees (2.5%	26,250	26,906	27,579	28,268	28,975	29,699	30,442	31,203	31,983	32,783	33,602	34,442	35,303	36,186	37,091
Real Estate Taxes	2.0%	9,000	9,180	9,364	9,551	9,742	9,937	10,135	10,338	10,545	10,756	10,971	11,190	11,414	11,642	11,875
Replacement Reserve	0.0%	53,400	53,400	53,400	53,400	53,400	53,400	53,400	53,400	53,400	53,400	53,400	53,400	53,400	53,400	53,400
TOTAL EXPENSES		959,842	991,170	1,023,585	1,057,125	1,091,830	1,127,739	1,164,895	1,203,341	1,243,122	1,284,284	1,326,876	1,370,947	1,416,548	1,463,734	1,512,560
Cash Flow Prior to Debt Service (NOI)		1,518,699	1,549,335	1,580,432	1,611,993	1,644,016	1,676,503	1,709,453	1,742,866	1,776,741	1,811,075	1,845,867	1,881,115	1,916,814	1,952,962	1,989,555
DEBT SERVICE - Permanent Loan (FHA)		1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182	1,279,182
SDHC Hard Debt Service Payment		10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
FORECASTED CASH AVAILABLE		229,517	260,153	291,250	322,811	354,834	387,321	420,271	453,684	487,558	521,893	556,685	591,932	627,632	663,780	700,372
Percent of Gross Revenue	8% Max	8.89%	9.83%	10.73%	11.61%	12.45%	13.25%	14.03%	14.78%	15.49%	16.18%	16.84%	17.47%	18.07%	18.64%	19.19%
25% Debt Service Test	Yr 1-3 Max	17.80%	20.18%	22.59%	25.04%	27.52%	30.04%	32.60%	35.19%	37.82%	40.48%	43.18%	45.92%	48.68%	51.49%	54.33%
Debt Coverage Ratio	1.15 Min	1.18	1.20	1.23	1.25	1.28	1.30	1.33	1.35	1.38	1.40	1.43	1.46	1.49	1.51	1.54
Cash Available for Below the Line Expenses																
Service Amenities Budget	3.5%	40,000	41,400	42,849	44,349	45,901	47,507	49,170	50,891	52,672	54,516	56,424	58,399	60,443	62,558	64,748
Debt Coverage Ratio		1.15	1.17	1.19	1.22	1.24	1.26	1.29	1.31	1.34	1.36	1.39	1.41	1.44	1.47	1.49
Cash Available for Fees		189,517	218,753	248,401	278,462	308,933	339,814	371,101	402,793	434,886	467,377	500,261	533,534	567,189	601,222	635,625
Partnership Management Fee	3.0%	20,000	20,600	21,218	21,855	22,510	23,185	23,881	24,597	25,335	26,095	26,878	27,685	28,515	29,371	30,252
Asset Management Fee	3.0%	5,000	5,150	5,305	5,464	5,628	5,796	5,970	6,149	6,334	6,524	6,720	6,921	7,129	7,343	7,563
Cash Available for Deferred Developer Fee		164,517	193,003	221,879	251,144	280,795	310,832	341,250	372,046	403,217	434,758	466,663	498,928	531,545	564,509	597,810
Deferred Fee	482,833	164,517	193,003	134,313	-	-	-	-	-	-	-	-	-	-	-	-
	2.0%	6,366	2,634	-	-	-	-	-	-	-	-	-	-	-	-	-
balance		324,682	134,313	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash Available for Distribution		-	-	87,566	251,144	280,795	310,832	341,250	372,046	403,217	434,758	466,663	498,928	531,545	564,509	597,810
Annual RR Payment to SDHC	50.00%	\$ -	\$ -	\$ 43,783	\$ 125,572	\$ 140,398	\$ 155,416	\$ 170,625	\$ 186,023	\$ 201,608	\$ 217,379	\$ 233,332	\$ 249,464	\$ 265,773	\$ 282,254	\$ 298,905
Annual RR Payment to Affirmed	50.00%	\$ -	\$ -	\$ 43,783	\$ 125,572	\$ 140,398	\$ 155,416	\$ 170,625	\$ 186,023	\$ 201,608	\$ 217,379	\$ 233,332	\$ 249,464	\$ 265,773	\$ 282,254	\$ 298,905

**HOUSING COMMISSION MULTIFAMILY
HOUSING REVENUE BOND PROGRAM
SUMMARY**

General Description: The multifamily housing bond program provides below-market financing (based on bond interest being exempt from income tax) for developers willing to set aside a percentage of project units as affordable housing. Multifamily housing revenue bonds are also known as “private activity” bonds because the projects are owned by private entities, often including nonprofit sponsors and for-profit investors.

Bond Issuer: Housing Authority of the City of San Diego. There is no direct legal liability to the City, the Housing Authority or the Housing Commission in connection with the issuance or repayment of bonds. There is no pledge of the City’s faith, credit or taxing power nor of the Housing Authority’s faith or credit. The bonds do not constitute a general obligation of the issuer because security for repayment of the bonds is limited to specific private revenue sources, such as project revenues. The developer is responsible for the payment of costs of issuance and all other costs under each financing.

Affordability: Minimum requirement is that at least 20% of the units are affordable at 50% of Area Median Income (AMI). Alternatively, a minimum of 10% of the units may be affordable at 50% AMI with an additional 30% of the units affordable at 60% AMI. The Housing Commission requires that the affordability restriction be in place for a minimum of 15 years. Due to the combined requirements of state, local, and federal funding sources, projects financed under the Bond Program are normally affordable for 30-55 years and often provide deeper affordability levels than the minimum levels required under the Bond Program.

Rating: Generally “AAA” or its equivalent with a minimum rating of “A” or, under conditions that meet IRS and Housing Commission requirements, bonds may be unrated for private placement with institutional investors (typically, large banks). Additional security is normally achieved through the provision of outside credit support (“credit enhancement”) by participating financial institutions that underwrite the project loans and guarantee the repayment of the bonds. The credit rating on the bonds reflects the credit quality of the credit enhancement provider.

Approval Process:

- Inducement Resolution: The bond process is initiated when the issuer (Housing Authority) adopts an “Inducement Resolution” to establish the date from which project costs may be reimbursable from bond proceeds (if bonds are later issued) and to authorize staff to work with the financing team to perform a due diligence process. The Inducement Resolution does not represent any commitment by the Housing Commission, Housing Authority, or the developer to proceed with the financing.
- TEFRA Hearing and Resolution (Tax Equity and Fiscal Responsibility Act of 1982): To assure that projects making use of tax-exempt financing meet

appropriate governmental purposes and provide reasonable public benefits, the IRS Code requires that a public hearing be held and that the issuance of bonds be approved by representatives of the governmental unit with jurisdiction over the area in which the project is located (City Council). This process does not make the City financially or legally liable for the bonds or for the project.

[Note: It is uncommon for the members of the City Council to be asked to take two actions at this stage in the bond process---one in their capacity as the City Council (TEFRA hearing and resolution) and another as the Housing Authority (bond inducement). Were the issuer (Housing Authority) a more remote entity, the TEFRA hearing and resolution would be the only opportunity for local elected officials to weigh in on the project.]

- **Application for Bond Allocation:** The issuance of these “private activity bonds” (bonds for projects owned by private developers, including projects with nonprofit sponsors and for-profit investors) requires an allocation of bond issuing authority from the State of California. To apply for an allocation, an application approved by the Housing Authority and supported by an adopted inducement resolution and by proof of credit enhancement (or bond rating) must be filed with the California Debt Limit Allocation Committee (CDLAC). In addition, evidence of a TEFRA hearing and approval must be submitted prior to the CDLAC meeting.
- **Final Bond Approval:** The Housing Authority retains absolute discretion over the issuance of bonds through adoption of a final resolution authorizing the issuance. Prior to final consideration of the proposed bond issuance, the project must comply with all applicable financing, affordability, and legal requirements and undergo all required planning procedures/reviews by local planning groups, etc.
- **Funding and Bond Administration:** All monies are held and accounted for by a third party trustee. The trustee disburses proceeds from bond sales to the developer in order to acquire and/or construct the housing project. Rental income used to make bond payments is collected from the developer by the trustee and disbursed to bond holders. If rents are insufficient to make bond payments, the trustee obtains funds from the credit enhancement provider. No monies are transferred through the Housing Commission or Housing Authority, and the trustee has no standing to ask the issuer for funds.

Bond Disclosure: The offering document (typically a Preliminary Offering Statement or bond placement memorandum) discloses relevant information regarding the project, the developer, and the credit enhancement provider. Since the Housing Authority is not responsible in any way for bond repayment, there are no financial statements or summaries about the Housing Authority or the City that are included as part of the offering document. The offering document includes a paragraph that states that the Housing Authority is a legal entity with the authority to issue multifamily housing bonds and that the Housing Commission acts on behalf of the Housing Authority to issue the

bonds. The offering document also includes a paragraph that details that there is no pending or threatened litigation that would affect the validity of the bonds or curtail the ability of the Housing Authority to issue bonds. This is the extent of the disclosure required of the Housing Authority, Housing Commission, or the City. However, it is the obligation of members of the Housing Authority to disclose any material facts known about the project, not available to the general public, which might have an impact on the viability of the project.

ROSS FINANCIAL

1736 Stockton Street, Suite One • San Francisco, CA 94133 • (415) 912-5612 • FAX (415) 912-5611

November 2, 2021

Mr. Colin Miller
Vice President, Multifamily Housing Finance
Housing Finance Real Estate Division
San Diego Housing Commission
1122 Broadway, Suite 300
San Diego, CA 92101

Re: Rancho Bernardo Senior Housing Project

Dear Mr. Miller:

The San Diego Housing Commission (the “Commission”) has retained Ross Financial as its independent municipal advisor, in part, to analyze the feasibility of issuing a tax-exempt government note (the “Note”) for the Rancho Bernardo Senior Housing (the “Development”).

This feasibility analysis reviews the following items:

- Overview of the Development
- Proposed financing approach
- Benefits and risks to Commission
- Public purpose
- Recommendations

Ross Financial has based its analysis of the Development’s financial feasibility on materials provided by Affirmed Housing Group (“Affirmed”), which has created the borrower entity (the “Borrower”) for the Development. The materials include: (1) the joint application to the California Debt Limit Allocation Committee (“CDLAC”) and California Tax Credit Allocation Committee (“CTCAC”), (2) the financing commitment from Lument (the “Lender”), (3) the market study performed by Raney Planning & Management in support of the application to CDLAC and CTCAC, and (4) Affirmed’s pro forma financial schedules for the Development. Ross Financial has not visited the site of the proposed Development and had no role in the selection of the Lender or in developing the overall financing structure.

OVERVIEW OF THE DEVELOPMENT

Development Summary. The Development is an adaptive reuse of an existing Radisson Hotel building and contain 178 total units consisting of 175 affordable studio apartments and three two-bedroom manager’s units. The target population is seniors. While the initial approval by the Housing Commission targeted seniors aged 55 and older, the financing for the Development (involving FHA insured mortgage note under Section 221(d)4 of the National Housing Act) requires tenants to be aged 62 and older (except for children living with such tenant.)

The existing hotel campus consists of five stucco clad buildings arranged in a rectangular plan around a central courtyard. Four buildings are 3 stories in height, with concrete construction and mansard, flat and pitched roofs. The other building is single story, with wood-frame construction. The Development provides for 166 surface parking spaces.

The adaptive reuse will include reconfiguring room layouts to add kitchens, providing fully functional studio apartments of approximately 380 square feet. The kitchens will include a refrigerator, range/cooktop, sink and microwave. The three larger rooms of approximately 727 square feet will be reconfigured to become 2-bedroom manager units.

The interior of the hotel will be completely refinished to include new flooring and wall surfaces, redesigned bathrooms for accessibility and water efficiency, and upgraded mechanical, electric and plumbing systems.

The Development will include 5,000 square feet of common area and community amenity space, laundry, fitness center and meeting rooms. The site will receive updates to its landscaping, a pet relief station and accessibility standards.

Eighteen units will include mobility features and seven units will be equipped with communication features, such as audible/visual smoke alarms, doorbell and phone signalers.

Unit and Affordability Mix. The unit mix and affordability restrictions for Development is as follows:

RB HousingSho	Unit Mix	40% AMI**	50% AMI**	60% AMI**
Studio/1 Bath	175	44	88	43
2 Bedroom/1 Bath	3*			
Total Units	178	44	88	43

* Unrestricted manager’s units
 ** AMI = Area Median Income

The forty-four 40% AMI units will be supported by non-PSH Project-Based Section 8 Vouchers.

Description of Project Site. The Development is located at 11520 West Bernardo Court on a 3.61 acre parcel, zoned CV-1-1.

The site sits in the Rancho Bernardo Market Area which includes that master-planned community of Rancho Bernardo in the northern hills of the Cities of San Diego and Poway. Adjacent land use is commercial in all directions.

Ownership of the Development/Borrower. The ownership entity for the Development will be AHG Rancho Bernardo Senior Housing, L.P., a single asset California limited partnership consisting of: (a) AHG Senior, LLC, created by Affirmed, which will serve as Administrative General Partner, (b) Community Advancement Development Corp., a California nonprofit public benefit corporation, which will serve as Managing General Partner and (c) a tax credit limited partnership entity created by Raymond James.

Affirmed Experience. According to Affirmed, the firm has 29 years of experience in financing, developing and/or rehabilitating multifamily rental housing. This experience encompasses more than 4,000 affordable rental and for-sale apartments and homes. Affirmed's most recent activity with the Housing Commission includes:

- Hollywood Palms Apartments, a 94-unit new construction completed in December 2018;
- Luna at Pacific Highlands Ranch, a 77-unit new construction family project in the Pacific Highlands Ranch, completed in November 2018;
- Cypress Apartments, a 63-unit special needs/SRO project in Centre City, completed in July 2017;
- Cielo Carmel Apartments, a 197-unit new construction family project in the Pacific Highlands Ranch, completed in July 2016;
- Connections Housing, a 75-unit acquisition-rehabilitation project in Centre City, completed in December 2012;
- CityScene Apartments (formerly known as Georgia Street Apartments), a 31-unit new construction project in North Park, completed in May 2012;
- Riverwalk Apartments, a 50-unit new construction project in Otay Mesa-Nestor, completed in June 2011;
- 1050 B Apartments, a 229-unit new construction located in Centre City, completed in April 2010.

CDLAC/CTCAC. On May 25, 2021, the Housing Commission filed a joint application to CDLAC and CTCAC requesting a private activity bond allocation of \$24,926,225 for the Development, along with a reservation of 4% Federal tax credits. On August 11, 2021, CDLAC awarded a private activity bond allocation in the requested amount and CTCAC reserved the requested 4% Federal tax credits. The CDLAC allocation expires on February 21, 2022.

In connection with the CDLAC/CTCAC application process, on April 9, 2021, the Housing Authority adopted a resolution of intent to issue tax-exempt obligations for the Development and authorized the submission of an application to CDLAC. On April 2, 2021, a TEFRA hearing, duly noticed, was held before the Housing Commission, with approval by the City Council targeted for December 7, 2021.

PROPOSED FINANCING

Project Costs and Funding. According to most recent projections provided by Affirmed, the total costs of the Development, including acquisition and rehabilitation costs, and all soft costs, are estimated at \$50,377,343. The estimated sources of funds will differ during the construction period and following construction and lease-up (“at permanent”), as shown in the following table based on the most recent projections:

Sources of Funds	Construction	Permanent
Tax-Exempt Note Proceeds	\$24,926,225	--
Taxable Loan	3,646,435	--
Permanent FHA Loan		\$28,572,660
SDHC Loan	4,017,167	4,017,167
Tax Equity – Federal and State	15,305,678	17,006,308
Deferred Costs	2,481,838	
Deferred Developer Fee		482,833
Release of Working Capital	--	298,374
Total	\$50,377,343	\$50,377,343*
Uses of Funds		
Land Value	\$4,040,000	\$4,040,000
Existing Improvements Value	23,960,000	23,960,000
Rehabilitation Costs	9,984,995	9,984,995
Architectural & Engineering	790,000	790,000
Contingency Costs (Hard and Soft)	1,130,301	1,130,301
Impact Fees and Permits	1,543,330	1,543,330
Financing Fees and Interest	3,637,978	3,637,978
Reserves	572,000	572,000
Misc. Soft Costs and Legal	658,739	658,739
Developer Fee**	4,060,000	4,060,000
Total	\$50,377,343	\$50,377,343

*Totals may not add due to rounding

** Cash portion of Developer Fee is \$3,577,167 (\$4,060,000 less \$482,833 deferred)

Description of Financing. The expectation (based on the most recent pro forma) is that the Housing Authority will issue the Note as a single tax-exempt series in the amount of \$24,926,225.

The Note will have the following features:

- It will be funded by Lument through its subsidiary, Orix Real Estate Capital, LLC (“Orix”);
- Orix will also fund a \$3,646,435 taxable loan directly to the Borrower;
- The Note and the taxable loan will be issued on a draw down basis, with interest payable only on the amounts drawn;
- The Note and taxable loan will be issued simultaneously with a 40-year FHA insured mortgage note under Section 221(d)4 of the National Housing Act. Payments under the FHA-insured mortgage note will be deemed to satisfy payments due under the Note.
- Following construction and lease-up (expected in 24 months after closing) (at “Conversion”), the Note and taxable loan will be terminated, and only the FHA-insured mortgage note will remain.
- The Note will pay interest at fixed rate, estimated at 2.9% in the current market.
- The Note is expected to close in mid-January 2022.

The Lender will execute a document representing that it has sufficient knowledge and experience to evaluate the risks and merits associated with making the loans evidenced by the Note and its intention to hold the Note for its account. The Lender may transfer all or a portion of the Note only to transferees that execute a document with similar representations.

Housing Commission Financial Involvement. The Housing Commission has approved loan of \$4,500,000 of which \$4,017,167 is expected to be needed for construction based on the most recent pro forma (the “Housing Commission Loan”). The source of funding for the Housing Commission Loan will be \$100,000 from the City of San Diego’s Housing Trust Fund with remainder from HOME Investment Partnership program funds.

The Housing Commission Loan will be payable from the Development’s residual receipts with the following basic terms:

- Interest Rate: 4% simple interest
- Payments: 50% of residual cash flow after repayment of the non-subordinated portion of the deferred Developer Fee.
- Term: 55 years
- Affordability: 44 studio units at 40% AMI; 88 studio units at 50% AMI; and 43 studio units at 60% AMI
- Purchase Option: The Housing Commission will have an option to purchase the Development at the end of the 15-year tax credit compliance period

Affordability Restrictions. The Development will be subject to the following regulatory restrictions and terms:

- Tax-Exempt Note Regulatory Agreement requirements (including voluntary elections made to CDLAC) for a 55-year term;
- Tax Credit Regulatory Agreement requirements under which all units must be affordable at 60% AMI for a 55-year term to remain eligible for tax credits; and
- Housing Commission’s Loan Agreement and Declaration of Covenants, Conditions and Restrictions (the “Declaration”) under which the units will be restricted for 55 years.

Cash Flow for the Development. The Borrower provided pro forma cash flows for the Development. The following table summarizes key elements of the most recent proforma:

	RB Senior
Assumptions	
Vacancy	5%
Revenue Escalation	2.5%
Operating Expense Escalation	3.5%
Cash Flow and Coverage	
Stabilized Net Income – First Full Year	\$2,478,541
Operating Expenses	(871,192)
Other Expenses ¹	(98,650)
Net Operating Income	\$1,508,699
FHA Permanent Loan ²	(1,279,182)
Debt Service Coverage ³	1.18x
Net Project Cash Flow	\$229,517
Service Amenities Budget	(40,000)
MGP and LP Fees	(25,000)
Cash Available for Deferred Developer Fee	164,517
Repayment of Deferred Developer Fee	(164,517)
Cash Available for Disbursement	0
50% to Housing Commission	0
50% to Borrower	0

¹ Other Expenses include Commission’s annual fee at permanent (\$10,000) and monitoring fee of \$150 per unit

² Assumes a permanent FHA insured loan of \$28,572,860 amortized on a 40-year basis at a rate of 2.9%

³ Net operating income divided by FHA-insured loan debt service

Cash flow available for disbursement to the Housing Commission is expected to commence in the third year of stabilized occupancy.

The following table shows the Borrower’s most recent projected cash flow for the Development during first full five years following stabilized occupancy:

Escalation	Revenues	Year				
		1	2	3	4	5
2.50%	Gross Scheduled Rent	2,225,556	2,281,195	2,338,225	2,396,680	2,456,597
2.50%	Rent Subsidy	357,456	366,392	375,552	384,941	394,565
	less 5% vacancy	(129,151)	(132,379)	(135,689)	(139,081)	(142,558)
2.50%	Miscellaneous Income	24,680	25,297	25,929	26,578	27,242
	Total Net Income	2,478,541	2,540,505	2,604,018	2,669,118	2,735,846
	Expenses					
3.50%	Operating Expenses	(871,192)	(901,684)	(933,243)	(965,906)	(999,713)
	Replacement Reserves	(53,400)	(53,400)	(53,400)	(53,400)	(53,400)
2.00%	Taxes	(9,000)	(9,180)	(9,364)	(9,551)	(9,742)
	Bond Monitoring Fee	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)
2.50%	Agency Monitoring Fee	(26,250)	(26,906)	(27,579)	(28,268)	(28,975)
	Total Expenses + Reserves	(969,842)	(1,001,170)	(1,033,585)	(1,067,125)	(1,101,830)
	Net Operating Income	1,508,699	1,539,335	1,570,432	1,601,993	1,634,016
	Annual Bond Debt Service	(1,279,182)	(1,279,182)	(1,279,182)	(1,279,182)	(1,279,182)
	Debt Service Coverage	1.18x	1.20x	1.23x	1.25x	1.28x
	Available Cash Flow after Permanent Loan Debt Service	229,517	260,153	291,250	322,811	354,834
3.50%	Service Amenities Budget	(40,000)	(41,400)	(42,849)	(44,349)	(45,901)
3.00%	Managing GP Fee	(20,000)	(20,600)	(21,218)	(21,855)	(22,510)
3.00%	LP Fee	(5,000)	(5,150)	(5,305)	(5,464)	(5,628)
	Project Cash Flow after MGP and LP Fees	164,517	193,003	221,879	251,144	280,795
	Repayment of Deferred Developer Fee	(164,517)	(193,003)	(125,313)	0	0
	Project Cash Flow after Payment of Deferred Developer Fee	0	0	96,566	251,144	280,795
	50% to SDHC	0	0	(48,283)	(125,572)	(140,398)
	50% to Borrower for Deferred Developer Fee	0	0	(48,283)	(125,572)	(140,398)

PUBLIC PURPOSE

The Note is expected to result in the long-term affordability of 175 studio units in the City of San Diego. Of these units, 44 units will be restricted and affordable to households earning 40% AMI, 88 units will be restricted and affordable to households earning 50% AMI, and 43 units will be restricted and affordable to households earning 60% AMI. Three units will be occupied by resident managers and be unrestricted.

The Note Regulatory Agreement, the Tax Credit Regulatory and Housing Commission's Declaration will require that these affordability levels be maintained for a period of 55 years.

BENEFITS AND RISKS TO THE COMMISSION

The Note provides a vehicle for financing a portion of the construction costs of the Development. As proposed, the Note will result in the long-term affordability of 175 studio units in the City of San Diego with units restricted to income levels described in "Public Purpose" above.

The Note does not pose undue financial risk to the Housing Authority. The Note is not a direct obligation of the Housing Authority or the City of San Diego. The Note will be funded by the Lender, which has indicated its intention to hold the Note for its own account. The Note is expected to be terminated in full following conversion.

The primary risk is construction and lease-up risk – that the Development is not rehabilitated and/or leased up in a timely fashion. Given the development and project

Mr. Colin Miller
Re: Rancho Bernardo Senior Housing Project
November 2, 2021
Page 8 of 8

management experience of Affirmed, the target tenant population and the demand for affordable units, this risk seems remote. This risk is borne entirely by the Lender.

If the Housing Authority issues the Note, the Commission would receive an issuer fee at Note closing of \$62,316, equal to 0.25% times the initial par amount of the Note. The Commission also would receive estimate annual fees of:

- \$31,158 to monitor the Note during the construction period (based on a par of \$24,926,225, and
- \$10,000 after conversion through the end of the 55-year CDLAC compliance period, plus (b) a per unit monitoring fee of \$150/unit.

Costs of issuance will be funded by the Borrower from low income housing tax credit contributions and/or other funds. The Borrower has agreed to indemnify the Housing Authority and Commission as to matters relating to the Note. However, the Borrower is a single purpose entity with no significant assets or source of income other than the Development and is generally not required to make up any cash flow shortfalls. Accordingly, Affirmed will be providing its indemnification.

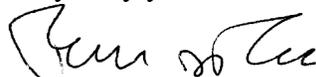
RECOMMENDATIONS

Ross Financial recommends that the Housing Authority proceed with the issuance of the Note based on the following findings:

- The Note will achieve a public purpose by providing an aggregate of 175 affordable units, with all units restricted to income levels at 40%, 50% and 60% of AMI.
- The Note will be funded by a well-established, well-capitalized bank that is active in affordable housing and FHA lending. The Note will be subject to restrictive transfer limitations at all times.
- The Borrower has agreed to indemnify the Housing Authority and the Commission regarding matters relating to the financing. The Borrower will pay issuance costs from sources other than Note proceeds.
- Based on estimates provided by Affirmed on behalf of the Borrower, there should be sufficient funds to complete the Development and the Development provides adequate cash flow to cover permanent loan debt service on the Note.

If there is any additional information you require concerning the Development, Ross Financial will be pleased to provide a supplemental analysis.

Very truly yours,



Peter J. Ross
Principal



**DEVELOPERS/CONSULTANTS/SELLERS/CONTRACTORS/
ENTITY SEEKING GRANT/BORROWERS**
(Collectively referred to as "CONTRACTOR" herein)

Statement for Public Disclosure

1. Name of CONTRACTOR: Affirmed Housing Group, Inc.
2. Email: James@affirmedhousing.com
2. Address and Zip Code: 13520 Evening Creek Drive N Suite 160, San Diego, CA 92128
3. Telephone Number: 85 8-679-2828
4. Name of Principal Contact for CONTRACTOR: Jimmy Silverwood
5. Federal Identification Number or Social Security Number of CONTRACTOR: 26-0812994
6. If the CONTRACTOR is not an individual doing business under his own name, the CONTRACTOR has the status indicated below and is organized or operating under the laws of California as (*select and upload requested documents*):

- A corporation (*Upload Articles of Incorporation*)
- A nonprofit or charitable institution or corporation. (*Upload copy of Articles of Incorporation and documentary evidence verifying current valid nonprofit or charitable status*)
- A partnership known as (Name): _____

Check one:

- General Partnership (*Upload statement of General Partnership*)
- Limited Partnership (*Upload Certificate of Limited Partnership*)
- A business association or a joint venture known as: _____
(*Upload joint venture or business association agreement*)
- A Federal, State or local government or instrumentality thereof.
- Other (*Please explain*): _____

7. If the CONTRACTOR is not an individual or a government agency or instrumentality, give date of organization:

August 7, 2007

8. Provide names, addresses, telephone numbers, title of position (if any) and nature and extent of the interest of the current officers, principal members, shareholders, and investors of the CONTRACTOR, other than a government agency or instrumentality, as set forth below:
- a. If the CONTRACTOR is a corporation, the officers, directors or trustees, and each stockholder owning more than 10% of any class of stock.
 - b. If the CONTRACTOR is a nonprofit or charitable institution or corporation, the members who constitute the board of trustees or board of directors or similar governing body.
 - c. If the CONTRACTOR is a partnership, each partner, whether a general or limited, and either the percent of interest or a description of the character and extent of interest.
 - d. If the CONTRACTOR is a business association or a joint venture, each participant and either the percent of interest or a description of the character and extent of interest.
 - e. If the CONTRACTOR is some other entity, the officers, the members of the governing body, and each person having an interest of more than 10%. (Attach extra sheet if necessary)

Name and Address	Position Title (if any) and percent of interest or description of character and extent of interest
Name: James Silverwood	President/CEO, 100% Interest
Address: 13520 Evening Creek Dr. N Ste. 160	
San Diego, CA 92128 (858) 386-5175	
Name:	
Address:	
Name:	
Address:	

9. Has the makeup as set forth in Item 8(a) through 8(e) changed within the last twelve (12) months? If yes, please explain in detail.
- No.
10. Is it *anticipated* that the makeup as set forth in Item 8(a) through 8(e) will change within the next twelve (12) months? If yes, please explain in detail.
- No.



11. Provide name, address, telephone number, and nature and extent of interest of each person or entity (not named in response to Item 8) who has a beneficial interest in any of the shareholders or investors named in response to Item 8 which gives such person or entity more than a computed 10% interest in the CONTRACTOR (for example, more than 20% of the stock in a corporation which holds 50% of the stock of the CONTRACTOR or more than 50% of the stock in the corporation which holds 20% of the stock of the CONTRACTOR):

Name and Address	Position Title (if any) and percent of interest or description of character and extent of interest
Name: N/A (See 8)	
Address:	
Name:	
Address:	
Name:	
Address:	

12. Names, addresses and telephone numbers (if not given above) of officers and directors or trustees of any corporation or firm listed under Item 8 or Item 11 above:

Name and Address	Position Title (if any) and percent of interest or description of character and extent of interest
Name: N/A (see 8)	
Address:	
Name:	
Address:	
Name:	
Address:	

13. Is the CONTRACTOR a subsidiary of or affiliated with any other corporation or corporations, any other firm or any other business entity or entities of whatever nature? If yes, list each such corporation, firm or business entity by name and address, specify its relationship to the CONTRACTOR, and identify the officers and directors or trustees common to the CONTRACTOR and such other corporation, firm or business entity.

Name and Address	Relationship to CONTRACTOR
Name: <u>Affirmed Housing Group, a CA Corp</u>	Sister Company (combined group for reporting
Address: <u>13520 Evening Creek Drive N. Ste. 160</u>	financials)
San Diego, CA 92128	
Name:	
Address:	
Name:	
Address:	

14. Provide description of the financial condition of the CONTRACTOR as of the date of the statement and for a period of twenty-four (24) months prior to the date of its statement as reflected in the financial statements that was requested (attached) as part of the Application, including, but not necessarily limited to, profit and loss statements and statements of financial position: See attached financial (confidential)

15. If funds for the development/project are to be obtained from sources other than the CONTRACTOR's own funds, provide a statement of the CONTRACTOR's plan for financing the development/project:

TCAC, CDLAC, Federal Home Loan Bank, San Diego Housing Commission (HOME/CDBG)

16. Provide sources and amount of cash available to CONTRACTOR to meet equity requirements of the proposed undertaking:

- a. In banks/savings and loans:
 Name: US Bank, Citi, Fidelity
 Address: (Provided upon request - See Financials)
 Amount: \$ 2 million
- b. By loans from affiliated or associated corporations or firms:
 Name: US Bank
 Address: 4747 Executive Drive, 3rd Floor, San Diego, CA 92121
 Amount: \$ 750,000 1,500,000

c. By sale of readily salable assets/including marketable securities:

Description	Market Value (\$)	Mortgages or Liens (\$)
N/A		

Additional Information, as needed: _____

17. Names and addresses of bank references, and name of contact at each reference:

Name and Address	Contact Name
Name: Bank of California	John Peterson
Address: 4655 Executive Drive, Suite 380 San Diego, CA 92121	
Name: Citibank	Christopher D Meyers
Address: 740 Lomas Santa Fe Drive, Suite 210 Solana Beach, CA 92075	
Name:	
Address:	

18. Has the CONTRACTOR or any of the CONTRACTOR's officers or principal members, shareholders or investors, or other interested parties been adjudged bankrupt, either voluntary or involuntary, within the past 10 years?

Yes No

If yes, provide date, place, and under what name: _____

19. Has the CONTRACTOR or anyone referred to above as "principals of the CONTRACTOR" been convicted of any felony within the past 10 years?

Yes No

If yes, for each case, provide (1) date, (2) charge, (3) place, (4) court, and (5) action taken. *Upload* any explanation deemed necessary:

Case 1: _____

Case 2: _____

Case 3: _____

20. List undertakings (including, but not limited to, bid bonds, performance bonds, payment bonds and/or improvement bonds) comparable to size of the proposed project which have been completed by the CONTRACTOR including identification and brief description of each project, date of completion, and amount of bond, whether any legal action has been taken on the bond:

Type of Bond	Project Description	Date of Completion	Amount of Bond	Action on Bond
	Please see attached bond list			no legal action on any of the bonds

21. If the CONTRACTOR, or a parent corporation, a subsidiary, an affiliate, or a principal of the CONTRACTOR is to participate in the development as a construction contractor or builder, provide the following information:

a. Name and addresses of such contractor or builder:

Name and Address	Affiliation
Name: N/A	
Address:	
Name:	
Address:	
Name:	
Address:	



b. Has such contractor or builder within the last 10 years ever failed to qualify as a responsible bidder, refused to enter into a contract after an award has been made, or failed to complete a construction or development contract?

Yes No

If yes, please explain, in detail, each such instance: _____

c. Total amount of construction or development work performed by such contractor or builder during the last three (3) years: \$ N/A

General description of such work: _____

Complete one table for each project:

Project Name	N/A	
Project Owner Contact Information		
	Name	Address
Project Location		
Project Details		
Bonding Company Involved		
	Name	Amount of Contract
Change Order Details		
Change Order Cost		
Litigation Details		
	Location/Date	Outcome Details



Project Name		
Project Owner Contact Information		
	Name	Address
Project Location		
Project Details		
Bonding Company Involved		
	Name	Amount of Contract
Change Order Details		
Change Order Cost		
Litigation Details		
	Location/Date	Outcome Details

Project Name		
Project Owner Contact Information		
	Name	Address
Project Location		
Project Details		
Bonding Company Involved		
	Name	Amount of Contract
Change Order Details		
Change Order Cost		
Litigation Details		
	Location/Date	Outcome Details

d. Construction contracts or developments now being performed by such contractor or builder:

Identification of Contract or Development	Location	Amount	Date to be Completed
n/a			

e. Outstanding construction-contract bids of such contractor or builder:

Awarding Agency	Amount	Date Opened
n/a		

22. Provide a detailed and complete statement regarding equipment, experience, financial capacity, and other resources available to such contractor or builder for the performance of the work involved in the proposed project, specifying particularly the qualifications of the personnel, the nature of the equipment, and the general experience of the contractor:

n/a

23. Does any member of the governing body of the San Diego Housing Commission ("SDHC"), Housing Authority of the City of San Diego ("AUTHORITY") or City of San Diego ("CITY"), to which the accompanying proposal is being made or any officer or employee of the SDHC, the AUTHORITY or the CITY who exercises any functions or responsibilities in connection with the carrying out of the project covered by the CONTRACTOR's proposal, have any direct or indirect personal financial interest in the CONTRACTOR or in the proposed contractor?

Yes

No

If yes, explain:



24. Statements and other evidence of the CONTRACTOR's qualifications and financial responsibility (other than the financial statement referred to in Item 8) are attached hereto and hereby made a part hereof as follows:

N/A

Three horizontal lines for additional information.

25. Is the proposed CONTRACTOR, and/or are any of the proposed subcontractors, currently involved in any construction-related litigation?

Yes No

If yes, please explain:

N/A

Two horizontal lines for additional information.

26. State the name, address and telephone numbers of CONTRACTOR's insurance agent(s) and/or companies for the following coverage's. List the amount of coverage (limits) currently existing in each category.

a. General Liability, including Bodily Injury and Property Damage Insurance [Attach certificate of insurance showing the amount of coverage and coverage period(s)]:

Two horizontal lines for agent and coverage information.

Check coverage(s) carried:

- Comprehensive Form
Premises - Operations
Explosion and Collapse Hazard
Underground Hazard
Products/Completed Operations Hazard
Contractual Insurance
Broad Form Property Damage
Independent Contractors
Personal Injury

b. Automobile Public Liability/Property Damage [Attach certificate of insurance showing the amount of coverage and coverage period(s)]:

Two horizontal lines for agent and coverage information.

Check coverage(s) carried:

- Comprehensive Form
Owned
Hired
Non-Owned



- c. Workers Compensation [*Attach* certificate of insurance showing the amount of coverage and coverage period(s)]:

- d. Professional Liability (Errors and Omissions) [*Attach* certificate of insurance showing the amount of coverage and coverage period(s)]:

- e. Excess Liability [*Attach* certificate(s) of insurance showing the amount of coverage and coverage period(s)]:

- f. Other (Specify) [*Attach* certificate(s) of insurance showing the amount of coverage and coverage period(s)]:

- 27. CONTRACTOR warrants and certifies that it will not during the term of the PROJECT, GRANT, LOAN, CONTRACT, DEVELOPMENT and/or RENDITIONS OF SERVICES discriminate against any employee, person, or applicant for employment because of race, age, sexual orientation, marital status, color, religion, sex, handicap, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, sexual orientation, marital status, color, religion, sex, handicap, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the SDHC setting forth the provisions of this nondiscrimination clause.
- 28. The CONTRACTOR warrants and certifies that it will not without prior written consent of the SDHC, engage in any business pursuits that are adverse, hostile or take incompatible positions to the interests of the SDHC, during the term of the PROJECT, DEVELOPMENT, LOAN, GRANT, CONTRACT and/or RENDITION OF SERVICES.
- 29. CONTRACTOR warrants and certifies that no member, commissioner, councilperson, officer, or employee of the SDHC, the AUTHORITY and/or the CITY, no member of the governing body of the locality in which the PROJECT is situated, no member of the government body in which the SDHC was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the assignment of work, has during his or her tenure, or will for one (1) year thereafter, have any interest, direct or indirect, in this PROJECT or the proceeds thereof.

30. List all citations, orders to cease and desist, stop work orders, complaints, judgments, fines, and penalties received by or imposed upon CONTRACTOR for safety violations from any and all government entities including but not limited to, the City of San Diego, County of San Diego, the State of California, the United States of America and any and all divisions and departments of said government entities for a period of five (5) years prior to the date of this statement.
If none, please state:

Government Complaint	Entity	Making	Date	Resolution
N/A				

31. Has the CONTRACTOR ever been disqualified, removed from or otherwise prevented from bidding on or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes No

If yes, please explain in detail: _____

32. Please list all licenses obtained by the CONTRACTOR through the State of California and/or the United States of America which are required and/or will be utilized by the CONTRACTOR and/or are convenient to the performance of the PROJECT, DEVELOPMENT, LOAN, GRANT, CONTRACT, or RENDITION OF SERVICES. State the name of the governmental agency granting the license, type of license, date of grant, and the status of the license, together with a statement as to whether the License has ever been revoked:

Government Agency	License Description	License Number	Date Issued (Original)	Status (Current)	Revocation (Yes/No)

33. Describe in detail any and all other facts, factors or conditions that may adversely affect CONTRACTOR's ability to perform or complete, in a timely manner, or at all, the PROJECT, CONTRACT, SALES of Real Property to, DEVELOPMENT, repayment of the LOAN, adherence to the conditions of the GRANT, or performance of consulting or other services under CONTRACT with the SDHC.

N/A

34. Describe in detail, any and all other facts, factors or conditions that may favorably affect CONTRACTOR's ability to perform or complete, in a timely manner, or at all, the PROJECT, CONTRACT, DEVELOPMENT, repayment of the LOAN, adherence to the conditions of the GRANT, or performance of consulting or other services under CONTRACT with the SDHC.

Over 20 years of experience in affordable housing and 4,000 + units built to date;
strong financials and strong relationships with lenders, investors, cities, and localities.

35. List all CONTRACTS with, DEVELOPMENTS for or with, LOANS with, PROJECTS with, GRANTS from, SALES of Real Property to, the SDHC, AUTHORITY and/or the CITY within the last five (5) years:

Date	Entity Involved (i.e. City SDHC, etc)	Status (Current, delinquent, repaid, etc.)	Dollar Amount
11/15/2017	Grantville Veterans Housing, L.P. - Zephyr (Entity - SDHC)	Current	3,000,000
12/14/2017	Twain Housing, L.P. - Stella (Entity - SDHC)	Current	7,500,000
12/22/2017	Fairmount Family Housing, L.P. Bluewater (Entity - SDHC)	Current	9,468,500

7/21/2015 Imperial Urban Housing, L.P. Bluewater (Entity - SDHC) Current

36. Within the last five years, has the proposed CONTRACTOR, and/or have any of the proposed subcontractors, been the subject of a complaint filed with the Contractor's State License Board (CSLB)?

Yes No

If yes, please explain: _____

37. Within the last five years, has the proposed CONTRACTOR, and/or have any of the proposed subcontractors, had a revocation or suspension of a CONTRACTOR's License?

Yes No

If yes, please explain: _____

38. List three local references that would be familiar with your previous construction project:

1. Name: Timothy Elliot, City of Los Angeles Development and Financing Dept.

Address: 1200 West 7th St., Los Angeles CA 90017

Phone: (213) 808-8596

Project Name and Description: Vermont Villas - 79 units PSH Veterans & Seniors

2. Name: Brad Richter, Deputy Director, Urban Division, Smart and Sustainable Communities at City of San Diego

Address: 9485 Aero Drive, M.S. 413, San Diego, CA 92123

Phone: (619) 533-7115

Project Name and Description: Ten Fifty B - High Rise with 229 units between two phases

3. Name: Jacky Morales - Ferrand, Director of Housing - City of San Jose

Address: 200 E. Santa Clara, St. San Jose, CA 95113

Phone: (480) 535-3855

Project Name and Description: Villas on the Park - 84 Units

39. Provide a brief statement regarding equipment, experience, financial capacity and other resources available to the Contractor for the performance of the work involved in the proposed project, specifying particularly the qualifications of the personnel, the nature of the equipment and the general experience of the Contractor.

N/A

40. State the name and experience of the proposed Construction Superintendent.

Name	Experience
TBD	



CONSENT TO PUBLIC DISCLOSURE BY CONTRACTOR

By providing the "Personal Information", (if any) as defined in Section 1798.3(a) of the Civil Code of the State of California (to the extent that it is applicable, if at all), requested herein and by seeking a loan from, a grant from, a contract with, the sale of real estate to, the right to develop from, and/or any and all other entitlements from the SAN DIEGO HOUSING COMMISSION ("SDHC"), the HOUSING AUTHORITY OF THE CITY OF SAN DIEGO ("AUTHORITY") and/or the CITY OF SAN DIEGO ("CITY"), the CONTRACTOR consents to the disclosure of any and all "Personal Information" and of any and all other information contained in this Public Disclosure Statement. CONTRACTOR specifically, knowingly and intentionally waives any and all privileges and rights that may exist under State and/or Federal Law relating to the public disclosure of the information contained herein. With respect to "Personal Information", if any, contained herein, the CONTRACTOR, by executing this disclosure statement and providing the information requested, consents to its disclosure pursuant to the provisions of the Information Practices Act of 1977, Civil Code Section 1798.24(b). CONTRACTOR is aware that a disclosure of information contained herein will be made at a public meeting or meetings of the SDHC, the AUTHORITY, and/or the CITY at such times as the meetings may be scheduled. CONTRACTOR hereby consents to the disclosure of said "Personal Information", if any, more than thirty (30) days from the date of this statement at the duly scheduled meeting(s) of the SDHC, the AUTHORITY and/or the CITY. CONTRACTOR acknowledges that public disclosure of the information contained herein may be made pursuant to the provisions of Civil Code Section 1798.24(d).

CONTRACTOR represents and warrants to the SDHC, the AUTHORITY and the CITY that by providing the information requested herein and waiving any and all privileges available under the Evidence Code of the State of California, State and Federal Law, (to the extent of this disclosure that the information being submitted herein), the information constitutes a "Public Record" subject to disclosure to members of the public in accordance with the provisions of California Government Section 6250 et seq.

CONTRACTOR specifically waives, by the production of the information disclosed herein, any and all rights that CONTRACTOR may have with respect to the information under the provisions of Government Code Section 6254 including its applicable subparagraphs, to the extent of the disclosure herein, as well as all rights of privacy, if any, under the State and Federal Law.

Executed this 23 day of February, 20 21 at San Diego, California.

CONTRACTOR

By: _____

Signature

CFO

_____ Title



CERTIFICATION

The CONTRACTOR, Affirmed Housing, hereby certifies that this CONTRACTOR's Statement for Public Disclosure and the attached information/evidence of the CONTRACTOR's qualifications and financial responsibility, including financial statements, are true and correct to the best of CONTRACTOR's knowledge and belief.

By: [Signature] By: _____

Title: CFO Title: _____

Dated: 2/23/21 Dated: _____

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willingly makes or uses a document or writing containing any false, fictitious or fraudulent statement or entry, in any matter within the jurisdiction or any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

JURAT

State of California

County of San Diego

Subscribed and sworn to (or affirmed) before me on this 23rd day of February, 20 21

by Kelli J. Elliott-Crisostomo, Notary Public personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



SEAL

[Signature]
Signature of Notary

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "AFFIRMED HOUSING GROUP, INC.", FILED IN THIS OFFICE ON THE NINTH DAY OF AUGUST, A.D. 2007, AT 9:54 O'CLOCK A.M.



4405102 8100

080401471

You may verify this certificate online
at corp.delaware.gov/authver.shtml

Harriet Smith Windsor

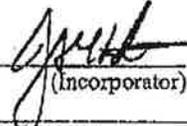
Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 6505458

DATE: 04-07-08

STATE of DELAWARE
CERTIFICATE of INCORPORATION
A STOCK CORPORATION

- First: The name of this Corporation is AFFIRMED HOUSING GROUP, INC.
- Second: Its registered office in the State of Delaware is to be located at 40 E. Division Street, Suite A Street, in the City of Dover County of Kent Zip Code 19901. The registered agent in charge thereof is Paracorp Incorporated
- Third: The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.
- Fourth: The amount of the total stock of this corporation is authorized to issue is 1,000,000 shares (number of authorized shares) with a par value of \$1.00 per share.
- Fifth: The name and mailing address of the incorporator are as follows:
Name Joel L. Incorvaia
Mailing Address 445 Marine View Avenue, Suite 295
Del Mar, CA Zip Code 92014
- I, The Undersigned, for the purpose of forming a corporation under the laws of the State of Delaware, do make, file and record this Certificate, and do certify that the facts herein stated are true, and I have accordingly hereunto set my hand this 7th day of August, A D 20 07

BY: 
(Incorporator)

NAME: Joel L. Incorvaia
(type or print)

Bond No.	Surety	Bond Type	Principal	Obligee	Job Description	Original Effective Date	Renewal Date	Premium	Bond Amount
4416581	SureTec Indemnity	Grading Bond	Fairmont Family Housing, LP	City of San Diego	Drawing No. 40205-D; Project No. 562765	12/17/19	12/17/20	\$1,112.00	\$88,930.00
4416582	SureTec Indemnity	Grading Bond	Fairmont Family Housing, LP	City of San Diego	Drawing No. 42060-D; Project No. 565855	12/17/19	12/17/20	\$2,304.00	\$205,407.00

updated 11.21.19

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh & McLennan Agency LLC Marsh & McLennan Ins. Agency LLC PO Box 85638 San Diego, CA 92186	CONTACT NAME: Kristine Farmer		
	PHONE (A/C, No, Ext): 858-587-7551	FAX (A/C, No): 858-909-9802	
E-MAIL ADDRESS: kristine.farmer@marshmma.com			
INSURED Affirmed Housing Group 13520 Evening Creek Drive North San Diego, CA 92128	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Philadelphia Indemnity Insurance Co.		18058
	INSURER B: National Union Fire Ins Co PittsburghPA		19445
	INSURER C: State Compensation Ins Fund of CA		35076
	INSURER D: Fireman's Fund Insurance Company		21873
	INSURER E:		
INSURER F:			

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	X		PHPK2103425	03/01/2020	03/01/2021	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			PHPK2103425	03/01/2020	03/01/2021	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$0			BE018560431 Follows form GL	03/01/2020	03/01/2021	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	917119118	12/06/2019	12/06/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	2nd Excess Liability Follow form GL			USL005074202	03/01/2020	03/01/2021	\$10,000,000 aggregate \$10,000,000 occurrence

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Evidence of Coverage.
 Additional Coverages: Directors & Officers Liability / Employment Practices Liability - Carrier: Scottsdale Insurance Company - pol# EKS3330241; effective 4/30/2020 to 4/30/2021 ; Limits: \$1,000,000 aggregate and \$1,000,000 maximum aggregate; \$25,000 EPL each claim and \$25,000 Third Party Claim deductibles apply. Crime Coverage - Carrier: Travelers Property and Casualty - pol# 106298641; effective 4/30/2020 to 4/30/2021 ; Limits: \$300,000 Employee Theft with \$5,000 deductible each loss. \$300,000 ERISA Limit with no deductible.

CERTIFICATE HOLDER Evidence of Coverage	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

INSURED: Affirmed Housing Group

POLICY #: PHPK2103425

POLICY PERIOD: 03/01/2020

TO: 03/01/2021

PI-AH-6 (08/07)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**GENERAL LIABILITY DELUXE ENDORSEMENT:
AFFORDABLE HOUSING**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure are provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverage provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

Coverage Applicable	Limit of Insurance	Page #
Damage To Premises Rented To You, All Covered Causes of Loss	\$1,000,000	2
Expected or Intended Injury-Property Damage	included	2
Non-Owned Watercraft	Less than 58 feet	2
Supplementary Payments – Bail Bonds	\$2,500	2
Supplementary Payment – Loss of Earnings	\$500 per day	2
Employee Indemnification Defense Coverage for Employee	\$10,000	3
Additional Insured – Committee, Organization and Subsidiary	Included	3
Additional Insured – Managers or Lessors of Premises	Included	3
Additional Insured – Lessor of Leased Equipment-Automatic Status when Required in Lease Agreement with You	Included	3
Additional Insured – Use of Watercraft	Included	4
Duties in the Event of Occurrence, Claim or Suit	Included	4
Unintentional Failure to Disclose Hazards	Included	4
Liberalization	Included	4
Bodily Injury – includes Mental Anguish	Included	4
Personal and Advertising Injury – includes Abuse of Process, Discrimination	Included	4

A. Damage To Premises Rented To You

If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part, the word "fire" is changed to all Covered Causes of Loss where it appears in:

1. The last paragraph of SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY after the Exclusions;
2. Paragraph 6 of SECTION III - LIMITS OF INSURANCE;
3. Paragraph b.(1)(b) of 4. Other Insurance in SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS; and
4. Paragraph 9.a. "Insured contract" in SECTION V - DEFINITIONS.

The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:

- a. \$1,000,000; or
- b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from a Covered Cause of Loss or any combination thereof.

B. Extended Property Damage

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions a. is deleted and replaced by the following:

a. **Expected or intended injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

C. Non-Owned Watercraft

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions paragraph g. (2) is amended to read as follows:

- (2) A watercraft you do not own that is:
- (a) Less than 58 feet long; and
 - (b) Not being used to carry persons or property for a charge;

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

D. Supplementary Payments – Coverages A and B

In the SUPPLEMENTARY PAYMENTS - COVERAGE A AND B provision:

1. The limit for the cost of bail bonds is changed from \$250 to \$2,500; and
2. The limit for loss of earnings is changed from \$250 a day to \$500 a day.

E. Employee Indemnification Defense Coverage

Under SUPPLEMENTARY PAYMENTS - COVERAGES A AND B the following is added:

3. We will pay, on your behalf, defense costs incurred by an "employee" in a criminal proceeding. The most we will pay for any "employee" who is alleged to be directly involved in a criminal proceeding is \$10,000 regardless of the numbers of employees, claims or "suits" brought or persons or organizations making claims or bringing "suits".

F. SECTION II - WHO IS AN INSURED is amended as follows:

1. If coverage for newly acquired or formed organizations is not otherwise excluded from this Coverage Part, paragraph 3.a is changed to read:
 - a. Coverage under this provision is afforded until the end of the policy period.
2. 2. c and d are deleted in their entirety and replaced with the following:
 - c. Any person or organization having proper temporary custody of your property if you cease to exist as a legal entity, but only:
 1. With respect to liability arising out of the maintenance or use of that property; and
 2. Until your legal representative has been appointed.
 - d. Your legal representative, if you cease to exist as a legal entity, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Each of the following is also an insured:
 - a. **Committee, Organization and Subsidiary** - Any committee, organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any committee, organization and subsidiary not named in the Declarations as a Named Insured, if they are also insured under another policy, but for its termination or the exhaustion of its limits of insurance.
 - b. **Managers or Lessors of Premises** - Any person or organization with respect to their liability arising out of the ownership, maintenance or use of that part of the premises leased to you subject to the following additional exclusions:

This insurance does not apply to:

 - 1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
 - 2) Structural alterations, new construction or demolition operations performed by or on behalf of that person or organization.
 - c. **Lessor of Leased Equipment - Automatic Status When Required in Lease Agreement With You** - any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization is to be added as an additional insured on your policy. Such person or organization is an insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- d. **Use of Watercraft** – any person, who with your consent, either uses or is responsible for the use of a watercraft that you do not own that is less than 58 feet long and is not being used to carry persons or property for a charge.

G. Duties in the Event of Occurrence, Claim or Suit

1. The requirement in condition 2.a. of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** that you must see to it that we are notified as soon as practicable of an "occurrence" or an offense, applies only when the "occurrence" or offense is known to:
 - a. You, if you are an individual;
 - b. A partner, if you are a partnership; or
 - c. An executive officer, director, or insurance manager, if you are a corporation.
2. The requirement in condition 2.b. that you must see to it that we receive notice of a claim or "suit" as soon as practicable will not be considered breached unless the breach occurs after such claim or "suit" is known to:
 - a. You, if you are an individual;
 - b. A partner, if you are a partnership; or
 - c. An executive officer, director, or insurance manager, if you are a corporation.

H. Unintentional Failure To Disclose Hazards

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

I. Liberalization

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

J. Bodily Injury - Mental Anguish

The definition of "Bodily injury" is changed to read:

3. "Bodily injury":
 - a. Means bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and
 - b. Except for mental anguish, includes death resulting from the foregoing (item a. above) at any time.

K. Personal and Advertising Injury – Abuse of Process, Discrimination

If **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE** is not otherwise excluded from this Coverage Part, the definition of "Personal and Advertising Injury" is amended as follows:

1. Item 14 b. is revised to read:
 - a. Malicious prosecution or abuse of process:
2. Adding the following:

- a. "Personal and advertising injury" also means discrimination based on race, color, religion, sex, age or national origin, except when:
1. Done intentionally by or at the direction of, or with the knowledge or consent of:
 - a. Any insured; or
 - b. Any executive officer, director, stockholder, partner or member of the insured; or
 2. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured; or
 3. Directly or indirectly related to the sale, rental, lease or sublease or prospective sales, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or
 4. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.

AFFIRMED HOUSING GROUP

CONFIDENTIAL FINANCIALS

UNDER SEPARATE COVER

HOUSING AUTHORITY OF
THE CITY OF SAN DIEGO

RESOLUTION NUMBER HA-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF SAN DIEGO AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE MULTIFAMILY NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$24,926,225 TO FINANCE THE ACQUISITION AND REHABILITATION OF A MULTIFAMILY RENTAL HOUSING FACILITY TO BE KNOWN AS RANCHO BERNARDO SENIOR HOUSING, AND APPROVING AND AUTHORIZING RELATED DOCUMENTS AND ACTIONS.

WHEREAS, pursuant to Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code, as amended (Act), the Housing Authority of the City of San Diego (Authority) is authorized to incur indebtedness to finance the acquisition, rehabilitation, construction, and equipping of multifamily rental housing; and

WHEREAS, Rancho Bernardo Senior Housing, L.P., a California limited partnership (Borrower), has requested that the Authority issue notes or bonds and loan the proceeds thereof to the Borrower to finance Borrower's acquisition and rehabilitation of a multifamily residential rental housing facility to be known as "Rancho Bernardo Senior Housing" (Project), consisting of 178 apartment units (including three manager units) to be located at 11520 W. Bernardo Court, San Diego, California; and

WHEREAS, the Board of Commissioners of the Authority (Board) desires that a portion of the units in the Project be available for low and very low income persons or families, and to

accomplish such purpose it is desirable for the Authority to issue one or more revenue notes to finance costs of the acquisition, rehabilitation and equipping of the Project; and

WHEREAS, the Authority intends to execute and deliver its Housing Authority of the City of San Diego Multifamily Housing Revenue Note (Rancho Bernardo Senior Housing) 2022 Series A (Note) in an aggregate principal amount not to exceed \$24,926,225, which Note may be designated in one or more subseries, intended to be tax-exempt, evidencing a loan by ORIX Real Estate Capital, LLC, a Delaware limited liability company (Funding Lender) to the Authority to fund a loan to the Borrower; and

WHEREAS, the Authority will loan the proceeds of the Note to the Borrower (Loan) and the Borrower will use the Loan to finance costs of the acquisition and construction of the Project and the costs of issuance in respect of the Note, which will allow the Borrower to reduce the cost of the Project and assist in providing housing for low and very low income persons; and

WHEREAS, a “TEFRA” hearing was held on April 2, 2021, following publication of a “TEFRA” notice, as required by the Internal Revenue Code of 1986, as amended (Code) and applicable United States Treasury Regulations; and

WHEREAS, California Government Code section 8869.85 requires that a local agency file an application with the California Debt Limit Allocation Committee (CDLAC) and obtain CDLAC’s authorization to issue tax-exempt multifamily housing revenue bonds; and

WHEREAS, on August 11, 2021, CDLAC allocated to the Project \$24,926,225 of available State of California ceiling for private activity bonds under section 146 of the Code; and

WHEREAS, the following documents are presented for consideration:

(1) The form of Funding Loan and Security Agreement (Funding Loan Agreement), by and among the Authority, U.S. Bank National Association, as fiscal agent (Fiscal Agent), and the Funding Lender, including the form of the Note attached to the Funding Loan Agreement as Exhibit A; and

(2) The form of Borrower Loan Agreement (Borrower Loan Agreement), by and among the Authority, the Fiscal Agent, the Funding Lender and the Borrower; and

(3) The form of Regulatory Agreement and Declaration of Restrictive Covenants (Regulatory Agreement), by and among the Authority, the Fiscal Agent and the Borrower; and

WHEREAS, each of the above-referenced documents is in appropriate form and is an appropriate instrument to be executed and delivered for the purposes intended; NOW, THEREFORE,

BE IT RESOLVED, by the Housing Authority of the City of San Diego, as follows:

Section 1. Finding and Determination. It is found and determined that it is necessary and desirable for the Authority to provide for the financing of the acquisition and rehabilitation of the Project through the execution and delivery of the Note in order to assist persons of low and very low income within the City of San Diego in obtaining decent, safe, and sanitary housing and to achieve certain other public purposes.

Section 2. Authorization of Note. For the purpose of financing the acquisition and rehabilitation of the Project, the Authority approves the execution and delivery of the Note designated in one or more series or subseries, in an aggregate principal amount not to exceed \$24,926,225. The Note shall be executed and delivered in the principal amount, and shall bear interest (which shall not exceed 12% per annum) and mature (not later than 45 years from the

date of execution and delivery thereof) as provided in the Funding Loan Agreement. The Note shall be in substantially the form attached as Exhibit A to the Funding Loan Agreement, with such appropriate variations, omissions, insertions, and provisions as are required or permitted by the Funding Loan Agreement. The Note shall be a special, limited obligation of the Authority and shall be payable as to principal and interest, and the obligations of the Authority under the Funding Loan Agreement shall be paid and satisfied, solely from the revenues, receipts and other moneys and assets pledged under the Funding Loan Agreement.

Section 3. Execution and Delivery of the Note. The Note shall be executed on behalf of the Authority by the manual or facsimile signature of the Chairperson of the Authority (Chairperson), the Vice Chairperson of the Authority (Vice Chairperson), the Executive Director of the Housing Authority (Executive Director), President & CEO, Deputy CEO, Executive VP Real Estate or Vice President Multifamily Housing Finance, and the official seal of the Authority, or a facsimile, may be impressed or imprinted on the Note and attested with the manual or facsimile signature of the Secretary or a Deputy Secretary of the Authority.

Section 4. Approval of the Funding Loan Agreement. The Funding Loan Agreement, in the form on file in the Housing Commission offices, is approved. The Chairperson, the Vice Chairperson, the Executive Director, President & CEO, Deputy CEO, Executive VP Real Estate, Vice President Multifamily Housing Finance, and the Deputy Secretary of the Authority, or the designee of any such officer (such officers and any of his or her respective designees, collectively, Designated Officers) are each authorized to execute and deliver the Funding Loan Agreement in such form, together with such changes as may be approved by the Designated Officer executing the same, upon consultation with the General Counsel to the Authority, such

execution to constitute conclusive evidence of the approval of all changes from the form of the Funding Loan Agreement approved in this Resolution.

Section 5. Approval of Borrower Loan Agreement. The Borrower Loan Agreement, in the form on file in the Housing Commission offices, is approved. The Designated Officers are each authorized to execute and deliver the Borrower Loan Agreement in such form, together with such changes as may be approved by the Designated Officer executing the same, in consultation with the General Counsel to the Authority, such execution to constitute conclusive evidence of the approval of all changes from the form of the Borrower Loan Agreement approved in this Resolution.

Section 6. Approval of Regulatory Agreement. The Regulatory Agreement, in the form on file in the Housing Commission offices, is approved. The Designated Officers are each authorized to execute and deliver the Regulatory Agreement in such form, together with such changes as may be approved by the Designated Officer executing the same, in consultation with the General Counsel to the Authority, such execution to constitute conclusive evidence of the approval of all changes from the form of the Regulatory Agreement approved in this Resolution.

Section 7. Actions Ratified and Authorized. All prior actions taken by the officers, employees, and agents of the Authority with respect to the issuance and sale of the Note are approved, confirmed, and ratified, and the Designated Officers are each authorized, for and in the name and on behalf of the Authority, to take any and all actions and execute and deliver any and all certificates, agreements (including a tax certificate and agreement), any assignments of security documents or deed of trust, and other documents, including but not limited to those described in any of the documents approved by this Resolution, which they, or any of them, may

deem necessary or advisable in order to consummate the lawful issuance and delivery of the Note and the making of the Loan in accordance with the Act and this Resolution.

Section 8. Further Consents, Approvals and Other Actions. All consents, approvals, notices, orders, requests, and other actions permitted or required by any of the documents authorized by this Resolution or otherwise appropriate in the administration of the Note and the lending program financed by the Note, including without limitation any of the foregoing which may be necessary or desirable in connection with any amendment of such documents, any transfer of the Project, any appointment or substitution of fiscal agent or lender, any substitution of security for the Note, or any prepayment or redemption of the Note may be taken or given by any of the Designated Officers, in consultation with the Authority's General Counsel, without further authorization by the Board, and the Designated Officers are authorized and directed to give any such consent, approval, notice, order or request and to take any such action which such officer may deem necessary or desirable to further the purposes of this Resolution.

Section 9. TEFRA Approval. No tax-exempt portion of the Note may be issued prior to "TEFRA" approval by the City Council of the City of San Diego.

Section 10. Severability. If any section, paragraph, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any remaining provisions of this Resolution.

Section 11. Effective Date. This Resolution shall take effect immediately upon its adoption.

APPROVED: MARA W. ELLIOTT, General Counsel

By _____
Marguerite E. Middaugh
Deputy General Counsel

MEM:jdf
11/17/2021
Or.Dept: Housing Authority
Doc. No.: 2817676 _____

HOUSING AUTHORITY OF
THE CITY OF SAN DIEGO

RESOLUTION NUMBER HA-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF SAN DIEGO DETERMINING THAT THE ACQUISITION AND REHABILITATION OF RANCHO BERNARDO SENIOR HOUSING IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO TITLE 14 CALIFORNIA CODE OF REGULATIONS SECTIONS 15301 AND 15302.

WHEREAS, the Housing Authority of the City of San Diego (Authority) is considering authorizing the issuance of tax-exempt multifamily housing revenue notes, and entering into related agreements, to provide funding for the acquisition and rehabilitation of the residential rental housing facility known as “Rancho Bernardo Senior Apartments,” and formerly known as “Radisson Hotel Conversion,” consisting of 178 apartment units located at 11520 W. Bernardo Court, in the City of San Diego (Project); and

WHEREAS, the California Environmental Quality Act (CEQA), California Public Resources Code (Code) sections 21000 – 21189.3, provides in section 21083 that the California Office of Planning and Research shall promulgate and the Secretary of the California Natural Resources Agency shall adopt guidelines for implementation of CEQA; and

WHEREAS, the California Office of Planning and Research promulgated and the Secretary of the California Natural Resources Agency adopted the guidelines for implementation of CEQA set forth in Title 14 California Code of Regulations sections 15000 – 15387 (CEQA Guidelines); and

WHEREAS, Code section 21084 provides that the CEQA Guidelines shall include a list of classes of projects that have been determined not to have a significant effect on the environment and are exempt from the provisions of CEQA; and

WHEREAS, CEQA Guidelines sections 15300 – 15333 list classes of projects that have been determined not to have a significant effect on the environment and declared to be exempt from preparation of environmental documents under CEQA; and

WHEREAS, the Authority has considered the written record regarding the Project and any public comments concerning the potential environmental effects of the Project; and

WHEREAS, the Authority, using its independent judgment, has determined that the Project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines section 15301 for Class 1 Existing Facilities and section 15302 for Class 2 Replacement or Reconstruction; and

WHEREAS, no exception to the application of a categorical exemption set forth in CEQA Guidelines section 15300.2 applies to the Project; NOW, THEREFORE,

BE IT RESOLVED, by the Housing Authority of the City of San Diego, as follows:

1. The Project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines section 15301 for Class 1 Existing Facilities and section 15302 for Class 2 Replacement or Reconstruction.
2. No exception to the application of a categorical exemption set forth in CEQA Guidelines section 15300.2 applies to the Project.

3. The Secretary of the Authority, or designee, is directed to file a Notice of Exemption in accordance with CEQA with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

APPROVED: MARA W. ELLIOTT, General Counsel

By: _____
Marguerite E. Middaugh
Deputy General Counsel

MEM:jdf
11/17/2021
Or.Dept: Housing Authority
Doc. No.: 2817675

FUNDING LOAN AND SECURITY AGREEMENT

among

**ORIX REAL ESTATE CAPITAL, LLC,
a Delaware Limited Liability Company,
as Funding Lender**

**HOUSING AUTHORITY OF THE CITY OF SAN DIEGO,
as Governmental Lender**

and

**U.S. BANK NATIONAL ASSOCIATION,
as Fiscal Agent**

Relating to

**Rancho Bernardo Senior Housing Apartments
11520 W. Bernardo Court**

Original Funding Loan Principal Amount: \$[24,926,225]

Dated as of February 1, 2022

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FUNDING LOAN AND SECURITY AGREEMENT

THIS FUNDING LOAN AND SECURITY AGREEMENT (this “**Funding Loan Agreement**”), is made and entered into as of February 1, 2022, by and among **ORIX REAL ESTATE CAPITAL, LLC**, a Delaware Limited Liability Company, in its capacity as Funding Lender (the “**Funding Lender**”), the **HOUSING AUTHORITY OF THE CITY OF SAN DIEGO** (the “**Governmental Lender**”), a public body, corporate and politic, duly organized and existing under the laws of the State of California (the “**State**”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, organized and operating under the laws of the United States of America, as Fiscal Agent (the “**Fiscal Agent**”). Capitalized terms are defined in Section 1.01 of this Funding Loan Agreement.

RECITALS

A. Pursuant to Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code (the “**Act**”) and the Borrower Loan Agreement dated as of February 1, 2022 (the “**Borrower Loan Agreement**”) by and among the Governmental Lender, the Fiscal Agent and Rancho Bernardo Senior Housing, L.P., a limited partnership duly organized and existing under the laws of the State of California (the “**Borrower**”), the Governmental Lender is agreeing to make a loan to the Borrower in the maximum aggregate principal amount of \$[24,926,225] (the “**Borrower Loan**”) to provide for the financing of the acquisition, rehabilitation and equipping of a 175-unit (including three manager units) multifamily rental housing development for seniors to be located at 11520 W. Bernardo Court in the City of San Diego, California, known and generally referred to as Rancho Bernardo Senior Housing (also referred to as Tizon Apartments) (the “**Project**”).

B. The Governmental Lender is making the Borrower Loan to the Borrower with the proceeds received from the loan made to the Governmental Lender pursuant to this Funding Loan Agreement in the maximum aggregate principal amount of \$[24,926,225] (the “**Funding Loan**”) and together with the Borrower Loan, the “**Loans**”). The Funding Loan is being originated and funded by the Funding Lender hereunder and is evidenced by the Multifamily Note dated [Closing Date] in the form attached hereto as Exhibit A (together with all riders and addenda thereto, the “**Governmental Note**”) delivered by the Governmental Lender to the Funding Lender. The Funding Lender will act as initial servicer for the Loans (the “**Servicer**”).

C. The Funding Lender, pursuant to the terms and subject to the conditions of this Funding Loan Agreement, has agreed to originate and fund the Funding Loan to or for the account of the Governmental Lender, which proceeds of the Funding Loan will be used by the Governmental Lender to fund the Borrower Loan to the Borrower pursuant to the Borrower Loan Agreement.

D. The Borrower has agreed to use the proceeds of the Borrower Loan to finance the acquisition, construction, rehabilitation and equipping of the Project.

E. Concurrently with the closing of the Loans, ORIX Real Estate Capital, LLC (the “**FHA Lender**”) has originated an FHA-insured mortgage loan (the “**Mortgage Loan**”) in the original aggregate principal amount of \$[28,945,800.00]. The Borrower’s repayment obligations in respect of the Mortgage Loan will be evidenced by a Note in the amount of \$[28,945,800.00] dated as of February 1, 2022 from the Borrower to the FHA Lender, endorsed for mortgage

insurance by HUD pursuant to 221(d)(4) of the National Housing Act, as amended (the “**Mortgage Note**”).

F. To secure the Borrower’s obligations under the Borrower Loan, the Borrower will execute and deliver the Mortgage Loan Documents as required by the Funding Lender, including all HUD multifamily form and other closing documents required to satisfy all program requirements of HUD, FHA and GNMA under Section 221(d)(4) of the National Housing Act, as amended. As additional security for the Borrower’s repayment obligations under the Borrower Loan Agreement, certain payments of principal and interest under the Mortgage Note have been assigned as provided in the Assignment and Pledge Agreement.

G. The Governmental Lender has determined that all things necessary to incur the Funding Loan and to make the Governmental Note, when executed by the Governmental Lender and authenticated by the Fiscal Agent and issued in accordance with this Funding Loan Agreement, the valid, binding and legal obligation of the Governmental Lender and to constitute this Funding Loan Agreement a valid lien on the properties, interests, revenues and payments herein pledged to the payment of the principal of, premium, if any, and interest on, the Governmental Note, have been duly taken, and the creation, execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Note, subject to the terms of this Funding Loan Agreement, have been duly authorized by the Governmental Lender.

H. The Fiscal Agent has the power and authority to enter into this Funding Loan Agreement, including corporate trust powers to accept the trusts hereunder and to accept and assume its other responsibilities hereunder as Fiscal Agent as evidenced by its execution of this Funding Loan Agreement.

NOW, THEREFORE, in consideration of the premises and of the origination and funding of the Funding Loan by the Funding Lender, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions The terms used in this Funding Loan Agreement (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Funding Loan Agreement and of any amendment or supplement hereto shall have the respective meanings specified below. Terms used herein not otherwise defined shall have the respective meanings set forth in the Borrower Loan Agreement.

“**Act**” means Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code.

“**Administration Fund**” means the Administration Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“**Advance Request**” shall mean a request by the Borrower to the Funding Lender that the Funding Lender disburse proceeds of the Funding Loan to the Title Company as provided hereunder.

“Advance Termination Date” means the earliest to occur of (i) the date when the sum of the aggregate advances of the Funding Loan made by the Funding Lender equals the Authorized Amount, (ii) the date that is three (3) years after the Delivery Date, (iii) the date of a Determination of Taxability or (iv) the occurrence of an Event of Default hereunder.

“Authorized Amount” shall mean \$[24,926,225], the maximum principal amount of the Funding Loan authorized under this Funding Loan Agreement.

“Assignment and Pledge Agreement” means the Assignment and Pledge Agreement dated as of [February 1, 2022], executed by the FHA Lender in favor of the Governmental Lender, which shall terminate automatically without any further action on the part of the FHA Lender or the Governmental Lender upon (i) the tender of the Governmental Note to the Fiscal Agent by the Funding Lender pursuant to the terms of this Funding Loan Agreement or (ii) the satisfaction in full of the obligations secured by the Assignment and Pledge Agreement.

“Authorized Officer” means (a) when used with respect to the Governmental Lender, the Chairperson, the Vice Chairperson, the Executive Director of the Governmental Lender, the President & CEO, Deputy CEO, Executive VP Real Estate or Vice President Multifamily Housing Finance, or such other Person or Persons, duly designated by the Governmental Lender in writing to act on its behalf, (b) when used with respect to the Borrower, any member or partner of the Borrower and such additional Person or Persons, if any, duly designated by the Borrower in writing to act on its behalf, (c) when used with respect to the Fiscal Agent, any authorized signatory of the Fiscal Agent, or any Person who is authorized in writing to take the action in question on behalf of the Fiscal Agent, (d) when used with respect to the Servicer, any Person or Persons duly designated by the Servicer in writing to act on its behalf, and (e) when used with respect to the Funding Lender Representative, any Person who is authorized in writing to take the action in question on behalf of the Funding Lender Representative.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor federal statute.

“Bond Counsel” means (a) on the Delivery Date, the law firm or law firms delivering the approving opinion(s) with respect to the Governmental Note, or (b) any other firm of attorneys selected by the Governmental Lender that is experienced in matters relating to the issuance of obligations by states and their political subdivisions and is acceptable to the Funding Lender Representative.

“Borrower” means Rancho Bernardo Senior Housing, L.P., a limited partnership duly organized and existing under the laws of the State of California, or any of its permitted successors or assigns, as owner of the Project.

“Borrower Loan” means the loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the maximum aggregate principal amount of \$[24,926,225].

“Borrower Loan Agreement” means the Borrower Loan Agreement dated as of the date hereof among the Borrower, the Governmental Lender and the Fiscal Agent, as amended, supplemented or restated from time to time.

“Borrower Loan Documents” means the Borrower Loan Agreement, the Tax Regulatory Agreement, the Tax Certificate, the Mortgage Loan Documents and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Borrower Loan or any portion thereof.

“Borrower Loan Fund” means the Borrower Loan Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“Business Day” means any day other than (a) a Saturday or a Sunday, or (b) a day on which (i) banking institutions in the City of New York or in the city in which the Principal Office of the Fiscal Agent is located are authorized or obligated by law or executive order to be closed or (ii) the New York Stock Exchange is closed.

“Code” means the Internal Revenue Code of 1986 and the regulations promulgated thereunder.

“Cost,” “Costs” or “Costs of the Project” means costs paid with respect to the Project that (i) are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with United States Treasury Regulations Section 1.103-8(a)(1), (ii) are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) are paid after the earlier of (A) 60 days prior to the date of a resolution of the Governmental Lender to reimburse costs of the Project with proceeds of the Loans or (B) the Delivery Date, and (iv) if the Costs of the Project were previously paid and are to be reimbursed with proceeds of the Loans such costs were (A) Costs of Issuance of the Governmental Note, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations Section 1.150-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or rehabilitation of the Project that do not exceed twenty percent (20%) of the issue price of the Governmental Note (as defined in United States Treasury Regulations Section 1.148-1), or (C) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditure is paid); provided however, that if any portion of the Project is being constructed or developed by the Borrower or an affiliate (whether as a developer, a general contractor or a subcontractor), “Cost,” “Costs” or “Costs of the Project” shall include only (a) the actual out-of-pocket costs incurred by the Borrower or such affiliate in developing or constructing the Project (or any portion thereof), and (b) any overhead expenses incurred by the Borrower or such affiliate which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the acquisition, rehabilitation or development of the Project or payments received by such affiliate due to early completion of the Project (or any portion thereof).

“Costs of Issuance” means, as applicable, (i) the fees (excluding ongoing fees), costs and expenses of (a) the Governmental Lender, the Governmental Lender’s counsel and Governmental Lender’s financial advisor, if any, (b) Bond Counsel, (c) the Fiscal Agent and the Fiscal Agent’s counsel, (d) the Servicer and the Servicer’s counsel, (e) the Funding Lender and the Funding Lender’s counsel, and (f) Borrower’s counsel attributable to the funding of the Loans and the

Borrower's financial advisor, if any, and (ii) all other fees, costs and expenses directly associated with the Funding Loan and the Borrower Loan, including, without limitation, printing costs, costs of reproducing documents, filing and recording fees.

“Costs of Issuance Deposit” means the deposit to be made by the Borrower with the Title Company on or before the Delivery Date, in an amount set forth in the Settlement Statement and shall be comprised of sources other than the proceeds of the Borrower Loan.

“Default Rate” means the lower of (i) the Interest Rate otherwise in effect notwithstanding the default plus [_____] percent ([_]%) per annum or (ii) the maximum rate allowed by law.

“Delivery Date” means [Closing Date], the date of initial funding of the Funding Loan and the delivery of the Governmental Note by the Governmental Lender to the Funding Lender.

“Determination of Taxability” means (a) a determination by the Commissioner or any District Director of the Internal Revenue Service, (b) a private ruling or Technical Advice Memorandum issued by the National Office of the Internal Revenue Service in which Governmental Lender and Borrower were afforded the opportunity to participate, (c) a determination by any court of competent jurisdiction, (d) the enactment of legislation or (e) receipt by Fiscal Agent or Funding Lender Representative, at the request of Governmental Lender, Borrower, Fiscal Agent or Funding Lender Representative, of an opinion of Bond Counsel, in each case to the effect that the interest on the Governmental Note is includable in gross income for federal income tax purposes of the Funding Lender or any former Funding Lender other than a Funding Lender who is a “substantial user” of the Project or a “related person” (as such terms are defined in Section 147(a) of the Code); provided, however, that no such Determination of Taxability under clause (a) or (c) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower) or the Borrower is contesting such determination, has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earliest of (i) a final determination from which no appeal may be taken with respect to such determination, (ii) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (iii) one year from the date of initial determination.

“Electronic Notice” means delivery of notice in a Word format or a Portable Document Format (PDF) by electronic mail to the electronic mail addresses listed in Section 9.04 hereof; provided, that if a sender receives notice that the electronic mail is undeliverable, notice must be sent as otherwise required by Section 9.04 hereof.

“Event of Default” or **“event of default”** means any of those events specified in and defined by the applicable provisions of Article VI hereof to constitute an event of default.

“FHA” means the Federal Housing Administration.

“FHA Lender” means the Funding Lender, in its capacity as lender under the Mortgage Loan Documents, or any of its successors or assigns.

“Financing Documents” means, collectively, this Funding Loan Agreement, the Governmental Note, the Tax Certificate, the Borrower Loan Documents and all other documents or instruments evidencing, securing or relating to the Loans.

“**Fiscal Agent**” means U.S. Bank National Association and its successors hereunder.

“**Fiscal Agent’s Fees and Expenses**” means the annual administration fee for the Fiscal Agent in rendering its services under this Funding Loan Agreement during each twelve month period, which fee is equal to (and shall not exceed) \$[2,500.00] and shall be payable annually in advance commencing on the Delivery Date and each anniversary of the Delivery Date thereafter.

“**Funding Agreement**” means the Building Loan Agreement dated as of the date hereof by and between the Borrower and the Funding Lender, as the same may be amended, modified or supplemented from time to time.

“**Funding Lender**” means ORIX Real Estate Capital, LLC, a Delaware Limited Liability Company, as initial holder of the Governmental Note or any subsequent holder of the Governmental Note.

“**Funding Lender Representative**” means the Funding Lender or any Person designated by the Funding Lender to act on behalf of the Funding Lender as provided in Section 9.05, or an assignee of such Person as provided in Section 9.05. The initial Funding Lender Representative shall be the Funding Lender.

“**Funding Loan**” means the loan in the maximum aggregate principal amount of \$[24,926,225] made by the Funding Lender to the Governmental Lender pursuant to this Funding Loan Agreement.

“**Funding Loan Agreement**” means this Funding Loan and Security Agreement dated as of the date hereof among the Funding Lender, the Governmental Lender and the Fiscal Agent, as amended, supplemented or restated from time to time.

“**Funding Loan Amortization Schedule**” means the Funding Loan Amortization Schedule attached as Schedule 1 to the Governmental Note.

“**GNMA**” means the Government National Mortgage Association, an organizational unit within HUD, or any successor entity and any authorized representatives or agents thereof, including the Secretary of HUD and his representatives or agents.

“**Government Obligations**” means investments meeting the requirements of clause (a) or (b) of the definition of “Qualified Investments” herein.

“**Governmental Lender**” means the Housing Authority of the City of San Diego, a public body corporate and politic, organized and existing under the laws of the State of California, together with its permitted successors and assigns hereunder, if any.

“**Governmental Lender Fee**” means the ongoing fee of the Governmental Lender in connection with the making of the Borrower Loan in the amount set forth in Section 20 of the Tax Regulatory Agreement.

“**Governmental Note**” means the Multifamily Note dated the Delivery Date, executed by the Governmental Lender and authenticated by the Fiscal Agent in favor of the Funding Lender, in the form attached hereto as Exhibit A, as the same may be amended, restated, supplemented or

otherwise modified from time to time, or any note executed in substitution therefor, as such substitute note may be amended, restated, supplemented or otherwise modified from time to time.

“**HUD**” means the United States Department of Housing and Urban Development.

“**HUD Regulatory Agreement**” means the Regulatory Agreement dated as of February 1, 2022 between the Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

“**Interest Payment Date**” means (i) the first day of each month, commencing February 1, 2022, (ii) the date of any prepayment or termination of the Funding Loan, and (iii) the Maturity Date.

“**Interest Rate**” means the interest rate of [___]% per annum; provided during the continuance of any Event of Default hereunder, the Interest Rate shall be the Default Rate.

“**Investment Income**” means the earnings and profits derived from the investment of money pursuant to Section 4.06 hereof.

“**Loans**” means, together, the Borrower Loan and the Funding Loan.

“**Mandatory Termination Date**” has the meaning attributed thereto in Section 3.01(b).

“**Maturity Date**” means [Maturity Date].

“**Minimum Ownership Amount**” means \$100,000 or any amount in excess thereof.

“**Mortgage**” means the Multifamily Deed of Trust, Assignment of Leases and Rents and Security Agreement dated as of February 1, 2022 from the Borrower for the benefit of the FHA Lender to secure the Mortgage Note.

“**Mortgage Loan**” means the mortgage loan made by the FHA Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project, the making of which loan shall constitute the making of the Borrower Loan by the Governmental Lender to the Borrower from the proceeds of the Funding Loan made by the Funding Lender to the Governmental Lender.

“**Mortgage Loan Documents**” means the Mortgage Note, the Mortgage, the HUD Regulatory Agreement, the Funding Agreement and all other documents, agreements, or instruments which evidence or secure the indebtedness evidenced by the Mortgage Note.

“**Mortgage Note**” means that certain Note in the principal amount of \$[28,946,800.00] dated as of [February 1, 2022] from the Borrower to the FHA Lender, endorsed for mortgage insurance by HUD pursuant to Section 221(d)(4) of the National Housing Act, as amended.

“**Person**” means an individual, a corporation, a partnership, an association, a joint stock company, a joint venture, a trust, an unincorporated association, a limited liability company or a government or any agency or political subdivision thereof, or any other organization or entity (whether governmental or private).

“**Pledged Security**” shall have the meaning given to that term in Section 2.02 hereof.

“**Principal Office of the Fiscal Agent**” means the office of the Fiscal Agent referenced in Section 9.04(a) hereof, or such other office or offices as the Fiscal Agent may designate in writing from time to time, or the office of any successor Fiscal Agent where it principally conducts its business of serving as Fiscal Agent under indentures pursuant to which municipal or governmental obligations are issued.

“**Project**” means, collectively, the land and residential rental apartment units, and related fixtures, equipment, furnishings and site improvements known as Rancho Bernardo Senior Housing located at 11520 W. Bernardo Court in the City of San Diego, California.

“**Qualified Investments**” means any of the following if and to the extent permitted by law: (a) direct and general obligations of the United States of America; (b) obligations of any agency or instrumentality of the United States of America the payment of the principal of and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America; or (c) any other investments approved in writing by the Funding Lender Representative. Qualified Investments must be limited to instruments that have a predetermined fixed-dollar amount of principal due at maturity that cannot vary or change and interest, if tied to an index, shall be tied to a single interest rate index plus a single fixed spread, if any, and move proportionately with such index.

“**Qualified Transferee**” means an institutional “accredited investor” as that term is defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act or a “qualified institutional buyer” as that term is defined under Rule 144A of the Securities Act.

“**Rebate Analyst**” means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Fiscal Agent) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code, selected and retained by the Borrower at the expense of the Borrower, with the prior written consent of the Funding Lender, to make the rebate computations required under this Funding Loan Agreement and the Borrower Loan Agreement. The initial Rebate Analyst shall be [_____].

“**Rebate Fund**” means the Rebate Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“**Rebate Year**” means each one-year period that ends at the close of business on the day in the calendar year that is selected by Borrower as indicated in the Tax Certificate. The first and last Rebate Years may be short periods. Each Rebate Year shall end on (i) each anniversary of the Delivery Date and (ii) on the Maturity Date or date of earlier payment in full of the Governmental Note.

“**Requisition**” means, the requisition in the form of Exhibit B to this Funding Loan Agreement required to be submitted in connection with disbursements of the Borrower Loan.

“**Resolution**” means the resolution adopted by the Governmental Lender authorizing the Funding Loan, the Borrower Loan and the execution and delivery of the Financing Documents to which it is a party.

“Revenue Fund” means the Revenue Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“Revenues” means (a) all payments made with respect to the Borrower Loan pursuant to the Borrower Loan Agreement, including but not limited to all payments obtained through the exercise of remedies under the Financing Documents, and (b) all money and securities held by the Fiscal Agent in the funds and accounts established pursuant to this Funding Loan Agreement (excluding money or securities designated for deposit into and held in the Administration Fund and the Rebate Fund), together with all Investment Income thereon.

“Securities Act” means the Securities Act of 1933, as amended.

“Servicer” means any entity appointed by the Funding Lender Representative to service the Loans and any successor in such capacity as appointed by the Funding Lender Representative pursuant to Section 3.02 of the Borrower Loan Agreement. Initially, the Servicer shall be the Funding Lender.

“Settlement Statement” means the settlement statement prepared by the Title Company and executed by the Borrower setting forth the various funds to be collected and disbursed by the Title Company on the Delivery Date.

“State” means the State of California.

“Tax Certificate” means the Tax Certificate and Agreement, dated the Delivery Date, executed by the Governmental Lender and the Borrower.

“Tax Credits” means the allocation of low-income housing tax credits awarded to the Borrower in connection with the development of the Project.

“Tax Credit Investor” means Raymond James California Housing Opportunities Fund 11 L.L.C., a Florida limited liability company which is a limited partner of the Borrower.

“Tax Regulatory Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of February 1, 2022, executed by the Governmental Lender, the Fiscal Agent and the Borrower, as originally executed and as the same may be amended from time to time.

“Title Company” means Corinthian Title Insurance Company, the title company for purposes of the Loans.

“Unassigned Rights” means all of the rights of the Governmental Lender and its directors, officers, commissioners, elected officials, attorneys, accountants, employees, agents and consultants to be held harmless and indemnified (including but not limited to its rights to indemnification by the Borrower under Section 9 of the Tax Regulatory Agreement) its right to collect attorneys’ fees and related expenses, to inspect the books, records and premises of the Borrower and of the Project, to be paid its fees and expenses, to enforce the Borrower’s covenants to comply with applicable federal tax law and State law (including the Act and the rules and regulations of the Governmental Lender), to give or withhold waivers, consents to amendments, changes, modifications and alterations, to receive notices and the right to enforce such rights.

Section 1.02. Interpretation

The words “hereof,” “herein,” “hereunder,” and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as in effect from time to time. References to Articles, Sections, and other subdivisions of this Funding Loan Agreement are to the designated Articles, Sections and other subdivisions of this Funding Loan Agreement as originally executed. The headings of this Funding Loan Agreement are for convenience only and shall not define or limit the provisions hereof.

ARTICLE II

THE FUNDING LOAN

Section 2.01. Terms

(a) The total principal amount of the Funding Loan is hereby expressly limited to the Authorized Amount. The Funding Loan shall be originated and funded by the Funding Lender to the Governmental Lender in accordance with Section 2.01(b) below. On the Delivery Date, the proceeds of the initial installment of the Funding Loan shall be deposited by the Funding Lender, on behalf of the Governmental Lender, to the Fiscal Agent, which shall in turn deliver such funds to the Title Company, and thereafter the Title Company and shall disburse such funds in accordance with the Settlement Statement. The Funding Loan shall be evidenced by the Governmental Note and shall bear interest and be paid in accordance with the payment terms set forth in the Governmental Note and this Funding Loan Agreement.

(b) [RESERVED.]

(c) [RESERVED].

(d) The Funding Loan shall bear interest payable on each Interest Payment Date at the Interest Rate and shall mature on the Maturity Date, subject to scheduled monthly principal payments as provided in Section 2.01(e) below and termination prior to maturity as provided in Article III hereof. Interest on the Funding Loan shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

(e) Subject to subsection 2.01(g) below, unpaid principal balance of the Funding Loan shall be paid on the dates and in the amounts set forth on the Funding Loan Amortization Schedule attached as Schedule 1 to the Governmental Note. All unpaid principal and all accrued and unpaid interest outstanding under the Funding Loan shall be due and payable on the Maturity Date.

(f) Payment of principal of, premium, if any, and interest on the Funding Loan shall be paid by wire transfer in immediately available funds to an account within the

United States of America designated by such Funding Lender (unless otherwise directed by the Funding Lender).

(g) Concurrently with the closings of the Funding Loan and the Borrower Loan, the Funding Lender shall cause the Borrower and the FHA Lender to close the Mortgage Loan with HUD, which shall be consummated by HUD's endorsement of the Mortgage Note for mortgage insurance. Thereafter, the Borrower shall fully perform all obligations under the Mortgage Loan, including, without limitation, payment of all amounts due under the Mortgage Note.

(h) The Funding Lender agrees that (i) pursuant to the Borrower Loan Agreement, the FHA Lender has directed the Servicer to apply payments received on the Mortgage Note to pay the Borrower's obligations under the Borrower Loan and (ii) payments received on the Borrower Loan shall be applied by the Fiscal Agent to pay the Funding Loan in the amounts set forth in the Funding Loan Amortization Schedule. Pursuant to the foregoing and in lieu of the actual transfer of dollars, the Funding Lender and the Governmental Lender further agree that amounts due under the Mortgage Note, to the extent paid by the Borrower, shall be credited against payments due on the Funding Loan and the Borrower Loan.

(i) In no contingency or event whatsoever shall the aggregate of all amounts deemed interest hereunder and charged or collected pursuant to the terms of this Funding Loan Agreement exceed the highest rate permissible under any law which a court of competent jurisdiction shall, in a final determination, deem applicable hereto. In the event that such court determines the Funding Lender has charged or received interest hereunder in excess of the highest applicable rate, the Funding Lender shall apply, in its sole discretion, and set off such excess interest received by the Funding Lender against other obligations due or to become due under the Financing Documents and such rate shall automatically be reduced to the maximum rate permitted by such law.

Section 2.02. *Pledged Security*

To secure the payment of the principal of, premium, if any, and interest on the Funding Loan according to its tenor and effect, and the performance and observance by the Governmental Lender of all the covenants expressed or implied herein and in the Governmental Note, the Governmental Lender does hereby grant, bargain, sell, convey, pledge and assign a security interest, unto the Fiscal Agent, and its successors in such capacity and its and their assigns in and to the following (said property being herein referred to as the "**Pledged Security**") for the benefit of the Funding Lender:

(a) All right, title and interest of the Governmental Lender in and to all Revenues;

(b) All right, title and interest of the Governmental Lender in and to the Borrower Loan Documents (other than the Unassigned Rights), including all extensions and renewals of the terms thereof, if any, including, but without limiting the generality of the foregoing, the present and continuing right to receive, receipt for, collect or make claim for any of the money, income, revenues, issues, profits and other amounts payable or

receivable thereunder (including all casualty insurance benefits or condemnation awards), whether payable under the above-referenced documents or otherwise, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Governmental Lender or any other Person is or may become entitled to do under said documents;

(c) Except for funds, money or securities in the Administration Fund and the Rebate Fund, all funds, money and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder for the Funding Loan by the Governmental Lender or by anyone on its behalf or with its written consent to the Fiscal Agent, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof; and

(d) All right, title and interest of the Governmental Lender in the Assignment and Pledge Agreement as set forth therein.

The Governmental Lender hereby authorizes the filing of such financing statements as may be necessary to perfect the required security interest in the Pledged Security within the meaning of the Uniform Commercial Code in effect in the state in which the Governmental Lender is organized ("UCC"). This Funding Loan Agreement constitutes a security agreement within the meaning of the UCC. If requested by the Funding Lender, the Servicer or the Borrower, Governmental Lender agrees to execute and deliver such additional instruments as may be reasonably necessary to maintain such perfection of the security interest hereby granted in the Pledged Security through the terms of the Funding Loan and the Borrower Loan, provided that Governmental Lender shall not be responsible for the preparation of such documents or for such filings, nor shall the Governmental Lender be responsible for any associated fees or costs, which shall be the sole responsibility of the Borrower. Upon the closing of the Borrower Loan, the Governmental Lender and the Borrower shall deliver the original Borrower Loan Documents to the Fiscal Agent and the Fiscal Agent shall provide to the Funding Lender a Receipt therefor in substantially the form attached hereto as Exhibit C.

Section 2.03. *Limited Obligations*

The Funding Loan is a limited obligation of the Governmental Lender, payable solely from the Revenues and other funds and moneys and Pledged Security pledged and assigned hereunder. NONE OF THE GOVERNMENTAL LENDER (EXCEPT AS PROVIDED IN THE FIRST SENTENCE OF THIS SECTION 2.03), THE CITY OF SAN DIEGO, THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE GOVERNMENTAL LENDER, TO THE LIMITED EXTENT SET FORTH HEREIN), SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE FUNDING LOAN OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO EXCEPT AS SET FORTH HEREIN, AND NONE OF THE FUNDING LOAN, OR THE GOVERNMENTAL NOTE OR ANY OF THE GOVERNMENTAL LENDER'S AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THE FUNDING LOAN, THE GOVERNMENTAL NOTE, OR HEREUNDER OR UNDER ANY OF THE OTHER FINANCING DOCUMENTS

OR BORROWER LOAN DOCUMENTS, SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.

Section 2.04. *Funding Loan Agreement Constitutes Contract*

In consideration of the origination and funding of the Funding Loan by the Funding Lender, the provisions of this Funding Loan Agreement shall be part of the contract of the Governmental Lender with the Funding Lender and any successors or assigns thereof in such capacity from time to time.

Section 2.05. *Form and Execution*

The Governmental Note shall be designated Housing Authority of the City of San Diego Multifamily Housing Revenue Note (Rancho Bernardo Senior Housing) 2022 Series A, and be in substantially the form attached as Exhibit A. The Governmental Note shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of an Authorized Officer of the Governmental Lender. An impression or facsimile of the seal of the Governmental Lender may be (but shall not be required to be) affixed to the Governmental Note. Any facsimile signatures shall have the same force and effect as if said officers had manually signed the Governmental Note. Any reproduction of the official seal of the Governmental Lender on the Governmental Note shall have the same force and effect as if the official seal of the Governmental Lender had been impressed on the Governmental Note.

Section 2.06. *Authentication*

The Governmental Note shall not be valid or obligatory for any purpose or entitled to any security or benefit under this Funding Loan Agreement unless a certificate of authentication on the Governmental Note, substantially in the form set forth in Exhibit A, shall have been duly executed by an Authorized Officer of the Fiscal Agent; and such executed certificate of authentication upon the Governmental Note shall be conclusive evidence that the Governmental Note has been duly executed, registered, authenticated and delivered under this Funding Loan Agreement.

Section 2.07. *Mutilated, Lost, Stolen or Destroyed Governmental Note*

In the event the Governmental Note is mutilated, lost, stolen or destroyed, the Governmental Lender shall execute and the Fiscal Agent shall authenticate a new Governmental Note substantially in the form set forth in Exhibit A in exchange and substitution for and upon cancellation of the mutilated Governmental Note or in lieu of and in substitution for such lost, stolen or destroyed Governmental Note, upon payment by the Funding Lender of any applicable tax or governmental charge and the reasonable expenses and charges of the Governmental Lender and the Fiscal Agent in connection therewith, and in the case where the Governmental Note is lost, stolen or destroyed, the filing with the Fiscal Agent of evidence satisfactory to it that the Governmental Note was lost, stolen or destroyed, and of the ownership thereof, and furnishing the Governmental Lender and the Fiscal Agent with indemnity satisfactory to each of them. In the event where the Governmental Note shall have matured, instead of delivering a new Governmental Note the Governmental Lender may pay the same without surrender thereof.

Section 2.08. *Registration; Transfer of Funding Loan*

(a) The Funding Loan shall be fully registered as to principal and interest in the manner and with any additional designation as the Fiscal Agent deems necessary for the purpose of identifying the registered owner thereof. The Funding Loan shall be transferable, in whole, only on the registration books of the Fiscal Agent. The Fiscal Agent shall maintain books or other records showing the name and date of registration, address and employer identification number of the registered owner of the Funding Loan and any transfers of the Funding Loan as provided herein. In connection with any sale, assignment or transfer of the Funding Loan, the Funding Lender shall give notice of such sale, assignment or transfer to the Fiscal Agent and the Fiscal Agent shall record such sale, assignment or transfer on its books or other records maintained for the registration of transfer of the Funding Loan. In connection with any such transfer (A) it shall not be necessary to present, exchange, or re-authenticate the Governmental Note, and (B) the Funding Lender shall provide the Fiscal Agent with the name and date of registration, address, and employer identification number of the assignee or transferee, together with a copy of the endorsement to the Governmental Note or assignment of the Governmental Loan, so that the Fiscal Agent may maintain the registration records. The Funding Loan shall initially be registered to the Funding Lender.

(b) The Funding Lender shall have the right to (i) transfer the Governmental Note to any affiliate or other party related to the Funding Lender that is a Qualified Transferee or (ii) sell or transfer the Governmental Note to a special purpose entity, a trust or a custodial or similar pooling arrangement from which the Governmental Note or securitized interests therein are not expected to be sold or transferred except to owners or beneficial owners thereof that are Qualified Transferees. In connection with any sale, assignment or transfer of the Governmental Note, the Funding Lender shall give notice of such sale, assignment or transfer to the Fiscal Agent and the Fiscal Agent shall record such sale, assignment or transfer on its books or other records maintained for the registration of transfer of the Governmental Note. Notwithstanding anything to contrary contained herein, in no event shall the Governmental Note be transferred to an entity that is not also the FHA Lender, and there shall be no more than five (5) Qualified Transferees owning or holding interests in the Governmental Note at any one time, and each Qualified Transferee shall execute and deliver Required Transferee Representations in the form set forth as Exhibit D hereto to the Funding Lender, the Governmental Lender and the Fiscal Agent.

Section 2.09. *Funding Loan Closing Conditions; Delivery of Governmental Note*

Closing of the Funding Loan on the Delivery Date shall be conditioned upon, and the Governmental Lender shall only execute and deliver to the Fiscal Agent, and the Fiscal Agent shall only authenticate the Governmental Note and deliver the Governmental Note to the Funding Lender upon, receipt by the Funding Lender of the following:

(a) executed counterparts of this Funding Loan Agreement, the Borrower Loan Agreement, the Tax Regulatory Agreement and the Tax Certificate;

(b) an opinion of counsel to the Governmental Lender substantially to the effect that the Governmental Lender is duly organized and existing under the laws of the State

with full right, power and authority to execute and deliver this Funding Loan Agreement, the Governmental Note and the other Financing Documents to which it is a party, and such documents are valid and binding special, limited obligations of the Governmental Lender enforceable in accordance with their terms subject to customary exceptions;

(c) a complete set of copies of the executed Mortgage Loan Documents, including HUD's endorsement of the Mortgage Note;

(d) an opinion of counsel to the Borrower to the effect that the Borrower is duly organized and validly existing and in good standing under the laws of the state in which it has been organized and in good standing under the laws of each other state in which the Borrower transacts business and has full power and authority to enter into the Financing Documents to which it is a party, that its execution and delivery of and performance of its covenants in such documents do not contravene law or any provision of any other documents to which it is a party or by which it or such property is bound or affected, and that all such agreements have been duly authorized, executed and delivered by the Borrower, and are legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms;

(e) a customary approving opinion of Bond Counsel, substantially to the effect that interest on the Bonds is excluded from gross income for federal income tax purposes and exempt from State personal income taxes, subject to customary limitations and exclusions;

(f) a certified copy of the Resolution;

(g) the written request and authorization to the Fiscal Agent by the Governmental Lender to authenticate and deliver the Governmental Note to the Funding Lender upon funding to the Fiscal Agent of the full amount of the Funding Loan;

(h) receipt by the Title Company of the Costs of Issuance Deposit and other amounts set forth in the Settlement Statement and by the Fiscal Agent of the amounts, if any, specified in Section 4.02 of this Funding Loan Agreement and Section 3.03 of the Borrower Loan Agreement;

(i) the executed receipt of the Fiscal Agent with respect to the Borrower Loan Documents in substantially the form set forth as Exhibit C hereto; and

(j) Executed Required Transferee Representations from the Funding Lender.

Section 2.10. *Direct Loan Payments to Funding Lender*

(a) Notwithstanding any provision in this Funding Loan Agreement to the contrary, (i) the Governmental Lender and the Fiscal Agent agree that payments of principal of, premium, if any, and interest on the Mortgage Loan shall, when paid by the Borrower to the Servicer, be a credit against amounts due under the Borrower Loan and (ii) the Funding Lender agrees that any amounts credited against the Borrower's obligations under the Borrower Loan shall be a credit against all payments of principal of, premium, if any, and interest on the Funding Loan and all other amounts due to the Funding

Lender. All other fees due hereunder and under the Borrower Loan Agreement, including the Governmental Lender Fee and the Fiscal Agent's Fees and Expenses, shall be paid by the Borrower to the Fiscal Agent. The Servicer shall remit all payments collected from the Borrower of principal of, premium, if any, and interest on the Mortgage Loan and/or the Borrower Loan, together with other amounts due to the Funding Lender, directly to the Funding Lender (without payment through the Fiscal Agent) per the instructions of the Funding Lender Representative. Any payment made in accordance with the provisions of this Section shall be accompanied by sufficient information to identify the source and proper application of such payment. The Servicer shall promptly notify the Fiscal Agent, the Funding Lender Representative and the Governmental Lender in writing of any failure of the Borrower to make any payment of principal of, premium, if any, and interest on the Mortgage Loan and/or the Borrower Loan when due or to pay any other amounts due to the Funding Lender hereunder or under the Borrower Loan Agreement, and the Fiscal Agent and the Governmental Lender shall not be deemed to have any notice of such failure unless it has received such notice in writing.

(b) If the Governmental Note is sold or transferred as provided in Section 2.08 hereof, the Funding Lender Representative shall notify the Fiscal Agent and the Borrower in writing of the name and address of the transferee.

(c) So long as all payments of principal of, premium, if any, and interest on the Mortgage Loan and all other amounts due to the FHA Lender under the Mortgage Loan Documents are paid by the Borrower to the Servicer as described in Section 2.10(a)(i) hereof), then such amounts shall be a credit against all payments of principal of, premium, if any, and interest on the Funding Loan and all other amounts due to the Funding Lender as described in Section 2.10(a)(ii) hereof and no Event of Default has occurred of which the Fiscal Agent has been given, or been deemed to have, notice thereof pursuant to this Funding Loan Agreement, the Fiscal Agent shall have no obligations to collect loan payments with respect to the Funding Loan, nor shall it be obligated to collect loan payments pursuant to the Borrower Loan Agreement, except at the express written direction of the Funding Lender Representative. Notwithstanding the foregoing, the Funding Lender Representative may elect to have the Fiscal Agent collect and remit loan payments and fee payments hereunder and under the Borrower Loan Agreement upon written notice of such election to the Fiscal Agent, the Borrower and the Governmental Lender.

ARTICLE III

TERMINATION OF THE FUNDING LOAN

Section 3.01. Prepayment and Early Termination of the Funding Loan Prior to Maturity

(a) Mandatory Payment or Prepayment. The Funding Loan, together with accrued interest thereon, is subject to mandatory payment or prepayment in whole or in part upon a mandatory payment or prepayment of the Borrower Loan in accordance with the provisions of the Borrower Loan Documents.

(b) **Mandatory Termination.** Upon an Event of Default under the Borrower Loan Documents and/or Mortgage Loan Documents that remains uncured beyond any applicable notice and/or cure period, at the option of the Funding Lender, the Funding Loan shall be subject to immediate termination in whole upon the delivery of the Governmental Note by the Funding Lender to the Fiscal Agent for cancellation. In addition, the Funding Loan shall be subject to immediate termination in whole, at the election of the Funding Lender, any time after the later of (i) [_____, 20__], or (ii) the date the Funding Lender receives written notice from the Borrower that the Project has been placed in service for purposes of Section 42 of the Code and that the “50% test” under Section 42(h)(4) of the Code has been met, in which event (A) the Funding Lender Representative shall instruct the Fiscal Agent to assign the Borrower Loan Documents to the Funding Lender, (B) the Funding Lender will deliver the Governmental Note to the Fiscal Agent for cancellation, and (C) this Funding Loan Agreement shall terminate. The date on which a termination is required under the first or second sentence of this Section 3.01(b) is sometimes referred to as the “Mandatory Termination Date”.

Section 3.02. *Recycling Transactions.*

Notwithstanding any provision of this Funding Loan Agreement or the Governmental Note to the contrary, the Governmental Lender shall be permitted to direct prepayments of the Borrower Loan to be transferred to a custodian or trustee selected by the Governmental Lender, in lieu of application to prepay a like portion of the Governmental Note, so long as the Governmental Lender simultaneously causes other funds to be applied to prepay such portion of the Governmental Note. The preceding provisions shall apply only for purposes of preserving or “recycling” private activity bond volume cap in accordance with Section 146(i)(6) of the Code.

In connection with such recycling and Borrower Loan prepayment, if so directed in a Written Direction of the Governmental Lender provided to the Fiscal Agent and the Servicer prior to any prepayment date, the Fiscal Agent is hereby authorized and directed to receive any such Borrower Loan prepayment or amounts corresponding thereto and to hold such amounts, uninvested, for such period of time and to transfer such amounts to the Funding Lender, the Servicer, or to such custodian, fiscal agent or trustee designed by the Governmental Lender and specified in such Written Direction. For purposes of effectuating the foregoing, the Fiscal Agent is hereby authorized and directed to open and create such funds or accounts, which may be temporary in nature, as may be necessary or desirable, and to close such funds or accounts following the completion of the transfers set forth in such Written Direction.

ARTICLE IV

REVENUES AND FUNDS

Section 4.01. *Pledge of Revenues and Assets; Establishment of Funds*

The pledge and assignment of and the security interest granted in the Pledged Security pursuant to Section 2.02 hereof shall attach, be perfected and be valid and binding from and after the time of the closing of the Funding Loan and delivery of the Governmental Note by the Fiscal Agent or by any Person authorized by the Fiscal Agent to deliver the Governmental Note. The Pledged Security so pledged and then or thereafter received by the Fiscal Agent shall immediately

be subject to the lien of such pledge and security interest without any physical delivery thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

The Fiscal Agent shall establish, maintain and hold in trust the following funds and accounts, each of which is hereby established and each of which shall be disbursed and applied only as herein authorized:

- (i) Borrower Loan Fund;
- (ii) Revenue Fund;
- (iii) Administration Fund; and
- (iv) Rebate Fund.

The funds and accounts established pursuant to this Section 4.01 shall be maintained in the corporate trust department of the Fiscal Agent as segregated trust accounts, separate and identifiable from all other funds held by the Fiscal Agent. The Fiscal Agent shall, at the written direction of an Authorized Officer of the Governmental Lender, and may, in its discretion, establish such additional accounts within any fund, and subaccounts within any of the accounts, as the Governmental Lender or the Fiscal Agent may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that fund and its accounts, or for the purpose of complying with the requirements of the Code relating to arbitrage, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of this Funding Loan Agreement with respect to a deposit or use of money in the funds established hereunder, or result in commingling of funds not permitted hereunder.

Section 4.02. *Borrower Loan Fund*

(a) Deposit. If the Mortgage Loan is insured by HUD under Section 221(d)(4) of the National Housing Act, then the Funding Loan will be disbursed in one or more installments over the course of construction/rehabilitation of the Project, which shall correspond to the disbursements of the Mortgage Loan by the FHA Lender. Except as otherwise provided herein, disbursement(s) of the Funding Loan shall be made to the Fiscal Agent, which shall, upon receipt of each disbursement, deliver such funds to either (a) the Title Company or (b) at the direction of the Borrower. To the extent not disbursed by the Title Company in accordance with the Settlement Statement or by the Borrower in accordance with a construction draw for Project costs, the Fiscal Agent shall deposit any proceeds of the Funding Loan into the Borrower Loan Fund.

(b) Disbursements and Transfers. Amounts on deposit in the Borrower Loan Fund, if any, shall be (i) disbursed from time to time by the Fiscal Agent for the purpose of paying Costs of the Project pursuant to subsection (c) of this Section 4.02 or (ii) transferred to the Revenue Fund at the written direction of the Servicer.

(c) Requisitions. The Fiscal Agent shall receive and maintain in its records Requisitions signed by an Authorized Officer of the Borrower and countersigned by an

Authorized Officer of the Servicer (signifying the Servicer's consent to the Requisition). The Borrower shall submit a Requisition under the Borrower Loan Agreement in connection with each requested draw under the Mortgage Loan Documents. The countersignature of the Authorized Officer of the Servicer on a Requisition shall be deemed a certification and, insofar as the Fiscal Agent and the Governmental Lender are concerned, constitute conclusive evidence, that all of the terms, conditions and requirements of the Mortgage Loan Documents applicable to such disbursement have been fully satisfied or waived.

(d) Notwithstanding anything to the contrary contained herein, no signature of an Authorized Officer of the Borrower shall be required during any period in which a default has occurred and is then continuing under the Loans or any Financing Document (notice of which default has been given in writing by the Funding Lender Representative or the Servicer to the Fiscal Agent and the Governmental Lender, and the Fiscal Agent shall be entitled to conclusively rely on any such written notice as to the occurrence and continuation of such a default).

(e) Amounts on deposit in the Borrower Loan Fund, if any, shall be invested as provided in Section 4.06 hereof. All Investment Income on amounts on deposit in the Borrower Loan Fund shall be deposited by the Fiscal Agent upon receipt thereof in the Revenue Fund.

Section 4.03. *Application of Revenues*

All Revenues received by the Fiscal Agent shall be deposited by the Fiscal Agent, promptly upon receipt thereof, to the Revenue Fund, except (i) the proceeds of the Funding Loan received by the Fiscal Agent on the Delivery Date, if any, which shall be applied in accordance with the provisions of Section 4.02 hereof; (ii) with respect to Investment Income to the extent required under the terms hereof to be retained in the funds and accounts to which they are attributable; and (iii) with respect to amounts required to be transferred between funds and accounts as provided in this Article IV.

Section 4.04. *Application of Revenue Fund*

(a) Subject to Section 2.10 hereof, the Fiscal Agent shall charge the Revenue Fund, on each Interest Payment Date, an amount equal to the unpaid interest and principal due on the Funding Loan on such Interest Payment Date and shall cause the same to be applied to the payment of such interest and principal when due.

(b) Amounts on deposit in the Revenue Fund shall be invested as provided in Section 4.06 hereof. All Investment Income on amounts on deposit in the Revenue Fund shall be retained in and credited to and become a part of the amounts on deposit in the Revenue Fund.

Section 4.05. *Administration Fund*

(a) The Fiscal Agent shall deposit into the Administration Fund, promptly upon receipt thereof, all amounts received from the Borrower designated for deposit into such fund. Amounts in the Administration Fund shall be withdrawn or maintained, as

appropriate, by the Fiscal Agent and used **First**, to pay to the Fiscal Agent when due the Fiscal Agent's Fees and Expenses; **Second**, to pay to the Governmental Lender when due the Governmental Lender Fee; **Third**, to pay when due the reasonable fees and expenses of a Rebate Analyst in connection with the computations relating to any rebate required under this Funding Loan Agreement and the Borrower Loan Agreement, upon receipt of an invoice from the Rebate Analyst.

(b) In the event that the amounts on deposit in the Administration Fund are not equal to the amounts payable from the Administration Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Fiscal Agent shall give notice to the Borrower (with a copy to the Servicer) of such deficiency and of the amount of such deficiency and request payment within two (2) Business Days to the Fiscal Agent of the amount of such deficiency. Upon payment by the Borrower of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent.

(c) All Investment Income on amounts on deposit in the Administration Fund shall be retained in and credited to and become a part of the amounts on deposit in the Administration Fund.

(d) No amount shall be charged against the Administration Fund except as expressly provided in this Article IV and Section 6.05 hereof.

Section 4.06. *Investment of Funds*

The money held by the Fiscal Agent shall constitute trust funds for the purposes hereof. Any money attributable to each of the funds and accounts hereunder shall be, except as otherwise expressly provided herein, invested by the Fiscal Agent, at the written direction of the Borrower and approved in writing by the Funding Lender (or, in the case of the Rebate Fund, as provided in Section 5.06(b)), in Qualified Investments which mature or shall be subject to prepayment or withdrawal at par without penalty on or prior to the date such money is needed. In the absence of written direction from the Borrower, the Fiscal Agent shall invest amounts on deposit in the funds and accounts established under this Funding Loan Agreement in Government Obligations which shall have the same maturity and other restrictions as set forth above. Such investments may be made through the investment or securities department of the Fiscal Agent. The Fiscal Agent may purchase from or sell to itself or an affiliate, as principal or agent, securities herein authorized. The Fiscal Agent shall be entitled to assume, absent receipt by the Fiscal Agent of written notice to the contrary, that any investment which at the time of purchase is a Qualified Investment remains a Qualified Investment thereafter.

Qualified Investments representing an investment of money attributable to any fund or account shall be deemed at all times to be a part of said fund or account, and, except as otherwise may be provided expressly in other Sections hereof, the interest thereon shall be credited to the Revenue Fund. In the case of any required transfer of money to another such fund or account, such investments may be transferred to that fund or account in lieu of the required money if permitted hereby as an investment of money in that fund or account.

The Governmental Lender acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory agency grant the Governmental Lender the right to receive brokerage confirmations of the security transactions as they occur, to the extent permitted by law, the Governmental Lender specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Fiscal Agent hereunder, that no brokerage confirmations need be sent relating to the security transactions as they occur.

Section 4.07. *Accounting Records*

The Fiscal Agent shall maintain accurate books and records for all funds and accounts established hereunder.

Section 4.08. *Amounts Remaining in Funds*

After full payment of the Funding Loan and full payment of the fees, charges and expenses of the Governmental Lender, the Fiscal Agent, the Rebate Analyst, the Funding Lender and other amounts required to be paid hereunder or under any Borrower Loan Document, any amounts remaining in any fund or account hereunder other than the Rebate Fund shall be paid to the Borrower.

Section 4.09. *Rebate Fund; Compliance With Tax Certificate*

The Rebate Fund shall be established by the Fiscal Agent and held and applied as provided in this Section 4.09. On any date on which any amounts are required by applicable federal tax law to be rebated to the federal government, amounts shall be deposited into the Rebate Fund by the Borrower for such purpose. All money at any time deposited in the Rebate Fund shall be held by the Fiscal Agent in trust, to the extent required to satisfy any rebate requirement (as set forth in the Tax Certificate) and as calculated by the Rebate Analyst, for payment to the government of the United States of America, and neither the Governmental Lender, the Borrower nor the Funding Lender shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 4.09 and by the Tax Certificate. The Fiscal Agent shall conclusively be deemed to have complied with such provisions if it follows the written instructions of the Governmental Lender, Bond Counsel or the Rebate Analyst, including supplying all necessary information in the manner set forth in the Tax Certificate, and shall not be required to take any actions under the Tax Certificate in the absence of written instructions from the Governmental Lender, Bond Counsel or the Rebate Analyst.

Within 55 days of the end of each fifth Rebate Year, the Borrower shall cause the Rebate Analyst to calculate the amount of rebatable arbitrage (the “**Rebatable Arbitrage**”), in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Treasury Regulations (taking into account any exceptions with respect to the computation of the Rebatable Arbitrage, described, if applicable, in the Tax Certificate (e.g., the temporary investments exceptions of Section 148(f)(4)(B) and (C) of the Code)), for this purpose treating the last day of the applicable Rebate Year as a (computation) date, within the meaning of Section 1.148-1(b) of the Treasury Regulations. Pursuant to Section 2.04 of the Borrower Loan Agreement, the Borrower shall cause the Rebate Analyst to provide such calculations to the Fiscal Agent and the Governmental Lender. In the event that the Borrower fails to provide such information to the Fiscal Agent and the Governmental Lender within 55 days of the end of each fifth Rebate Year, the Fiscal Agent, at the

expense of the Borrower, shall select the Rebate Analyst, with the prior written approval of the Governmental Lender, and shall cause the Rebate Analyst to calculate the amount of Rebatable Arbitrage as required herein.

Within 55 days of the end of each fifth Rebate Year, upon the written direction of the Governmental Lender, Bond Counsel or the Rebate Analyst, an amount shall be deposited to the Rebate Fund by the Fiscal Agent from amounts provided by the Borrower, if and to the extent required so that the balance in the Rebate Fund shall equal the amount of Rebatable Arbitrage so calculated in accordance with the preceding paragraph.

The Fiscal Agent shall pay, as directed by the Governmental Lender, Bond Counsel or the Rebate Analyst, to the United States Department of the Treasury, out of amounts in the Rebate Fund:

(a) Not later than 60 days after the end of (A) the fifth Rebate Year, and (B) each applicable fifth Rebate Year thereafter, an amount equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Rebate Year; and

(b) Not later than 60 days after the payment in whole of the Funding Loan, an amount equal to 100% of the Rebatable Arbitrage calculated as of the end of such applicable Rebate Year, and any income attributable to the Rebatable Arbitrage, computed in accordance with Section 148(f) of the Code.

Each payment required to be made under this Section shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 (or such other address provided in such direction), on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, which shall be prepared by the Rebate Analyst and provided to the Fiscal Agent.

Notwithstanding any provision of this Funding Loan Agreement to the contrary, the obligation to remit payment of the Rebatable Arbitrage to the United States of America and to comply with all other requirements of Sections 2.04 and 4.03 of the Borrower Loan Agreement and this Section 4.09, and the requirements of the Tax Certificate shall survive the defeasance or payment in full of the Funding Loan.

Any funds remaining in the Rebate Fund after payment in full of the Funding Loan and payment and satisfaction of any Rebatable Arbitrage, or provision made therefor satisfactory to the Fiscal Agent, shall be withdrawn and remitted to the Borrower.

The Fiscal Agent shall obtain and keep such records of the computations made pursuant to this Section 4.09 as are required under Section 148(f) of the Code to the extent furnished to the Fiscal Agent. The Borrower shall or shall cause the Rebate Analyst to provide to the Governmental Lender and the Fiscal Agent copies of all rebate computations made pursuant to this Section 4.09. The Fiscal Agent shall keep and make available to the Borrower such records concerning the investments of the gross proceeds of the Funding Loan and the investments of earnings from those investments made by the Fiscal Agent as may be requested by the Borrower in order to enable the Borrower to cause the Rebate Analyst to make the aforesaid computations as are required under Section 148(f) of the Code.

Notwithstanding the foregoing, the computations and payments of Rebatale Arbitrage need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on an opinion of Bond Counsel, to the effect that such failure will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Governmental Note, a copy of which shall be provided to the Fiscal Agent and the Funding Lender Representative, at the expense of the Borrower.

Section 4.10. *Reports from the Fiscal Agent*

The Fiscal Agent shall, on or before the fifteenth (15th) day of each month, file with the Funding Lender Representative, the Servicer, the Governmental Lender (at its written request) and the Borrower a statement setting forth in respect of the preceding calendar month:

- (a) the amount withdrawn or transferred by it, and the amount deposited within or on account of each fund and account held by it under the provisions of this Funding Loan Agreement, including the amount of Investment Income on each fund and account;
- (b) the amount on deposit with it at the end of such month to the credit of each fund and account;
- (c) a brief description of all obligations held by it as an investment of money in each such fund and account; and
- (d) any other information which the Funding Lender Representative or the Governmental Lender may reasonably request and to which the Fiscal Agent has access in the ordinary course of its operations.

Upon the written request of the Funding Lender, the Fiscal Agent, at the cost of the Borrower, shall provide a copy of such statement to Funding Lender. All records and files pertaining to the Pledged Security shall be open at all reasonable times to the inspection of the Governmental Lender and the Funding Lender Representative or the Servicer and their agents and representatives upon reasonable prior notice during normal business hours.

ARTICLE V

GENERAL COVENANTS AND REPRESENTATIONS

Section 5.01. *Payment of Principal and Interest*

The Governmental Lender covenants that it will promptly pay or cause to be paid, but only from the sources identified herein, sufficient amounts to provide for the payment of the principal of, premium, if any, and interest on the Funding Loan at the place, on the dates and in the manner provided herein and in the Governmental Note, according to the true intent and meaning thereof.

Section 5.02. *Performance of Covenants*

The Governmental Lender covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and provisions contained in this Funding Loan Agreement, in the Governmental Note and in all proceedings pertaining thereto.

Section 5.03. *Instruments of Further Assurance*

The Governmental Lender covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such supplements hereto, and such further acts, instruments and transfers as may be reasonably required for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Fiscal Agent all and singular its interest in the property herein described and the revenues, receipts and other amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Funding Loan. Any and all interest in property hereafter acquired which is of any kind or nature provided herein to be and become subject to the lien hereof shall and without any further conveyance, assignment or act on the part of the Governmental Lender or the Fiscal Agent, become and be subject to the lien of this Funding Loan Agreement as fully and completely as though specifically described herein, but nothing in this sentence contained shall be deemed to modify or change the obligations of the Governmental Lender under this Section 5.03. The Governmental Lender covenants and agrees that, except as herein otherwise expressly provided, it has not and will not sell, convey, mortgage, encumber or otherwise dispose of any part of its interest in the Pledged Security or the revenues or receipts therefrom.

The Governmental Lender will promptly notify the Fiscal Agent, the Funding Lender Representative and the Servicer in writing of the occurrence of any of the following:

- (a) the submission of any claim or the initiation of any legal process, litigation or administrative or judicial investigation against the Governmental Lender with respect to the Loans;
- (b) any change in the location of the Governmental Lender's principal office or any change in the location of the Governmental Lender's books and records relating to the transactions contemplated hereby;
- (c) the occurrence of any default or Event of Default of which the Governmental Lender has actual knowledge;
- (d) the commencement of any proceedings or any proceedings instituted by or against the Governmental Lender in any federal, state or local court or before any governmental body or agency, or before any arbitration board, relating to the Governmental Note; or
- (e) the commencement of any proceedings by or against the Governmental Lender under any applicable bankruptcy, reorganization, liquidation, rehabilitation, insolvency or other similar law now or hereafter in effect or of any proceeding in which a receiver, liquidator, conservator, trustee or similar official shall have been, or may be, appointed or requested for the Governmental Lender or any of its assets relating to the Loans.

Section 5.04. *Inspection of Project Books*

The Governmental Lender covenants and agrees that all books and documents in its possession relating to the Project shall, upon reasonable prior notice, during normal business hours, be open to inspection and copying by such accountants or other agents as the Fiscal Agent or the Funding Lender Representative may from time to time reasonably designate.

Section 5.05. *No Modification of Security; Additional Indebtedness*

The Governmental Lender covenants to and for the benefit of the Funding Lender that it will not, without the prior written consent of the Funding Lender Representative, take any of the following actions:

- (a) alter, modify or cancel, or agree to consent to alter, modify or cancel any agreement to which the Governmental Lender is a party, or which has been assigned to the Governmental Lender, and which relates to or affects the security for the Loans or the payment of any amount owed under the Financing Documents; or
- (b) create or suffer to be created any lien upon the Pledged Security or any part thereof other than the lien created by the Financing Documents or the Mortgage Loan Documents.

Section 5.06. *Tax Covenants*

(a) Governmental Lender's Covenants. The Governmental Lender covenants to and for the benefit of the Funding Lender that it will:

- (i) neither make or use nor cause to be made or used any investment or other use of the proceeds of the Funding Loan or the money and investments held in the funds and accounts in any manner which would cause the Governmental Note to be an "arbitrage bond" under Section 148 of the Code and the Regulations issued under Section 148 of the Code (the "**Regulations**") or which would otherwise cause the interest payable on the Governmental Note to be includable in gross income for federal income tax purposes;
- (ii) enforce or cause to be enforced all obligations of the Borrower under the Tax Regulatory Agreement in accordance with its terms and seek to cause the Borrower to correct any violation of the Tax Regulatory Agreement within a reasonable period after it first discovers or becomes aware of any such violation;
- (iii) not take or cause to be taken any other action or actions, or fail to take any action or actions, if the same would cause the interest payable on the Governmental Note to be includable in gross income for federal income tax purposes;
- (iv) at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Governmental Lender on the Funding Loan will be excluded from the gross income for federal income tax purposes, of the Funding Lender pursuant to the Code, except in the

event where the Funding Lender is a “substantial user” of the facilities financed with the Loans or a “related person” within the meaning of the Code; and

(v) not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Governmental Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations.

In furtherance of the covenants in this Section 5.06, the Governmental Lender and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Funding Loan Agreement and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full, and by its acceptance of this Funding Loan Agreement the Fiscal Agent acknowledges receipt of the Tax Certificate and acknowledges its incorporation into this Funding Loan Agreement by this reference and agrees to comply with the terms specifically applicable to it.

(b) Fiscal Agent’s Covenants. The Fiscal Agent agrees that it will invest funds held under this Funding Loan Agreement in accordance with the covenants and terms of this Funding Loan Agreement and the Tax Certificate (this covenant shall extend through the term of the Funding Loan, to all funds and accounts created under this Funding Loan Agreement and all money on deposit to the credit of any such fund or account). The Fiscal Agent covenants to and for the benefit of the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or of any other Financing Document, it will not knowingly make or cause to be made any investment or other use of the money in the funds or accounts created hereunder which would cause the Governmental Note to be classified as an “arbitrage bond” within the meaning of Sections 103(b) and 148 of the Code or would cause the interest on the Governmental Note to be includable in gross income for federal income tax purposes; provided that the Fiscal Agent shall be deemed to have complied with such requirements and shall have no liability to the extent it reasonably follows the written directions of the Borrower, the Governmental Lender, the Funding Lender Representative, Bond Counsel or the Rebate Analyst. This covenant shall extend, throughout the term of the Funding Loan, to all funds created under this Funding Loan Agreement and all money on deposit to the credit of any such fund. Pursuant to this covenant, with respect to the investments of the funds and accounts under this Funding Loan Agreement, the Fiscal Agent obligates itself to comply throughout the term of the Funding Loan with the requirements of the Tax Certificate; provided that the Fiscal Agent shall be deemed to have complied with such requirements and shall have no liability to the extent it reasonably follows the written directions of the Borrower or the Rebate Analyst. The Fiscal Agent further covenants that should the Governmental Lender or the Borrower file with the Fiscal Agent (it being understood that neither the Governmental Lender nor the Borrower has an obligation to so file), or should the Fiscal Agent receive, an opinion of Bond Counsel to the effect that any proposed investment or other use of proceeds of the Funding Loan would cause the Governmental Note to become an “arbitrage bond,” then the Fiscal Agent will comply with any written instructions of the Governmental Lender, the Borrower, the Funding Lender Representative or Bond Counsel regarding such investment (which shall, in any event, be a Qualified Investment) or use so as to prevent the Governmental Note from becoming an “arbitrage bond,” and the Fiscal Agent will bear

no liability to the Governmental Lender, the Borrower, the Funding Lender or the Funding Lender Representative for investments made in accordance with such instructions.

Section 5.07. *Representations and Warranties of the Governmental Lender*

The Governmental Lender hereby represents and warrants as follows:

(a) The Governmental Lender is a public body corporate and politic, organized and existing under the laws of the State.

(b) The Governmental Lender has all necessary power and authority to execute and deliver the Governmental Note and to execute and deliver this Funding Loan Agreement, the Borrower Loan Agreement and the other Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.

(c) The Financing Documents to which the Governmental Lender is a party have been validly authorized, executed and delivered by the Governmental Lender.

ARTICLE VI

**DEFAULT PROVISIONS AND
REMEDIES OF FISCAL AGENT AND FUNDING LENDER**

Section 6.01. *Events of Default*

Each of the following shall be an event of default with respect to the Funding Loan (an “Event of Default”) under this Funding Loan Agreement:

(a) failure to pay the principal of, premium, if any, or interest on the Funding Loan when due, whether on an Interest Payment Date, at the stated maturity thereof, by proceedings for prepayment thereof, by acceleration or otherwise; or

(b) failure to observe the covenants set forth in Sections 5.05 or 5.06 hereof; or

(c) failure to observe or perform any of the covenants, agreements or conditions on the part of the Governmental Lender (other than those set forth in Sections 5.01 and 5.05 hereof) set forth in this Funding Loan Agreement or in the Governmental Note and the continuance thereof for a period of thirty (30) days (or such longer period, if any, as is specified herein for particular defaults) after written notice thereof to the Governmental Lender from the Fiscal Agent or the Funding Lender Representative specifying such default and requiring the same to be remedied; provided that if such default cannot be cured within such thirty (30) day period through the exercise of diligence and the Governmental Lender commences the required cure within such thirty (30) day period and continues the cure with diligence and the Governmental Lender reasonably anticipates that the default could be cured within sixty (60) days, the Governmental Lender shall have sixty (60) days following receipt of such notice to effect the cure; or

(d) receipt by the Fiscal Agent of written notice from the Funding Lender Representative of the occurrence of an “Event of Default” under the Borrower Loan Agreement or the Mortgage Loan Documents.

The Fiscal Agent will promptly notify the Governmental Lender, the Servicer and the Funding Lender Representative after an Authorized Officer of the Fiscal Agent obtains actual knowledge of the occurrence of an Event of Default or obtains actual knowledge of the occurrence of an event which would become an Event of Default with the passage of time or the giving of notice or both.

Section 6.02. *Acceleration; Other Remedies Upon Event of Default*

Upon the occurrence of an Event of Default, the Fiscal Agent shall, upon the written request of the Funding Lender Representative, by notice in writing delivered to the Governmental Lender, declare the principal of the Funding Loan and the interest accrued thereon immediately due and payable, and interest shall continue to accrue thereon until such amounts are paid.

At any time after the Funding Loan shall have been so declared due and payable, and before any judgment or decree for the payment of the money due shall have been obtained or entered, the Fiscal Agent may, but only if directed in writing by the Funding Lender Representative, by written notice to the Governmental Lender and the Fiscal Agent, rescind and annul such declaration and its consequences if the Governmental Lender or the Borrower shall pay to or deposit with the Fiscal Agent a sum sufficient to pay all principal on the Funding Loan then due (other than solely by reason of such declaration) and all unpaid installments of interest (if any) on the Funding Loan then due, with interest at the rate borne by the Funding Loan on such overdue principal and (to the extent legally enforceable) on such overdue installments of interest, and the reasonable fees and expenses of the Fiscal Agent (including its counsel) shall have been made good or cured or adequate provision shall have been made therefor, and all outstanding amounts then due and unpaid under the Financing Documents shall have been paid in full, and all other defaults hereunder shall have been made good or cured or waived in writing by the Funding Lender Representative; but no such rescission and annulment shall extend to or shall affect any subsequent default, nor shall it impair or exhaust any right or power consequent thereon.

Upon the occurrence and during the continuance of an Event of Default, the Fiscal Agent in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Funding Lender, may also proceed to protect and enforce any rights of the Fiscal Agent and, to the full extent that the Funding Lender itself might do, the rights of the Funding Lender under the laws of the State or under this Funding Loan Agreement by such of the following remedies as the Fiscal Agent shall deem most effectual to protect and enforce such rights; provided that, the Fiscal Agent may undertake any such remedy only upon the receipt of the prior written consent of the Funding Lender Representative (which consent may be given in the sole discretion of the Funding Lender Representative):

(i) by mandamus or other suit, action or proceeding at law or in equity, to enforce the payment of the principal of, premium, if any, or interest on the Funding Loan and to require the Governmental Lender to carry out any covenants or agreements with or for the benefit of the Funding Lender and to perform its duties under the Act, this Funding Loan Agreement, the Borrower Loan Agreement or the

Tax Regulatory Agreement (as applicable) to the extent permitted under the applicable provisions thereof;

(ii) by pursuing any available remedies under the Borrower Loan Agreement, the Tax Regulatory Agreement or any other Financing Document;

(iii) by realizing or causing to be realized through sale or otherwise upon the security pledged hereunder; and

(iv) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Funding Lender and execute any other papers and documents and do and perform any and all such acts and things as may be necessary or advisable in the opinion of the Fiscal Agent in order to have the claim of the Funding Lender against the Governmental Lender allowed in any bankruptcy or other proceeding.

No remedy by the terms of this Funding Loan Agreement conferred upon or reserved to the Fiscal Agent or to the Funding Lender is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Fiscal Agent or the Funding Lender hereunder or under the Borrower Loan Agreement, the Tax Regulatory Agreement, the Mortgage Loan Documents or any other Financing Document, as applicable, or now or hereafter existing at law or in equity or by statute. No delay or omission 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, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder, whether by the Fiscal Agent or the Funding Lender, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereto.

Notwithstanding any provision in this Funding Loan Agreement to the contrary, neither the Fiscal Agent nor the Funding Lender may pursue any remedies hereunder against the Governmental Lender for an Event of Default under Section 6.01(a) hereunder unless and until the FHA Lender has pursued all available remedies under the Mortgage Loan Documents. Any amounts received by or on behalf of the FHA Lender pursuant to an exercise of remedies under the Mortgage Loan Documents that are applied to the Borrower's payment obligations under the Mortgage Note shall be applied dollar-for-dollar against the payment obligations due to the Funding Lender under the Governmental Note.

Section 6.03. Funding Lender Representative Control of Proceedings

If an Event of Default has occurred and is continuing, notwithstanding anything to the contrary herein, the Funding Lender Representative shall have the sole and exclusive right at any time to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Funding Loan Agreement, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Funding Loan Agreement. In addition, the Funding Lender Representative shall have the sole and exclusive right at any time to directly enforce all rights and remedies hereunder and under the other Financing Documents with or without the involvement of the Fiscal Agent or

the Governmental Lender (and in connection therewith the Fiscal Agent shall transfer or assign to the Funding Lender Representative all of its interest in the Pledged Security at the request of the Funding Lender Representative). In no event shall the exercise of any of the foregoing rights result in an acceleration of the Funding Loan without the express direction of the Funding Lender Representative.

Section 6.04. *Waiver by Governmental Lender*

Upon the occurrence of an Event of Default, to the extent that such right may then lawfully be waived, neither the Governmental Lender nor anyone claiming through or under it shall set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or prepayment laws now or hereinafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisal and prepayment to which it may be entitled under the laws of the State and the United States of America.

Section 6.05. *Application of Money After Default*

All money collected by the Fiscal Agent at any time pursuant to this Article shall, except to the extent, if any, otherwise directed by a court of competent jurisdiction, be credited by the Fiscal Agent to the Revenue Fund. Such money so credited to the Revenue Fund and all other money from time to time credited to the Revenue Fund shall at all times be held, transferred, withdrawn and applied as prescribed by the provisions of Article IV hereof and this Section 6.05.

In the event that at any time the money credited to the Revenue Fund available for the payment of interest or principal then due with respect to the Governmental Note shall be insufficient for such payment, such money shall be applied as follows and in the following order of priority:

(a) For payment of all amounts due to the Fiscal Agent incurred in performance of its duties under this Funding Loan Agreement, including, without limitation, the payment of all reasonable fees and expenses of the Fiscal Agent incurred in exercising any remedies under this Funding Loan Agreement.

(b) Unless the full principal amount of the Funding Loan shall have become or have been declared due and payable:

FIRST, to the Funding Lender, all installments of interest then due on the Funding Loan in the order of the maturity of such installments; and

SECOND, to the Funding Lender, unpaid principal of and premium, if any, on the Funding Loan which shall have become due, whether at maturity or by call for prepayment, in the order in which they became due and payable.

(c) If the full principal amount of the Governmental Note shall have become or have been declared due and payable, to the Funding Lender for the payment of the principal

of, premium, if any, and interest then due and unpaid on the Funding Loan without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest.

Section 6.06. Remedies Not Exclusive

No right or remedy conferred upon or reserved to the Fiscal Agent, the Funding Lender or the Funding Lender Representative by the terms of this Funding Loan Agreement is intended to be exclusive of any other right or remedy, but each and every such remedy shall be cumulative and shall be in addition to every other right or remedy given to the Fiscal Agent, the Funding Lender or the Funding Lender Representative under this Funding Loan Agreement or existing at law or in equity or by statute (including the Act).

Section 6.07. Fiscal Agent May Enforce Rights Without Governmental Note

All rights of action and claims, including the right to file proof of claims, under this Funding Loan Agreement may be prosecuted and enforced by the Fiscal Agent at the written direction of the Funding Lender Representative without the possession of the Governmental Note or the production thereof in any trial or other proceedings relating thereto. Subject to the rights of the Funding Lender Representative to direct proceedings hereunder, any such suit or proceeding instituted by the Fiscal Agent shall be brought in its name as Fiscal Agent without the necessity of joining as plaintiffs or defendants any Funding Lender, and any recovery or judgment shall be for the benefit as provided herein of the Funding Lender.

Section 6.08. Termination of Proceedings

In case the Fiscal Agent (at the direction of the Funding Lender Representative) or the Funding Lender Representative shall have proceeded to enforce any right under this Funding Loan Agreement by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower and the Funding Lender shall be restored to their former positions and rights hereunder with respect to the Pledged Security herein conveyed, and all rights, remedies and powers of the Fiscal Agent and the Funding Lender Representative shall continue as if no such proceedings had been taken.

Section 6.09. Waivers of Events of Default

The Fiscal Agent shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on the Funding Loan upon the written direction of the Funding Lender Representative. In case of any such waiver or rescission, or in case any proceeding taken by the Fiscal Agent on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case the Governmental Lender, the Fiscal Agent, the Borrower, the Servicer, the Funding Lender Representative and the Funding Lender shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereto.

Section 6.10. *Interest on Unpaid Amounts and Default Rate for Nonpayment*

In the event that principal of or interest payable on the Funding Loan is not paid when due, there shall be payable on the amount not timely paid, on each Interest Payment Date, interest at the Default Rate, to the extent permitted by law. Interest on the Funding Loan shall accrue at the Default Rate until the unpaid amount, together with interest thereon, shall have been paid in full.

Section 6.11. *Assignment of Borrower Loan; Remedies Under the Borrower Loan*

(a) The Funding Lender Representative shall have the right, with respect to the Borrower Loan, in its sole and absolute discretion, without directing the Fiscal Agent to effect an acceleration of the Funding Loan, to instruct the Fiscal Agent in writing to assign the Borrower Loan Documents to the Funding Lender Representative, in which event the Fiscal Agent shall (a) execute and deliver to the Funding Lender Representative all documents prepared by the Funding Lender Representative necessary to assign (in recordable form) the Borrower Loan Documents to the Funding Lender Representative and (b) execute all such documents prepared by the Funding Lender Representative as are necessary to legally and validly effectuate the assignments provided for in the preceding clause (a). The Fiscal Agent's assignments to the Funding Lender Representative pursuant to this Section 6.11 shall be without recourse or warranty except that the Fiscal Agent shall represent and warrant in connection therewith (A) that the Fiscal Agent has not previously endorsed or assigned any such documents or instruments and (B) that the Fiscal Agent has the corporate authority to endorse and assign such documents and instruments and such endorsements and assignments have been duly authorized.

(b) The Funding Lender Representative shall have the right, in its own name or on behalf of the Governmental Lender or the Fiscal Agent, to declare any default and exercise any remedies under the Borrower Loan Agreement, whether or not the Governmental Note has been accelerated or declared due and payable by reason of an Event of Default or the occurrence of a mandatory prepayment.

ARTICLE VII

CONCERNING THE FISCAL AGENT

Section 7.01. *Standard of Care*

The Fiscal Agent, prior to an Event of Default as defined in Section 6.01 hereof and after the curing or waiver of all such events which may have occurred, shall perform such duties and only such duties as are specifically set forth in this Funding Loan Agreement. The Fiscal Agent, during the existence of any such Event of Default (which shall not have been cured or waived), shall exercise such rights and powers vested in it by this Funding Loan Agreement and use the same degree of care and skill in its exercise as a prudent Person would exercise or use under similar circumstances in the conduct of such Person's own affairs.

No provision of this Funding Loan Agreement shall be construed to relieve the Fiscal Agent from liability for its breach of trust, own negligence or willful misconduct, except that:

(a) prior to an Event of Default hereunder, and after the curing or waiver of all such Events of Default which may have occurred:

(i) the duties and obligations of the Fiscal Agent shall be determined solely by the express provisions of this Funding Loan Agreement, and the Fiscal Agent shall not be liable except with regard to the performance of such duties and obligations as are specifically set forth in this Funding Loan Agreement; and

(ii) in the absence of bad faith on the part of the Fiscal Agent, the Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Fiscal Agent by the Person or Persons authorized to furnish the same;

(b) at all times, regardless of whether or not any such Event of Default shall exist:

(i) the Fiscal Agent shall not be liable for any error of judgment made in good faith by an officer or employee of the Fiscal Agent except for willful misconduct or negligence by the officer or employee of the Fiscal Agent as the case may be; and

(ii) the Fiscal Agent shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Funding Lender Representative relating to the time, method and place of conducting any proceeding for any remedy available to the Fiscal Agent, or exercising any trust or power conferred upon the Fiscal Agent under this Funding Loan Agreement.

Section 7.02. *Reliance Upon Documents*

Except as otherwise provided in Section 7.01 hereof:

(a) the Fiscal Agent may rely upon the authenticity or truth of the statements and the correctness of the opinions expressed in, and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, notarial seal, stamp, acknowledgment, verification, request, consent, order, bond, or other paper or document of the proper party or parties, including any Electronic Notice as permitted hereunder or under the Borrower Loan Agreement;

(b) any notice, request, direction, election, order or demand of the Governmental Lender mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Governmental Lender by an Authorized Officer of the Governmental Lender (unless other evidence in respect thereof be herein specifically prescribed), and any resolution of the Governmental Lender may be evidenced to the Fiscal Agent by a copy of such resolution duly certified by an Authorized Officer of the Governmental Lender;

(c) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Borrower mentioned herein shall be sufficiently evidenced by an

instrument purporting to be signed in the name of the Borrower by any Authorized Officer of the Borrower (unless other evidence in respect thereof be herein specifically prescribed), and any resolution or certification of the Borrower may be evidenced to the Fiscal Agent by a copy of such resolution duly certified by a secretary or other authorized representative of the Borrower;

(d) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Servicer mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Servicer by an Authorized Officer of the Servicer (unless other evidence in respect thereof be herein specifically prescribed);

(e) any notice, request, direction, election, order or demand of the Funding Lender Representative mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Funding Lender Representative by any Authorized Officer of the Funding Lender Representative (unless other evidence in respect thereof be herein specifically prescribed);

(f) in the administration of the trusts of this Funding Loan Agreement, the Fiscal Agent may execute any of the trusts or powers hereby granted directly or through its agents, receivers or attorneys, and the Fiscal Agent may consult with counsel (who may be counsel for the Governmental Lender, the Servicer or the Funding Lender Representative) and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or permitted by it hereunder in good faith and in accordance with the opinion of such counsel;

(g) whenever in the administration of the trusts of this Funding Loan Agreement, the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or permitting any action hereunder, such matters (unless other evidence in respect thereof be herein specifically prescribed), may in the absence of negligence or willful misconduct on the part of the Fiscal Agent, be deemed to be conclusively proved and established by a certificate of the Governmental Lender or the Borrower and such certificate shall in the absence of bad faith on the part of the Fiscal Agent be full warrant to the Fiscal Agent for any action taken or permitted by it under the provisions of this Funding Loan Agreement, but in its discretion the Fiscal Agent may in lieu thereof accept other evidence of such matter or may require such further or additional evidence as it may deem reasonable;

(h) the recitals herein and in the Governmental Note (except the Fiscal Agent's certificate of authentication thereon) shall not be considered as made by or imposing any obligation or liability upon the Fiscal Agent. The Fiscal Agent makes no representations as to the value or condition of the Pledged Security or any part thereof, or as to the title of the Governmental Lender or the Borrower to the Pledged Security, or as to the security of this Funding Loan Agreement, or of the Governmental Note issued hereunder, and the Fiscal Agent shall incur no liability or responsibility in respect of any of such matters;

(i) the Fiscal Agent shall not be personally liable for debts contracted or liability for damages incurred in the management or operation of the Pledged Security except for its own willful misconduct or negligence; and every provision of this Funding

Loan Agreement relating to the conduct or affecting the liability of or affording protection to the Fiscal Agent shall be subject to the provisions of this Section 7.02(i);

(j) the Fiscal Agent shall not be required to ascertain or inquire as to the performance or observance of any of the covenants or agreements (except to the extent they obligate the Fiscal Agent) herein or in any contracts or securities assigned or conveyed to or pledged with the Fiscal Agent hereunder, except Events of Default that are evident under Section 6.01(a) hereof. The Fiscal Agent shall not be required to take notice or be deemed to have notice or actual knowledge of any default or Event of Default specified in Section 6.01 hereof (except defaults under Section 6.01(a) hereof to the extent they are collecting loan payments hereunder) unless the Fiscal Agent shall receive from the Governmental Lender or the Funding Lender Representative written notice stating that a default or Event of Default has occurred and specifying the same, and in the absence of such notice the Fiscal Agent may conclusively assume that there is no such default. Every provision contained in this Funding Loan Agreement or related instruments or in any such contract or security wherein the duty of the Fiscal Agent depends on the occurrence and continuance of such default shall be subject to the provisions of this Section 7.02(j);

(k) the Fiscal Agent shall be under no duty to confirm or verify any financial or other statements or reports or certificates furnished pursuant to any provisions hereof, except to the extent such statement or reports are furnished by or under the direction of the Fiscal Agent, and shall be under no other duty in respect of the same except to retain the same in its files and permit the inspection of the same at reasonable times by the Funding Lender; and

(l) the Fiscal Agent shall be under no obligation to exercise those rights or powers vested in it by this Funding Loan Agreement, other than such rights and powers which it shall be obliged to exercise in the ordinary course of acting as Fiscal Agent under the terms and provisions of this Funding Loan Agreement and as required by law, at the request or direction of the Funding Lender Representative pursuant to Section 6.03 hereof, unless the Funding Lender Representative shall have offered to the Fiscal Agent reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in the compliance with such request or direction.

None of the provisions contained in this Funding Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

The Fiscal Agent is authorized and directed to execute in its capacity as Fiscal Agent, the Borrower Loan Agreement and the Tax Regulatory Agreement and shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the delivery of the Governmental Note.

The Fiscal Agent or any of its affiliates may act as advisor or sponsor with respect to any Qualified Investments.

The Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to this Funding Loan Agreement.

Any resolution, certification, notice, request, direction, election, order or demand delivered to the Fiscal Agent pursuant to this Section 7.02 shall remain in effect until the Fiscal Agent receives written notice to the contrary from the party that delivered such instrument accompanied by revised information for such party.

The Fiscal Agent shall have no responsibility for the value of any collateral or with respect to the perfection or priority of any security interest in any collateral except as otherwise provided in Section 7.15 hereof.

Section 7.03. *Use of Proceeds*

The Fiscal Agent shall not be accountable for the use or application of the Governmental Note authenticated or delivered hereunder or of the proceeds of the Funding Loan except as provided herein.

Section 7.04. *Trust Imposed*

All money received by the Fiscal Agent shall, until used or applied as provided herein, be held in trust for the purposes for which it was received.

Section 7.05. *Compensation of Fiscal Agent*

The Fiscal Agent shall be entitled to its Fiscal Agent's Fees and Expenses in connection with the services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties of the Fiscal Agent hereunder or under any Financing Document to the extent money is available therefor, in accordance with Section 4.05 hereof. If any property, other than cash, shall at any time be held by the Fiscal Agent subject to this Funding Loan Agreement, or any supplement hereto, as security for the Funding Loan, the Fiscal Agent, if and to the extent authorized by a receivership, bankruptcy, or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Funding Loan Agreement as such security for the Funding Loan, shall be entitled to make advances for the purpose of preserving such property or of discharging tax liens or other liens or encumbrances thereon. Payment to the Fiscal Agent for its services and reimbursement to the Fiscal Agent for its expenses, disbursements, liabilities and advances, shall be limited to the sources described in the Borrower Loan Agreement and in Sections 4.05, 4.08 and 6.05 hereof. The Governmental Lender shall have no liability for Fiscal Agent's fees, costs or expenses. Subject to the provisions of Section 7.08 hereof, the Fiscal Agent agrees that it shall continue to perform its duties hereunder and under the Financing Documents even in the event that money designated for payment of its fees shall be insufficient for such purposes or in the event that the Borrower fails to pay the Fiscal Agent's Fees and Expenses as required by the Borrower Loan Agreement.

Subject to the Section 8.17 of the Borrower Loan Agreement, the Borrower shall indemnify and hold harmless the Fiscal Agent and its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants and servants, past, present or future, from and against (a) any and all claims by or on behalf of any person arising from any cause whatsoever in connection with this Funding Loan Agreement or transactions contemplated hereby, the Project, or the delivery of the Governmental Note or the Loans; (b) any and all claims arising from any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in

connection with the Project, or the delivery of the Governmental Note or the Loans; and (c) all costs, counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought thereon; except that the Borrower shall not be required to indemnify any person for damages caused by the gross negligence, willful misconduct or unlawful acts of such person or which arise from events occurring after the Borrower ceases to own the Project. In the event that any action or proceeding is brought or claim made against the Fiscal Agent, or any of its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants or servants, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice thereof from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The indemnified party shall have the right to approve a settlement to which it is a party and to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel. The provisions of this Section 7.05 shall survive the termination of this Funding Loan Agreement.

Section 7.06. *Qualifications of Fiscal Agent*

There shall at all times be a Fiscal Agent hereunder which shall be an association or a corporation organized and doing business under the laws of the United States of America or any state thereof, authorized under such laws to exercise corporate trust powers. Any successor Fiscal Agent shall have a combined capital and surplus of at least \$50,000,000 (or shall be a wholly-owned subsidiary of an association or corporation that has such combined capital and surplus) and be subject to supervision or examination by federal or state authority, or shall have been appointed by a court of competent jurisdiction pursuant to Section 7.10 hereof. If such association or corporation publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to above, then for the purposes of this Section 7.06, the combined capital and surplus of such association or corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Fiscal Agent shall cease to be eligible in accordance with the provisions of this Section 7.06 and another association or corporation is eligible, the Fiscal Agent shall resign immediately in the manner and with the effect specified in Section 7.08 hereof.

Section 7.07. *Merger of Fiscal Agent*

Any association or corporation into which the Fiscal Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any association or corporation resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party shall, ipso facto, be and become successor Fiscal Agent hereunder and vested with all the title to the whole property or Pledged Security and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding, and shall also be and become successor Fiscal Agent in respect of the legal interest of the Fiscal Agent in the Loans.

Section 7.08. *Resignation by the Fiscal Agent*

The Fiscal Agent may at any time resign from the trusts hereby created by giving written notice to the Governmental Lender, the Borrower, the Servicer and the Funding Lender Representative. Such notice to the Governmental Lender, the Borrower, the Servicer and the Funding Lender Representative may be served personally or sent by certified mail or overnight delivery service. The resignation of the Fiscal Agent shall not be effective until a successor Fiscal Agent has been appointed as provided herein and such successor Fiscal Agent shall have agreed in writing to be bound by the duties and obligations of the Fiscal Agent hereunder.

Section 7.09. *Removal of the Fiscal Agent*

The Fiscal Agent may be removed at any time, either with or without cause, with the consent of the Funding Lender Representative (which consent of the Funding Lender Representative shall not be unreasonably withheld), by a written instrument signed by the Governmental Lender and delivered to the Fiscal Agent, the Servicer and the Borrower. The Fiscal Agent may also be removed by a written instrument signed by the Funding Lender Representative and delivered to the Fiscal Agent, the Servicer, the Governmental Lender and the Borrower. In each case written notice of such removal shall be given to the Servicer, the Borrower and to the Funding Lender. Any such removal shall take effect on the day specified in such written instrument(s), but the Fiscal Agent shall not be discharged from the trusts hereby created until a successor Fiscal Agent has been appointed and has accepted such appointment and has agreed in writing to be bound by the duties and obligations of the Fiscal Agent hereunder.

Section 7.10. *Appointment of Successor Fiscal Agent*

(a) In case at any time the Fiscal Agent shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Fiscal Agent or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Fiscal Agent or of its property or affairs, a vacancy shall forthwith and ipso facto be created in the office of such Fiscal Agent hereunder, and the Governmental Lender, with the written consent of the Funding Lender Representative, shall promptly appoint a successor Fiscal Agent. Any such appointment shall be made by a written instrument executed by an Authorized Officer of the Governmental Lender. If the Governmental Lender fails to appoint a successor Fiscal Agent within ten (10) days following the resignation or removal of the Fiscal Agent pursuant to Section 7.08 or Section 7.09 hereunder, as applicable, the Funding Lender Representative may appoint a successor Fiscal Agent.

(b) If, in a proper case, no appointment of a successor Fiscal Agent shall be made pursuant to subsection (a) of this Section 7.10 within sixty (60) days following delivery of all required notices of resignation given pursuant to Section 7.08 hereof or of removal of the Fiscal Agent pursuant to Section 7.09 hereof, the retiring Fiscal Agent may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent. The court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Fiscal Agent.

Section 7.11. *Concerning Any Successor Fiscal Agent*

Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Governmental Lender a written instrument accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the Pledged Security and the rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Governmental Lender, the Borrower or the Funding Lender Representative, or of its successor, and upon payment of all amounts due such predecessor, including but not limited to fees and expenses of counsel, execute and deliver such instruments as may be appropriate to transfer to such successor Fiscal Agent all the Pledged Security and the rights, powers and trusts of such predecessor hereunder; and every predecessor Fiscal Agent shall deliver all securities and money held by it as Fiscal Agent hereunder to its successor. Should any instrument in writing from the Governmental Lender be required by a successor Fiscal Agent for more fully and certainly vesting in such successor the Pledged Security and all rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Governmental Lender. The resignation of any Fiscal Agent and the instrument or instruments removing any Fiscal Agent and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed and/or recorded by the successor Fiscal Agent in each recording office where this Funding Loan Agreement shall have been filed and/or recorded. Each successor Fiscal Agent shall mail notice by first class mail, postage prepaid, at least once within 30 days of such appointment, to the Funding Lender.

Section 7.12. *Successor Fiscal Agent*

In the event of a change in the office of Fiscal Agent, the predecessor Fiscal Agent which shall have resigned or shall have been removed shall cease to be Fiscal Agent with respect to the Governmental Note, and the successor Fiscal Agent shall become such Fiscal Agent.

Section 7.13. *Appointment of Co-Fiscal Agent or Separate Fiscal Agent*

It is the intent of the Governmental Lender and the Fiscal Agent that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Fiscal Agent in such jurisdiction. It is recognized that in case of litigation under or connected with this Funding Loan Agreement, the Borrower Loan Agreement or any of the other Financing Documents, and, in particular, in case of the enforcement of any remedies on default, or in case the Fiscal Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein or therein granted to the Fiscal Agent or hold title to the properties in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Fiscal Agent, with the consent of the Governmental Lender and the Funding Lender Representative, appoint an additional individual or institution as a co-fiscal agent or separate fiscal agent.

In the event that the Fiscal Agent appoints an additional individual or institution as a co-fiscal agent or separate fiscal agent, in the event of the incapacity or lack of authority of the Fiscal Agent, by reason of any present or future law of any jurisdiction, to exercise any of the

rights, powers, trusts and remedies granted to the Fiscal Agent herein or to hold title to the Pledged Security or to take any other action that may be necessary or desirable in connection therewith, each and every remedy, power, right, obligation, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Funding Loan Agreement to be imposed upon, exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be imposed upon, exercisable by and vest in such separate fiscal agent or co-fiscal agent, but only to the extent necessary to enable such co-fiscal agent or separate fiscal agent to exercise such powers, rights, trusts and remedies, and every covenant and obligation necessary to the exercise thereof by such co-fiscal agent or separate fiscal agent shall run to and be enforceable by either of them, subject to the remaining provisions of this Section 7.13. Such co-fiscal agent or separate fiscal agent shall deliver an instrument in writing acknowledging and accepting its appointment hereunder to the Governmental Lender and the Fiscal Agent.

Should any instrument in writing from the Governmental Lender be required by the co-fiscal agent or separate fiscal agent so appointed by the Fiscal Agent for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Governmental Lender, the Fiscal Agent and the Borrower. If the Governmental Lender shall fail to deliver the same within thirty (30) days of such request, the Fiscal Agent is hereby appointed attorney-in-fact for the Governmental Lender to execute, acknowledge and deliver such instruments in the Governmental Lender's name and stead. In case any co-fiscal agent or separate fiscal agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such co-fiscal agent or separate fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a new Fiscal Agent or successor to such co-fiscal agent or separate fiscal agent.

Every co-fiscal agent or separate fiscal agent shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

(a) the Governmental Note shall be authenticated and delivered, and all rights, powers, trusts, duties and obligations by this Funding Loan Agreement conferred upon the Fiscal Agent in respect of the custody, control or management of money, papers, securities and other personal property shall be exercised solely by the Fiscal Agent;

(b) all rights, powers, trusts, duties and obligations conferred or imposed upon the Fiscal Agent shall be conferred or imposed upon or exercised or performed by the Fiscal Agent, or by the Fiscal Agent and such co-fiscal agent, or separate fiscal agent jointly, as shall be provided in the instrument appointing such co-fiscal agent or separate fiscal agent, except to the extent that under the law of any jurisdiction in which any particular act or acts are to be performed the Fiscal Agent shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-fiscal agent or separate fiscal agent;

(c) any request in writing by the Fiscal Agent to any co-fiscal agent or separate fiscal agent to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking or the refraining from taking of such action by such co-fiscal agent or separate fiscal agent;

(d) any co-fiscal agent or separate fiscal agent to the extent permitted by law shall delegate to the Fiscal Agent the exercise of any right, power, trust, duty or obligation, discretionary or otherwise;

(e) the Fiscal Agent at any time by an instrument in writing with the concurrence of the Governmental Lender evidenced by a certified resolution may accept the resignation of or remove any co-fiscal agent or separate fiscal agent appointed under this Section 7.13 and in case an Event of Default shall have occurred and be continuing, the Fiscal Agent shall have power to accept the resignation of or remove any such co-fiscal agent or separate fiscal agent without the concurrence of the Governmental Lender, and upon the request of the Fiscal Agent, the Governmental Lender shall join with the Fiscal Agent in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-fiscal agent or separate fiscal agent so resigned or removed may be appointed in the manner provided in this Section 7.13;

(f) no Fiscal Agent or co-fiscal agent hereunder shall be personally liable by reason of any act or omission of any other Fiscal Agent hereunder;

(g) any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing executed by the Funding Lender Representative and delivered to the Fiscal Agent shall be deemed to have been delivered to each such co-fiscal agent or separate fiscal agent; and

(h) any money, papers, securities or other items of personal property received by any such co-fiscal agent or separate fiscal agent hereunder shall forthwith, so far as may be permitted by law, be turned over to the Fiscal Agent.

The total compensation of the Fiscal Agent and any co fiscal agent or separate fiscal agent shall be as, and may not exceed the amount, provided in Section 7.05 hereof.

Section 7.14. *Notice of Certain Events*

The Fiscal Agent shall give written notice to the Governmental Lender, the Servicer and the Funding Lender Representative of any failure by the Borrower to comply with the terms of the Tax Regulatory Agreement or any Determination of Taxability of which an Authorized Officer of the Fiscal Agent has actual knowledge.

Section 7.15. *Filing of Financing Statements*

The Fiscal Agent shall, at the expense of the Borrower, file or record or cause to be filed or recorded all UCC continuation statements for the purpose of continuing without lapse the effectiveness of those financing statements which have been filed on or approximately on the Delivery Date in connection with the security for the Funding Loan pursuant to the authority of the UCC. Upon the filing of any such continuation statement the Fiscal Agent shall immediately notify the Governmental Lender, the Borrower, the Funding Lender Representative and the Servicer that the same has been done. If direction is given by the Servicer or the Funding Lender Representative, the Fiscal Agent shall file all continuation statements in accordance with such directions.

Section 7.16. *USA Patriot Act Requirements of the Fiscal Agent*

To help the government of the United States of America fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual Person such as a business entity, a charity, a trust, or other legal entity, the Fiscal Agent may request documentation to verify such Person's formation and existence as a legal entity. The Fiscal Agent may also request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent such Person or other relevant documentation.

ARTICLE VIII

AMENDMENTS OF CERTAIN DOCUMENTS

Section 8.01. *Amendments to This Funding Loan Agreement*

Any of the terms of this Funding Loan Agreement and the Governmental Note may be amended or waived only by an instrument signed by the Fiscal Agent and the Governmental Lender, and with the prior written consent of the Funding Lender Representative.

Section 8.02. *Amendments to Financing Documents Require Consent of Funding Lender Representative*

Neither the Governmental Lender nor the Fiscal Agent shall consent to any amendment, change or modification of any Financing Document without the prior written consent of the Funding Lender Representative. The Fiscal Agent shall enter into such amendments to the Financing Documents as shall be directed by the Funding Lender Representative.

Section 8.03. *Opinion of Bond Counsel Required*

No amendment to this Funding Loan Agreement, the Governmental Note, the Borrower Loan Agreement or the Tax Regulatory Agreement shall become effective unless and until (i) the Funding Lender Representative shall have consented to the same in writing in its sole discretion and (ii) the Funding Lender Representative, the Governmental Lender and the Fiscal Agent shall have received, at the expense of the Borrower, (A) an opinion of Bond Counsel to the effect that such amendment, change or modification will not, in and of itself, cause interest on the Governmental Note to be includable in gross income of the holders thereof for federal income tax purposes, and (B) an opinion of counsel acceptable to the Funding Lender Representative to the effect that any such proposed amendment, change or modification is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

ARTICLE IX

MISCELLANEOUS

Section 9.01. *Servicing of the Loans; Responsibilities of Servicer.*

(a) The Funding Lender Representative may, in accordance with and as provided in Section 3.02 of the Borrower Loan Agreement, appoint a Servicer (which may be the Funding Lender Representative if the Funding Lender Representative elects to service the Loans) to service the Loans.

(b) Except as otherwise set forth in the Financing Documents and in the Mortgage Loan Documents, the Servicer shall receive from the Borrower payments for all amounts due hereunder, under the Borrower Loan Agreement and under the Mortgage Loan Documents, and shall remit such payments as provided herein and therein. In the event that the Borrower fails to timely deposit with the Servicer payment for any amounts due, the Servicer shall provide notice of such failure as set forth herein. In addition, to the extent and in the manner required hereunder and under the Borrower Loan Agreement, the Servicer shall (i) provide written direction to transfer funds from the Borrower Loan Fund as set forth in Section 4.02(b) hereof, (ii) approve any Requisitions as set forth in Section 4.02(c) hereof, (iii) provide notices of default as set forth in Section 4.02(d) hereof, (iv) to the extent it receives any insurance or condemnation proceeds, shall utilize such proceeds as provided in the Mortgage Loan Documents, (v) perform any record-keeping services, as applicable, as set forth in the Borrower Loan Agreement and (vi) to the extent the Servicer is a successor Servicer, signify its acceptance of the duties and obligations imposed upon it by this Funding Loan Agreement and the Borrower Loan Agreement by executing such instrument(s) as shall be acceptable to the Funding Lender Representative.

Section 9.02. *Limitation of Rights*

With the exception of rights herein expressly conferred, nothing expressed or to be implied from this Funding Loan Agreement or the Governmental Note is intended or shall be construed to give to any Person other than the parties hereto, the Funding Lender, the Funding Lender Representative, the Servicer and the Borrower, any legal or equitable right, remedy or claim under or in respect to this Funding Loan Agreement or any covenants, conditions and provisions hereof.

Section 9.03. *Severability*

If any provision of this Funding Loan Agreement shall be held or deemed to be, or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or sections in this Funding Loan Agreement contained, shall not affect the remaining portions of this Funding Loan Agreement, or any part thereof.

Section 9.04. Notices

(a) Whenever in this Funding Loan Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the Person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below or as may be required or permitted by this Funding Loan Agreement by Electronic Notice. The Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

The Governmental Lender: Housing Authority of the City of San Diego
1122 Broadway, Suite 300
San Diego, California 92101
Attention: Executive Director
Telephone: (619) 578-7575

The Fiscal Agent: U.S. Bank National Association
Global Corporate Trust Services
633 West 5th Street
Los Angeles, California 90071
Attention: Julia Hommel
Facsimile: (213) 615-6199
Telephone: (213) 615-6024

The Borrower: Rancho Bernardo Senior Housing, L.P.
c/o Affirmed Housing Group, Inc.
13520 Evening Creek Drive N, Suite 160
San Diego, California 92128
Attention: James Silverwood, President
Facsimile No.: (858) 679-9076

with copies to: Katten Muchin Rosenman LLP
2029 Century Park East, Suite 2600
Los Angeles, CA 90067
Attention: David Cohen, Esq.

Community Advancement Development
Corporation
310 S. Twin Oaks Valley Road #107-287
San Marcos, CA 92078
Attention: Randall Simmrin

Devaney Pate Morris & Cameron LLP
402 West Broadway, STE 1300
San Diego, CA 92101
Attention: Barry J. Schultz

With a copy to:

Raymond James California Housing Opportunities
Fund 11 L.L.C.
c/o Raymond James Tax Credit Funds, Inc.
880 Carillon Parkway
Petersburg, Florida 33716
Attention: Steven J. Kropf, President

Funding Lender and Servicer:

ORIX Real Estate Capital, LLC, a Delaware
Limited Liability Company
Attention:
Email:
Telephone:

with a copy to:

Tiber Hudson LLC
1900 M St NW, 3rd Floor
Washington DC, 20036
Attention: Kent Neumann
Email: kent@tiberhudson.com
Telephone: (202) 973-0107

The Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to this Funding Loan Agreement.

(b) The Fiscal Agent shall provide to the Funding Lender Representative and the Servicer (i) prompt notice of the occurrence of any Event of Default pursuant to Section 6.01 hereof and (ii) any written information or other written communication received by the Fiscal Agent hereunder within ten (10) Business Days of receiving a written request from the Funding Lender Representative and the Servicer for any such information or other communication.

Section 9.05. *Funding Lender Representative*

(a) The Funding Lender is the Funding Lender Representative with respect to the Governmental Note. The Funding Lender Representative shall be entitled to all the rights and privileges of the Funding Lender hereunder and under the other Financing Documents.

(b) The Funding Lender Representative may provide written notice to the Fiscal Agent designating particular individuals or Persons authorized to execute any consent, waiver, approval, direction or other instrument on behalf of the Funding Lender Representative, and such notice may be amended or rescinded by the Funding Lender Representative at any time by subsequent written notice. The Funding Lender Representative may be removed and a successor appointed by a written notice by the Funding Lender to the Fiscal Agent, the Governmental Lender, the Servicer and the Borrower. The removal and reappointment shall be effective immediately upon receipt of such notice by the Fiscal Agent. The Funding Lender may appoint any Person to act as Funding Lender Representative, including, without limitation, the Servicer. If, for any reason, a Funding Lender Representative resigns by written notice provided to the Fiscal Agent, the Funding Lender, the Governmental Lender, the Servicer and the Borrower, all references to Funding Lender Representative herein and in the other Financing Documents shall be deemed to refer to the Funding Lender until a successor Funding Lender Representative is appointed by the Funding Lender.

(c) Whenever pursuant to this Funding Loan Agreement or any other Financing Document, the Funding Lender Representative exercises any right given to it to approve or disapprove, any arrangement or term hereof, the decision of the Funding Lender Representative to approve or disapprove or to decide whether arrangements or terms are acceptable or not acceptable shall be in the sole discretion of the Funding Lender Representative, except as otherwise specifically indicated.

(d) Each Funding Lender, by their purchase or other acquisition of the Funding Loan, shall be deemed to have acknowledged and agreed to the provisions of this Funding Loan Agreement and the other Financing Documents with respect to the Funding Lender Representative and the rights and privileges thereof, including but not limited to the right to control all remedies in respect of the Governmental Note and the Loans.

Section 9.06. *Payments Due on Non-Business Days*

In any case where a date of payment with respect to the Funding Loan shall be a day other than a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such date, and no interest shall accrue for the period after such date provided that payment is made on such next succeeding Business Day.

Section 9.07. *Counterparts*

This Funding Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.08. *Laws Governing Funding Loan Agreement*

The effect and meanings of this Funding Loan Agreement and the rights of all parties hereunder shall be governed by, and construed according to, the internal laws of the State without regard to conflicts of laws principles.

Section 9.09. *No Recourse*

No recourse under or upon any obligation, covenant or agreement contained in this Funding Loan Agreement or in the Governmental Note shall be had against any member, officer, commissioner, director or employee (past, present or future) of the Governmental Lender, either directly or through the Governmental Lender or its governing body or otherwise, for the payment for or to the Governmental Lender or any receiver thereof, or for or to the Funding Lender, or otherwise, of any sum that may be due and unpaid by the Governmental Lender or its governing body upon the Governmental Note. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of any such member, officer, commissioner, director or employee, as such, to respond by reason of any act of omission on his/her part or otherwise, for the payment for or to the Funding Lender or otherwise of any sum that may remain due and unpaid with respect to the Funding Loan hereby secured is, by the acceptance hereof, expressly waived and released as a condition of and in consideration for the execution of this Funding Loan Agreement and the delivery of the Governmental Note.

Section 9.10. *Successors and Assigns*

All the covenants and representations contained in this Funding Loan Agreement by or on behalf of the parties hereto shall bind and inure to the benefit of their successors and assigns, whether so expressed or not.

Section 9.11. *FHA Federal Laws and Requirements Control*

Notwithstanding anything in this Funding Loan Agreement or in the Governmental Note to the contrary:

(a) The Governmental Lender, the Funding Lender and the Fiscal Agent all acknowledge that this Funding Loan Agreement and the other Financing Documents, and any obligations of the Borrower hereunder or thereunder, are subject and subordinate to the Mortgage Loan Documents. Notwithstanding any provision in this Funding Loan Agreement or the other Financing Documents to the contrary, except to the extent the Borrower's payments under the Mortgage Loan are credited against the Borrower's obligations under the Borrower Loan as set forth herein and in the Borrower Loan Agreement, no obligations of the Borrower hereunder or thereunder shall be payable except from (A) Surplus Cash (as defined in the Mortgage Loan Documents) or (B) funds that are not derived from revenues of the Project, any reserve or deposit made with respect to the Mortgage Loan Documents or any other party as required by HUD in connection with the Mortgage Loan Documents (collectively, "Non-Project Sources"). No claims or actions shall be made (or payable) under this Funding Loan Agreement or the other Financing Documents against the Project, the proceeds of the Mortgage Loan, or the assets of the Borrower, except for Surplus Cash of the Borrower. In addition, the rights and obligations of the parties under this Funding Loan Agreement and the other Financing Documents are and shall be subordinated in all respects rights and obligations of the parties to and under the Mortgage Loan Documents. In the event of any conflict between the provisions of (i) the Financing Documents and (ii) the provisions of the Mortgage Loan Documents or the Program Obligations (as defined in the Mortgage Loan Documents), the provisions of the Mortgage Loan Documents or the Program Obligations shall control. The provisions

of this Section 9.11 shall control over any inconsistent provisions in the Financing Documents.

(b) Any subsequent amendment to this Funding Loan Agreement affecting the provisions of this Section 9.11 or the rights under the Mortgage Loan Documents, the FHA Lender or HUD with respect to the Borrower or Project is subject to prior written approval of the FHA Lender or HUD (so long as the Project is subject to the Mortgage). No amendment to this Funding Loan Agreement shall conflict with the provisions of the Program Obligations or the Mortgage Loan Documents.

(c) The Loans are not a debt of the United States of America, HUD, FHA, GNMA or any other agency or instrumentality of the federal government and are not guaranteed by the full faith and credit of the United States or any agency or instrumentality thereof.

(d) A default under this Funding Loan Agreement shall not constitute a default under the Mortgage Loan Documents.

(e) Nothing contained herein shall inhibit or impair the right of FHA to require or agree to any amendment, change or modification of any Mortgage Loan Documents for curing any ambiguity, or of curing, correcting or supplementing any defective or inconsistent provision contained therein, or in regard to matters or questions arising under said Mortgage Loan Documents.

(f) Neither the Governmental Lender or the Fiscal Agent has or shall be entitled to assert any claim against the Project, any reserves or deposits required by HUD in connection with the Project, or the rents or deposits or other income of the Project.

(g) Proceeds from any casualty, condemnation award or from the payment of a claim under any hazard insurance policy relating to the Project will be payable in accordance with the Mortgage Loan Documents and not be payable to the Fiscal Agent.

(h) As required pursuant to 24 CFR 207.261(a)(1), in the event of an assignment of conveyance of the Mortgage to HUD subsequent to the closing of the Borrower Loan and the Funding Loan, all money remaining in all funds and accounts other than the Rebate Fund, and any other funds remaining in the possession of the Fiscal Agent under either the Borrower Loan Agreement or this Funding Loan Agreement after payment or provisions for payment of debt service on the Borrower Loan and the Funding Loan, and the fees and expenses of the Fiscal Agent, Governmental Lender, Servicer, and Funding Lender, and such other parties unrelated to the Borrower (other than funds originally deposited by the Borrower or related parties on or before the date of the closing of the Borrower Loan and the Funding Loan) shall be disbursed to the FHA Lender.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Governmental Lender, the Funding Lender and the Fiscal Agent have caused this Funding Loan Agreement to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

By: _____
Name:
Title:

RANCHO BERNARDO SENIOR HOUSING, L.P.
a California limited partnership

By: AHG Rancho Bernardo Senior LLC,
a California limited liability company,
its Administrative General Partner

By: Affirmed Housing Group, Inc.,
a Delaware corporation,
its Manager

By: _____
James Silverwood
President

By: Community Advancement Development Corporation,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Randall Simmrin
President

U.S. Bank National Association, as Fiscal Agent

By: _____
Name:
Title:

EXHIBIT A

FORM OF GOVERNMENTAL NOTE

MULTIFAMILY NOTE

Further designated:

**Multifamily Housing Revenue Note
(Rancho Bernardo Senior Housing) 2022 Series A**

US \$[24,926,225]

[Closing Date]

FOR VALUE RECEIVED, the undersigned, Housing Authority of the City of San Diego, a public body corporate and politic, organized and existing under the laws of the State of California (the “**Obligor**”), promises to pay (but solely from the sources and in the manner provided for in the Funding Loan Agreement referenced below) to the order of ORIX Real Estate Capital, LLC, a Delaware Limited Liability Company (the “**Funding Lender**”), and its assigns, the principal sum of [Twenty-Four Million Nine Hundred Twenty-Six Thousand Two Hundred Twenty Five Dollars] (US \$[not to exceed-24,926,225]), plus premium, if any, and interest thereon and to pay the other amounts owing from time to time hereunder, all as set forth below.

This Multifamily Note (this “**Note**”) is being delivered pursuant to that certain Funding Loan and Security Agreement dated as of February 1, 2022 (together with any and all amendments, modifications, supplements and restatements, the “**Funding Loan Agreement**”), among the Funding Lender, the Obligor and U.S. Bank National Association (the “**Fiscal Agent**”), pursuant to which the Obligor has incurred a loan in the maximum aggregate principal amount of \$[24,926,225] (the “**Funding Loan**”), and this Note is entitled to the benefits of the Funding Loan Agreement and is subject to the terms, conditions and provisions thereof. The Obligor is using the proceeds of the Funding Loan to make a loan to Rancho Bernardo Senior Housing, L.P., a California limited partnership (the “**Borrower**”) pursuant to the Borrower Loan Agreement dated as of February 1, 2022 (the “**Borrower Loan Agreement**”), among the Obligor, the Borrower and the Fiscal Agent.

1. **Defined Terms.** As used in this Note, (i) the term “**Funding Lender**” means the holder of this Note, and (ii) the term “**Indebtedness**” means the principal of, premium, if any, and interest on or any other amounts due at any time under this Note or the Funding Loan Agreement. “**Event of Default**” and other capitalized terms used but not defined in this Note shall have the meanings given to such term in the Funding Loan Agreement.

2. **Payments of Principal and Interest.** The Obligor shall pay (but solely from the sources and in the manner provided for in the Funding Loan Agreement) on the first calendar day of each month commencing [March 1, 2022], interest on this Note at the rate of [_____] % per annum (or such higher rate of interest borne by the Funding Loan upon any default) (the “**Interest Rate**”) on the outstanding principal balance of this Note, and shall also pay interest on this Note at the Interest Rate on the date of any optional or mandatory prepayment or acceleration of all or part of the Funding Loan pursuant to the Funding Loan Agreement, in an amount equal to the accrued and unpaid interest to the date of prepayment on the portion of this Note subject to prepayment (each such date for payment an “**Interest Payment Date**”).

The Obligor shall pay (but solely from the sources and in the manner provided for in the Funding Loan Agreement) the outstanding principal of this Note in full on [FINAL MATURITY] (the “**Maturity Date**”) and in one or more installments on each date set forth on the Funding Loan Amortization Schedule attached as Schedule 1 hereto in an amount equal to the corresponding amounts set forth thereon, or at such earlier times and in such amounts as may be required, in the event of an optional or mandatory prepayment or acceleration of the Funding Loan pursuant to the Funding Loan Agreement. The outstanding principal hereof is subject to acceleration at the time or times and under the terms and conditions, and with notice, if any, as provided under the Funding Loan Agreement.

3. **Manner of Payment.** All payments under this Note shall be made in lawful currency of the United States and in immediately available funds as provided for herein and in the Funding Loan Agreement.

4. **Application of Payments.** If at any time the Funding Lender receives any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, the Funding Lender may apply that payment to amounts then due and payable in any manner and in any order determined by the Funding Lender, in the Funding Lender’s discretion. Neither the Funding Lender’s acceptance of a payment in an amount that is less than all amounts then due and payable nor the Funding Lender’s application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. **Security.** The Indebtedness is secured by, among other things, the Pledged Security pledged pursuant to the Funding Loan Agreement.

6. **Acceleration.** If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, and all other amounts payable under this Note shall at once become due and payable, at the option of the Funding Lender, as governed by the Funding Loan Agreement, without any prior notice to the Obligor (unless required by applicable law). The Funding Lender may exercise this option to accelerate regardless of any prior forbearance.

7. **Prepayment.** This Note is subject to prepayment as specified in the Funding Loan Agreement.

Notwithstanding any provision of this Note or the Funding Loan Agreement to the contrary, the Governmental Lender shall be permitted to direct Borrower Loan prepayments to be transferred to a custodian or trustee selected by the Governmental Lender, in lieu of application to prepay a like portion of this Note, so long as the Governmental Lender simultaneously causes other funds to be applied to prepay such portion of this Note. The preceding provisions shall apply only for purposes of preserving or “recycling” private activity bond volume cap in accordance with Section 146(i)(6) of the Code.

8. **Forbearance.** Any forbearance by the Funding Lender in exercising any right or remedy under this Note or any other document evidencing or securing the Funding Loan or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by the Funding Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of the Funding Lender’s right to require prompt payment when due of all other payments

or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by the Funding Lender of any security for the obligations under this Note shall not constitute an election by the Funding Lender of remedies so as to preclude the exercise of any other right or remedy available to the Funding Lender.

9. **Waivers.** Presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace and diligence in collecting the Indebtedness are waived by the Obligor and all endorsers and guarantors of this Note and all other third-party obligors.

10. **Loan Charges.** Neither this Note nor any of the other Financing Documents will be construed to create a contract for the use, forbearance, or detention of money requiring payment of interest at a rate greater than the rate of interest which results in the maximum amount of interest allowed by applicable law (the "**Maximum Interest Rate**"). If any applicable law limiting the amount of interest or other charges permitted to be collected from Obligor in connection with the Funding Loan is interpreted so that any interest or other charge provided for in any Financing Document, whether considered separately or together with other charges provided for in any other Financing Document, violates that law, and Obligor is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Funding Lender in excess of the permitted amounts will be applied by Funding Lender to reduce the unpaid principal balance of this Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Obligor has been violated, all indebtedness that constitutes interest, as well as all other charges made in connection with the indebtedness that constitute interest, will be deemed to be allocated and spread ratably over the stated term of this Note. Unless otherwise required by applicable law, such allocation and spreading will be effected in such a manner that the

11. **Governing Law.** This Note shall be governed by the internal law of the State of California.

12. **Captions.** The captions of the paragraphs of this Note are for convenience only and shall be disregarded in construing this Note.

13. **Address for Payment.** All payments due under this Note shall be payable at the principal office of the Funding Lender as designated by the Funding Lender in writing to the

14. **Default Rate.** So long as (a) any monthly installment under this Note remains past due, or (b) any other Event of Default has occurred and is continuing, interest under this Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at a rate (the "**Default Rate**") equal to the lesser of (i) the Interest Rate otherwise in effect notwithstanding the default plus four percent (4%) per annum or (ii) the Maximum Interest Rate. If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate.

15. **Limited Obligation.** This Note is a limited obligation of the Governmental Lender, payable solely from the Revenues and other funds and moneys and Pledged Security

pledged and assigned under the Funding Loan Agreement. NONE OF THE GOVERNMENTAL LENDER (EXCEPT TO THE LIMITED AFOREMENTIONED EXTENT) THE CITY OF SAN DIEGO, THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF, SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THIS NOTE OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO EXCEPT AS SET FORTH HEREIN OR IN THE FUNDING LOAN AGREEMENT, AND NONE OF THE FUNDING LOAN, OR THE GOVERNMENTAL NOTE OR ANY OF THE GOVERNMENTAL LENDER'S AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THE FUNDING LOAN, THE GOVERNMENTAL NOTE, OR HEREUNDER OR UNDER ANY OF THE OTHER FINANCING DOCUMENTS OR BORROWER LOAN DOCUMENTS, SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.]

[Signature page follows]

IN WITNESS WHEREOF, the Obligor has caused this Multifamily Note to be duly executed by the manual or facsimile signature of its Authorized Officer.

HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO

By _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This Multifamily Note is issued under the provisions of and described in the within-mentioned Funding Loan Agreement.

Date of Authentication: _____

U.S. BANK NATIONAL ASSOCIATION

By: _____
Authorized Signer

SCHEDULE 1
FUNDING LOAN AMORTIZATION SCHEDULE

EXHIBIT B
REQUISITION

U.S. Bank National Association,
as Fiscal Agent

Re: Rancho Bernardo Senior Housing

The terms used in this requisition shall have the meaning given to those terms in the Funding Loan and Security Agreement (the “**Funding Loan Agreement**”), dated as of [February 1, 2022], by and among ORIX Real Estate Capital, LLC, a Delaware Limited Liability Company, in its capacity as Funding Lender (the “**Funding Lender**”), the Housing Authority of the City of San Diego (the “**Governmental Lender**”) and U.S. Bank National Association, as Fiscal Agent (the “**Fiscal Agent**”), securing the Multifamily Note dated [February __, 2022] (the “**Governmental Note**”).

REQUISITION NO.:

PAYMENT DUE TO:

AMOUNT(S) TO BE DISBURSED: \$_____ from the Funding Lender

The undersigned Borrower hereby represents and warrants that the following information and certifications provided in connection with this Requisition are true and correct as of the date hereof:

1. Purposes for which disbursement is requested are specified in the **attached Schedule**.

Party or parties to whom the disbursements shall be made are specified in the **attached Schedule** (may be the undersigned in the case of reimbursement for advances and payments made or cost incurred for work done by the undersigned); provided, that no reimbursement shall be made for advances and payments made prior to _____, 20__).

The undersigned certifies that:

(a) the conditions precedent to disbursement set forth in the Financing Documents and Mortgage Loan Documents have been satisfied;

(b) the disbursement requested pursuant to this Requisition will be used solely to pay a cost or costs allowable under the Financing Documents;

(c) none of the items for which disbursement is requested pursuant to this Requisition has formed the basis for any disbursement previously made from proceeds of the Funding Loan Fund and all such items have been properly recorded in Borrower’s books and are set forth on the Schedule attached hereto, along with paid invoices attached for any sum for which reimbursement is requested and invoices or bills of sales for all other items;

(d) all labor and materials for which disbursements have been requested have been incorporated into the Project in accordance with reasonable and standard building practices,

the Mortgage Loan Documents and all applicable laws, ordinances, rules and regulations of any governmental authority having jurisdiction over the Project;

(e) the materials, supplies and equipment furnished or installed for the Project are not subject to any lien or security interest or that the funds to be disbursed pursuant to this Requisition are to be used to satisfy any such lien or security interest;

(f) all of the funds being requisitioned are being used in compliance with all tax covenants set forth in the Funding Loan Agreement, the Borrower Loan Agreement, the Tax Regulatory Agreement and the Tax Certificate, including that none of the proceeds of the Funding Loan (including investment earnings thereon) will be used to provide an airplane, a skybox or any other private luxury box, any facility primarily used for gambling, health club facility or any store the principal business of which is the sale of alcoholic beverages for consumption off premises;

(g) with respect to amounts from the Funding Loan, not less than 95% of the sum of (A) the amounts requisitioned by this Requisition plus (B) all amounts previously requisitioned and disbursed from the Funding Loan have been or will be applied by Borrower to pay the Costs of the Project;

(h) Borrower is not in default under the Borrower Loan Agreement, the Mortgage Loan Documents or any other Borrower Loan Document to which it is a party and nothing has occurred to the knowledge of Borrower that would prevent the performance of its obligations under such documents;

(i) no amounts being requisitioned hereby will be used to pay, or reimburse, any Costs of Issuance incurred in connection with the delivery of the Governmental Note; and

(j) proceeds from the Funding Loan deposited with Borrower for further disbursement to third parties shall be paid to such third parties by check dated the date of such deposit and Borrower reasonably expects such funds will be disbursed from its account within five Business Days of such deposit.

IN WITNESS WHEREOF, the undersigned has executed this Requisition as of the day and date first above written.

Date: _____

RANCHO BERNARDO SENIOR HOUSING, L.P.

a California limited partnership

By: AHG Rancho Bernardo Senior LLC,
a California limited liability company,
its Administrative General Partner

By: Affirmed Housing Group, Inc.,
a Delaware corporation,
its Manager

By: _____
James Silverwood
President

By: Community Advancement Development Corporation,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Randall Simmrin
President

APPROVED:

Approval by Servicer does not constitute any representation or certification by Servicer that the funds being requisitioned are being used in compliance with the Funding Loan Agreement or for so-called “good costs” for purposes of Section 142 of the Internal Revenue Code. Servicer expressly disclaims any knowledge of such matters.

[SERVICER]

By: _____
[NAME]
[TITLE]

EXHIBIT C

FORM RECEIPT OF FISCAL AGENT

_____, 20__

[Funding Lender]

Attention: _____,

Re: \$ _____ Funding Loan

Borrower: _____

Project Name: _____

FHA Project No.: _____

Ladies and Gentlemen:

The undersigned, (the "Fiscal Agent") understands that _____ (the "Governmental Lender"), has granted to _____ (the "Funding Lender"), a security interest in the project loan made by Governmental Lender to the above-referenced borrower (the "Borrower") with respect to the above-referenced property. Defined terms used herein shall have meanings ascribed thereto in the Funding Loan and Security Agreement among the Funding Lender, the Fiscal Agent, and the Governmental Lender.

Please be advised that the undersigned has in its possession each of the following documents:

1. Original filed or certified copy of the UCC Financing Statement naming Governmental Lender as debtor and Fiscal Agent as secured party filed in the state of organization of the Governmental Lender with respect to the Pledged Security; and
2. Originals or copies of the Funding Loan Agreement, the Governmental Note, the Tax Certificate, the Borrower Loan Agreement, the Tax Regulatory Agreement, and the Mortgage Loan Documents.

The documents listed in items 1 and 2, inclusive, above are sometimes hereinafter collectively referred to as the "Original Documents".

The Fiscal Agent hereby acknowledges and agrees that at all times while the Original Documents are in Fiscal Agent's possession:

1. The Fiscal Agent will hold the Original Documents in trust for the sole and exclusive benefit of the Funding Lender so as to continue the perfection of Funding Lender's security interest in the Original Documents;

2. The Fiscal Agent will not surrender possession of the Original Documents to the Governmental Lender or the Borrower, or to any other person, entity or firm other than the Funding Lender; and

3. The Fiscal Agent shall rely on any directions or instructions furnished to it by the Funding Lender relative to the Original Documents and will not give effect to any directions or instructions furnished to the Fiscal Agent by the Governmental Lender or the Borrower relative to the Original Documents.

[FISCAL AGENT SIGNATURE BLOCK]

EXHIBIT D

[Form of Transferee Representations Letter]

[Date]

Housing Authority of the City of San Diego
as Governmental Lender
San Diego, California

U.S. Bank National Association
as Fiscal Agent
Los Angeles, California

Re: Rancho Bernardo Senior Housing Apartments

Ladies and Gentlemen:

The undersigned (the “**Funding Lender**”) hereby acknowledges receipt of that certain Housing Authority of the City of San Diego Multifamily Housing Revenue Note (Rancho Bernardo Senior Housing) 2022 Series A dated February __, 2022 in the principal amount of \$[_____] (“**Governmental Note**”) delivered pursuant to the Funding Loan and Security Agreement dated as of February 1, 2022 (the “**Funding Loan Agreement**”), among ORIX Real Estate Capital, LLC, a Delaware limited liability company, in its capacity as the Funding Lender (the “**Funding Lender**”), the Housing Authority of the City of San Diego, a public body, corporate and politic, duly organized and existing under the laws of the State of California (the “**Governmental Lender**”), and U.S. Bank National Association, as fiscal agent (the “**Fiscal Agent**”). Capitalized terms used herein and not otherwise defined have the meanings given to such terms in the Funding Loan Agreement.

In connection with the [origination/purchase] of the Funding Loan by the Funding Lender, the Funding Lender hereby makes the following representations upon which you may rely:

1. The Funding Lender has authority to [originate/purchase] the Funding Loan and to execute this letter, and any other instruments and documents required to be executed by the Funding Lender in connection with the [origination/purchase] of the Funding Loan.
2. The Funding Lender is an “accredited investor” under Regulation D of the Securities Act of 1933 (the “**Securities Act**”) or a “qualified institutional buyer” under Rule 144(a) of said Act (such “accredited investor” or “qualified institutional buyer”, a “**Qualified Transferee**”), and therefore, has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the Funding Loan.
3. The Funding Lender acknowledges that it is [originating/purchasing] the Funding Loan for investment for its own account and not with a present view toward resale or the distribution thereof (except as set forth below), in that it does not now intend to resell or

otherwise dispose of all or any part of its interests in the Funding Loan (except as set expressly permitted in the Funding Loan Agreement).

4. In addition to the right to sell or transfer the Funding Loan as set forth in Paragraph 3 above, the Funding Lender further acknowledges its right to sell or transfer the Funding Loan, subject, as required under the Funding Loan Agreement, to the delivery to the Fiscal Agent of a transferee representations letter from the transferee to substantially the same effect as this Transferee Representations Letter or in such other form authorized by the Funding Loan Agreement with no revisions except as may be approved in writing by the Governmental Lender. Failure to comply with the provisions of Section 2.08(b) the Funding Loan Agreement shall cause the purported transfer to be null and void. The Funding Lender agrees to indemnify and hold harmless the Governmental Lender with respect to any claim asserted against the Governmental Lender that arises with respect to any sale, transfer or other disposition of the Funding Loan by the Funding Lender or any transferee thereof in violation of the provisions of the Indenture

5. The Funding Lender understands that the Governmental Note is not registered under the Securities Act and that such registration is not legally required as of the date hereof; and further understands that the Governmental Note (a) is not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service and (d) will be delivered in a form which may not be readily marketable.

6. The Funding Lender understands that (a) the Funding Loan is not secured by any pledge of any moneys received or to be received from taxation by the Governmental Lender, the City of San Diego, the State of California or any political subdivision thereof and that the Governmental Lender has no taxing power, (b) the Funding Loan does not and will not represent or constitute a general obligation or a pledge of the faith and credit of the City of San Diego, the State of California or any political subdivision thereof; and (c) the liability of the Governmental Lender with respect to the Funding Loan is limited to the Pledged Security as set forth in the Funding Loan Agreement.

7. The Funding Lender has either been supplied with or been given access to information, including financial statements and other financial information, which it considers necessary to make an informed decision in connection with the [origination/purchase] of the Funding Loan. The Funding Lender has not relied upon the Governmental Lender for any information in connection with its purchase of the Funding Loan.

8. The Funding Lender has made its own inquiry and analysis with respect to the Funding Loan and the security therefor, and other material factors affecting the security and payment of the Funding Loan. The Funding Lender is aware that the business of the Borrower involves certain economic variables and risks that could adversely affect the security for the Funding Loan.

All agreements, representations and warranties made herein shall survive the execution and delivery of this letter agreement and, notwithstanding any investigation heretofore or hereafter, shall continue in full force and effect.

[SIGNATURE BLOCK]

By: _____

Name: _____

Title: _____

BORROWER LOAN AGREEMENT

among

**HOUSING AUTHORITY OF THE CITY OF SAN DIEGO,
as Governmental Lender**

**U.S. BANK NATIONAL ASSOCIATION,
as Fiscal Agent**

**RANCHO BERNARDO SENIOR HOUSING, L.P.,
as Borrower**

and

**ORIX REAL ESTATE CAPITAL, LLC,
a Delaware Limited Liability Company
as FHA Lender**

Relating to

**RANCHO BERNARDO SENIOR HOUSING
11520 W. Bernardo Court**

Original Borrower Loan Principal Amount: \$[24,926,225]

Dated as of February 1, 2022

All of the right, title and interest of the Housing Authority of the City of San Diego (except for its Unassigned Rights) in and to this Borrower Loan Agreement are being assigned to U.S. Bank National Association, as Fiscal Agent, as security for the Funding Loan made pursuant to that certain Funding Loan Agreement dated as of February 1, 2022 by and among the Governmental Lender, the Funding Lender named therein and the Fiscal Agent.

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BORROWER LOAN AGREEMENT

THIS BORROWER LOAN AGREEMENT (this “**Borrower Loan Agreement**”) is made and entered into as of February 1, 2022, by and among the **HOUSING AUTHORITY OF THE CITY OF SAN DIEGO** (the “**Governmental Lender**”), a public body, corporate and politic, duly organized and existing under the laws of the State of California (the “**State**”), U.S. Bank National Association, a national banking association, duly organized and existing under the laws of the United States of America (together with any successor Fiscal Agent appointed under the Funding Loan Agreement, the “**Fiscal Agent**”), **RANCHO BERNARDO SENIOR HOUSING, L.P.**, a California limited partnership (together with its successors and assigns permitted hereunder, the “**Borrower**”) and **ORIX REAL ESTATE CAPITAL, LLC**, a Delaware limited liability company, in its capacity as FHA Lender (the “**FHA Lender**”).

RECITALS

A. Pursuant to Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code (the “**Act**”) and this Borrower Loan Agreement, the Governmental Lender is agreeing to make a loan to the Borrower in the maximum aggregate principal amount of \$[24,926,225] (the “**Borrower Loan**”) to provide for the financing of the acquisition, rehabilitation and construction of a 178-unit (including three manager units) multifamily rental housing development for seniors located at 11520 W. Bernardo Court in the City of San Diego, California, to be known as “**Rancho Bernardo Senior Housing**” or “**Tizon Apartments**” (the “**Project**”).

B. The Governmental Lender is making the Borrower Loan to the Borrower with the proceeds received from the loan in the maximum aggregate principal amount of \$[24,926,225] (the “**Funding Loan**” and together with the Borrower Loan, the “**Loans**”) made to the Governmental Lender pursuant to a Funding Loan and Security Agreement, dated as of February 1, 2022 (the “**Funding Loan Agreement**”), by and among ORIX Real Estate Capital, LLC, a Delaware limited liability company, in its capacity as funding lender (the “**Funding Lender**”), the Governmental Lender and the Fiscal Agent. The Funding Loan is being originated and funded by the Funding Lender and is evidenced by that certain Multifamily Note, dated [Closing Date] (together with all riders and addenda thereto, the “**Governmental Note**”) in the maximum aggregate principal amount of \$[24,926,225] executed and delivered by the Governmental Lender to the Funding Lender. The Funding Lender will act as initial servicer for the Loans (the “**Servicer**”).

C. The Funding Lender, pursuant to the terms and subject to the conditions of the Funding Loan Agreement, has agreed to originate and fund the Funding Loan to the Governmental Lender on the Closing Date, which proceeds of the Funding Loan will be used by the Governmental Lender to fund the Borrower Loan to the Borrower pursuant to this Borrower Loan Agreement.

D. The Borrower has agreed to use the proceeds of the Borrower Loan to finance the acquisition, rehabilitation, construction and equipping of the Project.

E. Concurrently with the closing of the Loans, the FHA Lender has originated an FHA-insured mortgage loan (the “**Mortgage Loan**”) in the original aggregate principal amount of \$[28,945,800.00]. The Borrower’s repayment obligations in respect of the Mortgage Loan will be

evidenced by that certain Note dated as of February 1, 2022 from the Borrower to the FHA Lender, endorsed for mortgage insurance by HUD pursuant to Section 221(d)(4) of the National Housing Act, as amended (the “**Mortgage Note**”).

F. To secure the Borrower’s obligations under the Borrower Loan, the Borrower will execute and deliver the Mortgage Loan Documents (as defined in the Funding Loan Agreement). As additional security for the Borrower’s repayment obligations under this Borrower Loan Agreement, certain payments of principal and interest under the Mortgage Note have been assigned as provided in that certain Assignment and Pledge Agreement, dated [February __, 2022], executed by FHA Lender, as assignor, in favor of Governmental Lender, as assignee (the “**Assignment and Pledge Agreement**”).

NOW, THEREFORE, for and in consideration of the mutual covenants and representations hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. All words and phrases (except for “Event of Default”) defined in the Funding Loan Agreement shall have the same meanings for the purposes of this Borrower Loan Agreement. In addition to the words and phrases defined in the Funding Loan Agreement and elsewhere herein, the following words and phrases shall have the following meanings:

“*Borrower Loan Agreement*” means this Borrower Loan Agreement, dated as of February 1, 2022, among the Governmental Lender, the Fiscal Agent and the Borrower, as the same may be amended from time to time.

“*Borrower Loan Payment*” means each payment of the Borrower Loan on each Borrower Loan Payment Date pursuant to this Borrower Loan Agreement.

“*Borrower Loan Payment Date*” means (A) the first day of each month, commencing [March 1, 2022] or (B) any other date on which the Borrower Loan is prepaid or paid, whether at scheduled maturity or upon prepayment or acceleration of the maturity thereof; provided, however, that if a Borrower Loan Payment Date is not a Business Day, payment shall be made on the first Business Day following such Borrower Loan Payment Date.

“*Event of Default*” means any of those events specified in and defined by the applicable provisions of Article VII hereof to constitute an event of default.

Section 1.02 Interpretation. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. Words importing persons include firms, partnerships, limited liability companies, joint ventures, associations and corporations. Unless expressly amended, references to Articles, Sections and other subdivisions of this Borrower Loan Agreement are the Articles, sections and other subdivisions of this Borrower Loan Agreement as originally executed.

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms refer to this Borrower Loan Agreement; the term “heretofore” means before the date of execution of this Borrower Loan Agreement; and the term “hereafter” means after the date of execution of this Borrower Loan Agreement.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.01 *Representations, Warranties and Covenants of the Governmental Lender.*

The Governmental Lender makes the following representations, warranties and covenants for the benefit of the Borrower, the Fiscal Agent, the Funding Lender and the Servicer:

(a) The Governmental Lender is a public body, corporate and politic, duly organized and validly existing under the laws of the State of California.

(b) The Governmental Lender has all necessary power and authority to incur the indebtedness of the Funding Loan evidenced by the Governmental Note and to make the Borrower Loan from the proceeds thereof, and to execute, and deliver this Borrower Loan Agreement, the Funding Loan Agreement, and the other Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and under the other Financing Documents to which it is a party.

(c) The Governmental Lender has taken all action on its part to incur the Funding Loan evidenced by the Governmental Note and make the Borrower Loan from the proceeds thereof and for the sale, execution and delivery thereof.

(d) Each of the Financing Documents to which the Governmental Lender is a party has been duly and validly authorized, executed and delivered by the Governmental Lender.

(e) The Governmental Lender has complied with the provisions of the laws of the State, including, but not limited to, the Act, which are prerequisites to the consummation of the transactions on the part of the Governmental Lender described or contemplated in the Financing Documents. The execution and delivery of the Governmental Note and the Financing Documents to which the Governmental Lender is a party, the consummation of the transactions on the part of the Governmental Lender contemplated thereby and the fulfillment of or compliance with the terms and conditions thereof do not conflict with or result in the breach of any of the terms, conditions or provisions of any agreement or instrument or judgment, order or decree to which the Governmental Lender is now a party or by which it is bound, nor do they constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature upon any property or assets of the Governmental Lender under the terms of any instrument or agreement.

(f) No authorization, consent, approval, order, registration, declaration or withholding of objection on the part of, or filing of or with any governmental authority, other than those already obtained, is required for the due execution and delivery by the Governmental Lender of, and performance by the Governmental Lender of its obligations under, the Financing Documents.

(g) There is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of the Governmental Lender, threatened against the Governmental Lender by or before any court, governmental agency or public board or body, nor, to the Governmental Lender's knowledge, is there any basis therefor, which (i) affects or questions the existence or the territorial jurisdiction of the Governmental Lender or the title to office of any member of the governing body of the Governmental Lender; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any Financing Documents or the issuance, sale, execution or delivery of the Governmental Note; (iii) affects or questions the validity or enforceability of the Governmental Note or any Financing Document; (iv) questions the tax-exempt status of the Governmental Note; or (v) questions the power or authority of the Governmental Lender to perform its obligations under the Governmental Note or any Financing Document, or to carry out the transactions contemplated by the Governmental Note and the Financing Documents.

(h) No officer or other official of the Governmental Lender has any personal financial interest in the Project or the Borrower or in the transactions contemplated by this Borrower Loan Agreement.

(i) Upon the discovery by the Governmental Lender of any noncompliance by the Borrower with this Borrower Loan Agreement, the Tax Certificate or the Tax Regulatory Agreement, the Governmental Lender will promptly notify the Fiscal Agent, the Servicer and the Funding Lender Representative of such noncompliance and will, subject to the provisions of Article VII hereof, promptly institute action, or cause the Fiscal Agent to institute action, to notify the Borrower to correct such noncompliance.

It is expressly acknowledged that the Governmental Lender makes no representation as to the financial position or business condition of the Borrower and does not represent or warrant as to any of the statements, materials (financial or otherwise), representations or certifications furnished or to be made and furnished by the Borrower in connection with the issuance, sale, execution and delivery of the Governmental Note, or as to the correctness, completeness or accuracy of such statements.

Section 2.02 *Representations, Warranties and Covenants of the Borrower.* The Borrower makes the following representations, warranties and covenants, all of which, together with the other representations and agreements of the Borrower contained in this Borrower Loan Agreement, are relied upon by the Governmental Lender, the Funding Lender, the Servicer and the Fiscal Agent and serve as a basis for the undertakings of the Governmental Lender, the Servicer and the Fiscal Agent contained in this Borrower Loan Agreement:

(a) The Borrower is a limited partnership, duly organized, validly existing and in good standing under the laws of the State and is duly qualified to conduct its business under the laws of the State and in every other state in which the nature of its business requires such qualification, has full legal right, power and authority to enter into this Borrower Loan Agreement and the other Financing Documents, and to carry out and consummate all transactions contemplated hereby and by the other Financing Documents, and by proper action has duly authorized the execution, delivery and performance of this Borrower Loan Agreement and the other Financing Documents. All corporate general partners or members, if any, of the Borrower are duly organized and in good standing under the laws of their respective states of organization and are duly qualified to transact

business in the State as either domestic or foreign corporations, as applicable. All partnership general partners or members, if any, of the Borrower are duly formed and in good standing under the laws of their respective states of formation and, to the extent required by the laws of the State, are duly qualified to transact business in the State as either domestic or foreign partnerships or limited liability companies, as applicable.

(b) The Borrower has the legal right, power and authority to (i) own its properties and assets, including, but not limited to, the Project, (ii) to carry on its business as now being conducted and the Borrower contemplates it to be conducted with respect to the Project and (iii) execute and deliver, carry out its obligations under, and close the transactions provided for in, the Financing Documents to which it is a party.

(c) Each of the Financing Documents and Mortgage Loan Documents to which the Borrower is a party has been duly authorized, executed and delivered by the Borrower and, assuming due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and general principles of equity.

(d) No authorization, consent, approval, order, registration, declaration or withholding of objection on the part of, or filing of or with any governmental authority, other than those already obtained or those necessary to be obtained during the course of construction or rehabilitation of the Project, is required for the due execution and delivery or approval, as the case may be, by the Borrower of, and the performance by the Borrower of its obligations under, the Financing Documents.

(e) None of the execution and delivery of the Financing Documents to which the Borrower is a party, the consummation of the transactions provided for in the Financing Documents, or the Borrower's fulfillment of or compliance with the terms and conditions of the Financing Documents (i) violates or will violate any law, rule or regulation of any governmental agency or body having jurisdiction over the Borrower, or any of its activities or properties, or any judgment, order, writ, injunction or decree to which the Borrower is subject, or any of the organizational or other governing documents of the Borrower, (ii) conflicts or will conflict with any agreement, instrument or license to which the Borrower is now a party or by which it or any of its properties or assets is bound or results or will result in a breach of, or constitutes or will constitute a default (with due notice or the passage of time or both) under, any such agreement, instrument or license, (iii) contravenes or will contravene any such law, rule or regulation or any such judgment, order, writ, injunction or decree, or (iv) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, except for any lien, charge or encumbrance permitted under the terms of the Financing Documents.

(f) There is no action, suit, proceeding, inquiry or investigation pending or, to the Borrower's knowledge, threatened against or affecting the Borrower or any of its properties (including, without limitation, the Project), which, if adversely determined, would (i) impair the right of the Borrower to carry on its business substantially as now conducted and as contemplated

by the Financing Documents, (ii) adversely affect the financial condition of the Borrower, (iii) prohibit, restrain or enjoin the making of the Funding Loan or the Borrower Loan or the execution and delivery of any of the Financing Documents, (iv) adversely affect the validity or enforceability of any of the Financing Documents, or (v) adversely affect the exclusion from gross income for federal income tax purposes of interest on the Governmental Note.

(g) The Project and the operation of the Project (in the manner contemplated by the Financing Documents) conform and will continue to conform in all material respects with the requirements of the Act as well as all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project.

(h) The Borrower has filed or caused to be filed all federal, state and local tax returns which are required to be filed or has obtained appropriate extensions therefor, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due.

(i) The Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party which default would materially adversely affect the transactions contemplated by the Financing Documents or the operations of the Borrower or the enforceability of the Financing Documents to which the Borrower is a party or the ability of the Borrower to perform all obligations thereunder.

(j) The Borrower agrees to pay all costs of maintenance and repair, all taxes and assessments, insurance premiums (including public liability insurance and insurance against damage to or destruction of the Project) concerning or in any way related to the Project, or any part thereof, and any expenses or renewals thereof, and any other governmental charges and impositions whatsoever, foreseen or unforeseen, and all utility and other charges and assessments concerning or in any way related to the Project.

(k) If the Borrower is a partnership, all of the partnership interests in the Borrower are validly issued and are fully registered, if required, with the applicable governmental authorities and/or agencies, and there are no outstanding options or rights to purchase or acquire those interests. If the Borrower is a limited liability company, all of the ownership interests in the Borrower are validly issued and are fully registered, if required, with the applicable governmental authorities and/or agencies, and there are no outstanding options or rights to purchase or acquire those interests. Nothing in this Borrower Loan Agreement shall prevent the Borrower from issuing additional partnership interests or ownership interests if such units are issued in accordance with all applicable securities laws.

(l) The representations and warranties of the Borrower contained in the Tax Certificate and Tax Regulatory Agreement are true and accurate.

(m) The information, statements or reports furnished in writing to the Governmental Lender, the Servicer and the Funding Lender Representative by the Borrower in connection with this Borrower Loan Agreement or the consummation of the transactions contemplated hereby do not contain any untrue statement of a material fact or omit to state a material fact necessary to

make the statements contained therein, in light of the circumstances under which they were made, not misleading; and the representations and warranties of the Borrower and the statements, information and descriptions contained in the Borrower's closing certificates, as of the Delivery Date, are true and correct in all material respects, do not contain any untrue statement of a material fact, and do not omit to state a material fact necessary to make the representations, warranties, statements, information and descriptions contained therein, in the light of the circumstances under which they were made, not misleading; and any estimates or assumptions contained in any certificate of the Borrower delivered as of the Delivery Date are reasonable.

(n) To the knowledge of the Borrower, no commissioner, member, officer or employee of the Governmental Lender has been or is in any manner interested, directly or indirectly, in that person's own name or in the name of any other person, in the Financing Documents, the Borrower or the Project, in any contract for property or materials to be furnished or used in connection with the Project, or in any aspect of the transactions contemplated by the Financing Documents.

(o) The Borrower intends to hold the Project for its own account and has no current plans to sell, and has not entered into any agreement, to sell all or any portion of the Project, [other than a purchase or right of first refusal option under Borrower's partnership agreement.]

(p) The Project is located wholly within the boundaries of the City of San Diego, California.

(q) The Borrower shall make no changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act or impair the exclusion from gross income for federal income tax purposes of the interest on the Governmental Note. The Borrower shall operate the Project as required by the Tax Regulatory Agreement.

(r) The Funding Loan Agreement has been submitted to the Borrower for examination, and the Borrower, by execution of this Borrower Loan Agreement, acknowledges and agrees that it has participated in the drafting of the Funding Loan Agreement and that it is bound by, shall adhere to the provisions of, covenants and agrees to perform all obligations required of the Borrower pursuant to, and shall have the rights set forth by the applicable terms and conditions of, the Funding Loan Agreement.

(s) The Borrower will have a fee simple interest in the land and improvements on the Project, subject only to liens permitted under the Mortgage Loan Documents.

(t) The Borrower acknowledges that (i) it understands the nature and structure of the transactions relating to the financing of the Project, (ii) it is familiar with the provisions of all of the documents and instruments relating to the financing, (iii) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (iv) it has not relied on the Governmental Lender, the Fiscal Agent, the Funding Lender, the Funding Lender Representative or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Financing Documents or otherwise relied on the Governmental Lender, the Fiscal Agent, the Funding Lender, the Funding Lender Representative or the Servicer in any manner.

Section 2.03 *Representations and Warranties of the Fiscal Agent.* The Fiscal Agent makes the following representations and warranties for the benefit of the Governmental Lender, the Borrower, the Funding Lender, the FHA Lender and the Servicer:

(a) The Fiscal Agent is a national banking association, duly organized and existing under the laws of the United States. The Fiscal Agent is duly authorized to act as a fiduciary and to execute the trust created by the Funding Loan Agreement and meets the qualifications to act as Fiscal Agent under the Funding Loan Agreement.

(b) The Fiscal Agent has complied with the provisions of law which are prerequisite to the consummation of, and has all necessary power (including trust powers) and authority (i) to execute and deliver this Borrower Loan Agreement and the other Financing Documents to which it is a party, (ii) to perform its obligations under this Borrower Loan Agreement and the other Financing Documents to which it is a party, and (iii) to consummate the transactions contemplated by this Borrower Loan Agreement and the other Financing Documents to which it is a party.

(c) The Fiscal Agent has duly authorized (i) the execution and delivery of this Borrower Loan Agreement and the other Financing Documents to which it is a party, (ii) the performance by the Fiscal Agent of its obligations under this Borrower Loan Agreement and the other Financing Documents to which it is a party, and (iii) the actions of the Fiscal Agent contemplated by this Borrower Loan Agreement and the other Financing Documents to which it is a party.

(d) Each of the Financing Documents to which the Fiscal Agent is a party has been duly executed and delivered by the Fiscal Agent and, assuming due authorization, execution and delivery by the other parties thereto, constitutes a valid and binding obligation of the Fiscal Agent, enforceable against the Fiscal Agent in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(e) The Fiscal Agent meets the qualifications to act as Fiscal Agent under the Funding Loan Agreement.

(f) The Fiscal Agent has complied with the provisions of law which are prerequisites to the consummation of the transactions on the part of the Fiscal Agent described or contemplated in the Financing Documents.

(g) No approval, permit, consent, authorization or order of any court, governmental agency or public board or body not already obtained is required to be obtained by the Fiscal Agent as a prerequisite to (i) the execution and delivery of this Borrower Loan Agreement and the other Financing Documents to which the Fiscal Agent is a party, (ii) the authentication or delivery of the Governmental Note, (iii) the performance by the Fiscal Agent of its obligations under this Borrower Loan Agreement and the other Financing Documents to which it is a party, or (iv) the consummation of the transactions contemplated by this Borrower Loan Agreement and the other Financing Documents to which the Fiscal Agent is a party. The Fiscal Agent makes no representation or warranty relating to compliance with any federal or state securities laws.

Section 2.04 *Arbitrage and Rebate Fund Calculations.* The Borrower shall (a) take or cause to be taken all actions necessary or appropriate in order to fully and timely comply with Section 4.09 of the Funding Loan Agreement, and (b) select, at the Borrower's expense, a Rebate Analyst reasonably acceptable to the Governmental Lender for the purpose of making any and all calculations required under Section 4.09 of the Funding Loan Agreement. Such calculations, if required, shall be made in the manner and at such times as specified in Section 4.09 of the Funding Loan Agreement. The Borrower shall cause the Rebate Analyst to provide such calculations to the Fiscal Agent and the Governmental Lender at such times and with such directions as are necessary to comply fully with the arbitrage and rebate requirements set forth in the Funding Loan Agreement and to comply fully with Section 148 of the Code, including the timely payment of any arbitrage rebate owed.

Section 2.05 *Tax Covenants of the Borrower.* The Borrower covenants and agrees that:

(a) It will at all times comply with the terms of the Tax Certificate and the Tax Regulatory Agreement;

(b) It will not take, or permit to be taken on its behalf, any action which would cause the interest payable on the Governmental Note to be included in gross income of the Funding Lender, for federal income tax purposes, and will take such action as may be necessary in the opinion of Bond Counsel to continue such exclusion from gross income, including, without limitation, the preparation and filing of all statements required to be filed by it in order to maintain the exclusion (including, but not limited to, the filing of all reports and certifications required by the Tax Regulatory Agreement);

(c) No changes will be made to the Project, no actions will be taken by the Borrower and the Borrower will not omit to take any actions, which will in any way adversely affect the tax-exempt status of the Governmental Note;

(d) It will comply with the requirements of Section 148 of the Code and the Regulations issued thereunder throughout the term of the Funding Loan and the Borrower Loan and will not make any use of the proceeds of the Funding Loan or the Borrower Loan, or of any other funds which may be deemed to be proceeds of the Governmental Note under the Code and the related regulations of the United States Treasury, which would cause the Governmental Note to be "arbitrage bonds" within the meaning of Section 148 of the Code;

(e) If the Borrower becomes aware of any situation, event or condition which would, to the best of its knowledge, result in the interest on the Governmental Note becoming includable in gross income of the Funding Lender for purposes of federal income tax purposes, it will promptly give written notice of such circumstance, event or condition to the Governmental Lender, the Fiscal Agent, the Funding Lender Representative and the Servicer;

(f) The full amount of each disbursement of proceeds of the Funding Loan will be applied to pay or to reimburse the Borrower for the payment of Costs of the Project and, after taking into account any proposed disbursement, (i) at least ninety-five percent (95%) of the net proceeds of the Governmental Note (as defined in Section 150 of the Code) will be used to provide a qualified residential rental project (as defined in Section 142(d) of the Code) and (ii) less than

twenty-five percent (25%) of the net proceeds of the Governmental Note will have been disbursed to pay or to reimburse the Borrower for the cost of acquiring land; none of the proceeds of the Governmental Note (as defined for purposes of Section 147(g) of the Code) will be disbursed to provide working capital;

(g) The Borrower will cause all of the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Act, the Code and the Tax Regulatory Agreement;

(h) All leases will comply with all applicable laws and the Tax Regulatory Agreement;

(i) In connection with any lease or grant by the Borrower of the use of the Project, the Borrower will require that the lessee or user of any portion of the Project not use that portion of the Project in any manner which would violate the covenants set forth in this Borrower Loan Agreement or the Tax Regulatory Agreement;

(j) No proceeds of the Funding Loan shall be used for the acquisition of any tangible property or an interest therein, other than land or an interest in land, unless the first use of such property is pursuant to such acquisition; provided, however, that this limitation shall not apply with respect to any building (and the equipment therefor) if rehabilitation expenditures (as defined in Section 147(d) of the Code) with respect to such building equal or exceed fifteen percent (15%) of the portion of the cost of acquiring such building (and equipment) financed with the proceeds; and provided, further, that this limitation shall not apply with respect to any structure other than a building if rehabilitation expenditures with respect to such structure equal or exceed one hundred percent (100%) of the portion of the cost of acquiring such structure financed with the proceeds;

(k) From the proceeds of the Funding Loan and investment earnings thereon, an amount not in excess of two percent (2%) of the proceeds of the Funding Loan, will be used for Costs of Issuance of the Governmental Note, all within the meaning of Section 147(g)(1) of the Code; and

(l) No proceeds of the Funding Loan shall be used directly or indirectly to provide any airplane, skybox or other private luxury box, health club facility, facility used for gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

In the event of a conflict between the terms and requirements of this Section 2.05 and the Tax Certificate, the terms and requirements of the Tax Certificate shall control.

ARTICLE III

THE BORROWER LOAN

Section 3.01 *Conditions to Funding the Borrower Loan.* On the Delivery Date, in accordance with Section 2.01 of the Funding Loan Agreement and Section 3.03 hereof, the Governmental Lender shall cause the proceeds of the Funding Loan to be deposited with the Fiscal Agent, for transfer to the Title Company for disbursement pursuant to the Settlement Statement to

make the Borrower Loan on behalf of the Governmental Lender, provided that no authorization for the disbursements of proceeds shall be made until the following conditions have been met:

(a) The Tax Regulatory Agreement shall have been executed and delivered by the parties thereto and shall have been delivered to the Title Company for recording in the appropriate office for officially recording real estate documents in the jurisdiction in which the Project is located;

(b) All other Financing Documents and Mortgage Loan Documents not listed above shall have been executed and delivered by all parties thereto and copies, in the format (hardcopy, digital, etc.) required by the Fiscal Agent, delivered to the Fiscal Agent; and

(c) The Borrower shall have delivered to the Fiscal Agent, the Governmental Lender, the Funding Lender Representative and the Servicer a certificate confirming, as of the Delivery Date, the matters set forth in Section 2.02 hereof and an opinion of its counsel or other counsel satisfactory to the Fiscal Agent, the Governmental Lender, Bond Counsel, the Funding Lender Representative and the Servicer.

Section 3.02 *Terms of the Borrower Loan; Servicer; Servicing.*

(a) The Borrower Loan shall (i) be in the maximum aggregate principal amount of \$[24,926,225]; (ii) bear interest at the same rate as the Mortgage Note; (iii) provide for principal and interest payments in the same manner and at the same time as set forth under the Mortgage Note and in the amounts set forth in the Funding Loan Amortization Schedule attached as Schedule 1 to the Governmental Note; and (iv) be subject to prepayment at the times, in the manner and on the terms, and have such other terms and provisions, as provided herein and in the Funding Loan Agreement. The outstanding principal balance of the Borrower Loan at any time shall be an amount equal to the aggregate proceeds of the Funding Loan advanced by the Funding Lender less any amounts prepaid with respect to principal in accordance with the terms hereof.

(b) The Funding Lender Representative may appoint a Servicer to service the Loans for all or a portion of the term of the Loans. The initial Servicer of the Loans is the Funding Lender. The Funding Lender Representative may remove the Servicer or appoint a replacement Servicer, in its discretion, by written notice provided to the Governmental Lender, the Fiscal Agent and the Borrower. Any successor Servicer shall signify its acceptance of the duties and obligations imposed upon it by the Funding Loan Agreement and this Borrower Loan Agreement by executing such instrument(s) as shall be acceptable to the Funding Lender Representative, a copy of which shall be provided to the parties hereto.

(c) Except as otherwise set forth in Section 4.01(a) herein), the Borrower shall make all payments in connection with the Borrower Loan to the Servicer for the benefit of the Funding Lender.

(d) The Governmental Lender, the Fiscal Agent, the FHA Lender and the Borrower hereby acknowledge and agree that (i) the Funding Lender Representative has appointed the Servicer to service and administer the Borrower Loan, (ii) the selection or removal of any Servicer is in the sole and absolute discretion of the Funding Lender Representative and (iii) none of the Governmental Lender, the Fiscal Agent, the FHA Lender or the Borrower shall terminate or

attempt to terminate any Servicer as the servicer for the Borrower Loan or appoint or attempt to appoint a substitute servicer for the Borrower Loan.

(e) Concurrently with the closings of the Funding Loan and the Borrower Loan, the Borrower and the FHA Lender shall close the Mortgage Loan with HUD, which shall be consummated by HUD's endorsement of the Mortgage Note for mortgage insurance. Thereafter, the Borrower shall fully perform all obligations under the Mortgage Loan, including, without limitation, payment of all amounts due under the Mortgage Note.

Section 3.03 Disbursements; Closing Costs. The Borrower Loan shall be disbursed in one or more installments in accordance with the funding of the Mortgage Loan. If the Mortgage Loan is insured by HUD under Section 221(d)(4) of the National Housing Act, then the Borrower Loan will be disbursed in one or more installments over the course of construction of the Project, which shall correspond to the disbursements of the Mortgage Loan by the FHA Lender until the Borrower Loan has been fully advanced. Except as otherwise herein provided, disbursement(s) of the Borrower Loan by the Fiscal Agent shall be made either (a) through the Title Company pursuant to the Settlement Statement (as to the initial disbursement) or (b) at the written direction of the Funding Lender, as to construction draws after the initial disbursement. The Borrower shall pay all costs of closing the Loans through the Title Company from legally available funds of the Borrower other than proceeds of the Borrower Loan and to the extent such amounts deposited with the Title Company are insufficient to pay all costs of closing the Loans, shall cause the payment of such additional costs of closing the Loans to be made on its behalf as such amounts become due.

Section 3.04 Pledge and Assignment to Fiscal Agent. The parties hereto acknowledge, and the Borrower consents to, the pledge and assignment by the Governmental Lender to the Fiscal Agent pursuant to the Funding Loan Agreement of all of the Governmental Lender's right, title and interest in this Borrower Loan Agreement (excluding the Unassigned Rights), the Borrower Loan, the Borrower Loan Documents and the Revenues as security for the payment of the principal of, premium, if any, and interest on the Governmental Note and the payment of any other amounts due under the Financing Documents. The parties hereto further acknowledge that the Mortgage Loan Documents secure the payment of the principal of, premium, if any, and interest on the Governmental Note and the payment of any other amounts due under the Financing Documents and that in the event of a nonpayment on the Funding Loan, the Funding Lender shall rely on the FHA Lender to exercise its rights under the Mortgage Loan Documents to make the Funding Lender whole.

Section 3.05 Investment of Funds. Except as otherwise provided in the Funding Loan Agreement, any money held as a part of any fund or account established under the Funding Loan Agreement shall be invested or reinvested by the Fiscal Agent in Qualified Investments in accordance with Section 4.06 of the Funding Loan Agreement.

Section 3.06 Damage; Destruction and Eminent Domain. If, prior to payment in full of the Borrower Loan, the Project or any portion thereof is destroyed or damaged in whole or in part by fire or other casualty, or title to, or the temporary use of, the Project or any portion thereof shall have been taken by the exercise of the power of eminent domain, and the Governmental Lender, the Borrower, the Fiscal Agent or the Servicer receives proceeds from insurance or any

condemnation award in connection therewith, such proceeds shall be utilized as provided in the Mortgage Loan Documents.

Section 3.07 *Enforcement of Financing Documents.* The Fiscal Agent or the Funding Lender Representative may enforce and take all reasonable steps, actions and the proceedings necessary for the enforcement of all terms, covenants and conditions of the Funding Loan Agreement and the other Financing Documents as and to the extent set forth herein and therein.

ARTICLE IV

LOAN PAYMENTS

Section 4.01 *Loan Payments; Independent Obligation of Borrower.*

(a) **Payment Obligations.** The Borrower agrees to repay the Borrower Loan on each Borrower Loan Payment Date as provided herein and in the Funding Loan Agreement, and in all instances at the times and in the amounts necessary to enable the Fiscal Agent (on behalf of the Governmental Lender) or the Servicer, to pay (i) all amounts payable with respect to the Funding Loan, when due, whether at maturity or upon prepayment (with premium, if applicable), acceleration or otherwise, and (ii) all associated fees, costs, and expenses. To ensure such timely payment, the Servicer shall collect from the Borrower, and the Borrower shall provide to the Servicer the foregoing payments not less than two (2) Business Days prior to each respective Borrower Loan Payment Date.

The Funding Lender, pursuant to the Funding Loan Agreement, the Borrower, the FHA Lender and the Governmental Lender agree, and the FHA Lender hereby directs, that payments of principal of and interest on the Mortgage Loan shall be used by the Servicer, when received, to make payments on the Borrower Loan on behalf of the Borrower. The Governmental Lender and the Fiscal Agent agree that payments of principal of, premium, if any, and interest on the Mortgage Loan shall, when paid by the Borrower to the Servicer, be a credit against amounts due under the Borrower Loan. The Servicer shall remit all payments collected from the Borrower of principal of, premium, if any, and interest on the Mortgage Loan and/or the Borrower Loan, together with other amounts due to the Funding Lender, directly to the Funding Lender (without payment through the Fiscal Agent) per the instructions of the Funding Lender Representative. The Servicer shall promptly notify the Fiscal Agent, the Funding Lender Representative and the Governmental Lender in writing of any failure of the Borrower to make any payment of principal of, premium, if any, and interest on the Mortgage Loan and/or Borrower Loan when due or to pay any other amounts due to the Governmental Lender hereunder or under the Funding Loan Agreement.

All fees other than the payment of principal, premium and interest on the Borrower Loan that are due hereunder and under the Funding Loan Agreement, including the Governmental Lender Fee and the Fiscal Agent's Fees and Expenses, shall be paid by the Borrower to the Fiscal Agent. Any payment made by Borrower in accordance with the provisions of this Section shall be accompanied by sufficient information to identify the source and proper application of such payment.

The obligation of the Borrower to make the payments set forth in this Article IV shall be an independent obligation of the Borrower, separate from its obligation to make payments under the Mortgage Note, provided that in all events, payments made by the Borrower under and pursuant to the Mortgage Note shall be credited against the Borrower's obligations hereunder on a dollar-for-dollar basis. Payments received by the Servicer from the Borrower shall satisfy the Borrower's payment obligations under the Mortgage Note and the Borrower Loan and the Governmental Lender's payment obligations under the Governmental Note.

(b) **Obligations Unconditional; No Set-Off.** Except as provided above, the obligation of the Borrower to repay the Borrower Loan, to perform all of its obligations under the Borrower Loan Documents, to provide indemnification pursuant to Section 6.01 hereof, to pay costs, expenses and charges pursuant to Section 4.02 hereof and to make any and all other payments required by this Borrower Loan Agreement, the Funding Loan Agreement or any other documents contemplated by this Borrower Loan Agreement or by the Borrower Loan Documents shall, subject to the limitations set forth in Section 4.05 hereof, be absolute and unconditional, and shall be paid or performed without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Borrower's title to the Project or to any part thereof is defective or nonexistent, and notwithstanding any damage due to loss, theft or destruction of the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of the Borrower's use thereof, the eviction or constructive eviction of the Borrower, any change in the tax or other laws of the United States of America, the State or any political subdivision thereof, any change in the Governmental Lender's legal organization or status, or any default of the Governmental Lender or the Fiscal Agent hereunder or under any other Financing Document, and regardless of the invalidity of any action of the Governmental Lender or the invalidity of any portion of this Borrower Loan Agreement.

(c) **Payments from Borrower to Fiscal Agent or Servicer.** Each payment by the Borrower hereunder shall be made in immediately available funds to the Servicer on each Borrower Loan Payment Date or such other date when such payment is due provided, however, such payment shall be made directly to the Fiscal Agent if there is no Servicer or if the Borrower is so directed in writing by the Funding Lender Representative. Each such payment shall be made to the Servicer, by deposit to such account as the Fiscal Agent or the Servicer may designate by written notice to the Borrower. Whenever any Borrower Loan Payment or any other payment under this Borrower Loan Agreement shall be stated to be due on a day that is not a Business Day, such payment shall be made on the first Business Day immediately thereafter.

Section 4.02 *Additional Payments Under this Borrower Loan Agreement.*

(a) In addition to the funding of the initial deposits required of the Borrower described in Section 3.03, the Borrower shall pay (or cause to be paid by the Fiscal Agent (to the extent paid from money on deposit in the Administration Fund)), the following fees, expenses and other money payable in connection with the Loans:

(i) On the Delivery Date, from money on deposit with the Title Company or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Governmental Lender, an initial financing fee in an amount equal to \$[_____], together with all third-party and out-of-pocket expenses of the Governmental Lender (including but not limited to the fees and expenses of Bond Counsel and counsel to the Governmental Lender) in connection with the Loans and the issuance of the Governmental Note.

(ii) On the Delivery Date, from money on deposit with the Title Company or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Fiscal Agent, an acceptance fee in an amount equal to \$[1,500.00], together with all third-party and out-of-pocket expenses of the Fiscal Agent (including but not limited to the fees and expenses of counsel to the Fiscal Agent) in connection with the Loans and the issuance of the Governmental Note.

(iii) To the Fiscal Agent, the Fiscal Agent's Fees and Expenses when due.

(iv) To the Governmental Lender, the Governmental Lender Fee when due in accordance with Section 20 of the Tax Regulatory Agreement.

(v) To the Rebate Analyst, the reasonable fees and expenses of such Rebate Analyst in connection with the computations relating to arbitrage rebate required under the Funding Loan Agreement and this Borrower Loan Agreement when due from time to time.

(b) In addition to the funding of the initial deposits required of the Borrower described in Section 3.03 and the payment of the fees, expenses and other money payable in connection with the Loans described in subsection (a) of this Section 4.02, the Borrower agrees to pay all other fees, costs and expenses of the Governmental Lender and the Fiscal Agent in connection with the Loans and the other transactions contemplated by this Borrower Loan Agreement, the other Borrower Loan Documents and Financing Documents (whether such amounts are due on the Delivery Date or not), including but not limited to all recording and filing fees and taxes, tax, title and lien search charges, reasonable legal fees (including but not limited to the fees and expenses of Bond Counsel, the Governmental Lender's legal counsel and the Fiscal Agent's legal counsel), all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against all or part of the Project, registration taxes, title insurance and insurance premiums, architects' and engineers' fees, appraisal fees, all costs and expenses incurred by the Governmental Lender or the Fiscal Agent in enforcing its or their rights under this Borrower Loan Agreement (including the exercise of any remedies set forth in Section 7.02 of this Borrower Loan Agreement), all reasonable costs and expenses incurred by the Governmental Lender for post-closing actions including but not limited to consents, review, and modifications, all reasonable costs and expenses incurred by the Fiscal Agent in the performance of its duties under the Borrower Loan Documents and Financing Documents, and all reasonable third-party expenses incurred by the Fiscal Agent, or the Governmental Lender for any servicing of the Loans. Notwithstanding anything to the contrary contained in this Borrower Loan Agreement or any other Borrower Loan Document or Financing Document, upon the occurrence of an Event of Default, the Borrower shall pay for all fees and expenses (including attorney's fees) incurred by the

Governmental Lender or the Fiscal Agent in connection with the enforcement of its or their rights hereunder or under any other Borrower Loan Document or Financing Document.

Section 4.03 *Payments to Rebate Fund.* The Borrower shall pay when due to the Fiscal Agent at the Principal Office of the Fiscal Agent any amount required to be deposited in the Rebate Fund in accordance with Section 4.09 of the Funding Loan Agreement.

Section 4.04 *Prepayment and Payment.*

(a) **Mandatory Payment and Prepayment of the Borrower Loan.** The Borrower Loan shall be subject to mandatory payment or prepayment, in whole or in part, together with accrued interest thereon, upon acceleration or any other payment or prepayment of the Mortgage Note, in an amount equal to such payment or prepayment.

(b) **Mandatory Termination of the Borrower Loan.** The Borrower Loan shall be subject to mandatory termination upon the mandatory termination of the Funding Loan pursuant to Section 3.01(b) of the Funding Loan Agreement. The Borrower's underlying obligation to make payments under the Mortgage Loan Documents shall be unaffected by such mandatory termination.

Section 4.05 *Limits on Personal Liability.*

(a) Except as otherwise set forth in subsection 4.05(b) below, the obligations of the Borrower under this Borrower Loan Agreement and the other Financing Documents are non-recourse liabilities of the Borrower which shall be enforced only against the Project and not personally against the Borrower or any partner or member of the Borrower or any successor or assign of the Borrower. However, nothing in this Section 4.05 shall limit the right of the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative to proceed against the Borrower to recover any fees owing to any of them or any actual out-of-pocket expenses (including but not limited to actual out-of-pocket attorneys' fees) incurred by any of them in connection with the enforcement of any rights under this Borrower Loan Agreement or the other Financing Documents. Nothing in this Section 4.05 shall limit any right that the Servicer or the Funding Lender Representative may have to enforce the Mortgage Loan Documents or any other Financing Document in accordance with their terms.

(b) Notwithstanding anything contained in any other provision of this Borrower Loan Agreement to the contrary (but subject to the provisions of Section 7.06 and Section 8.17 hereof), the following obligations of the Borrower shall be and remain the joint and several full recourse obligations of the Borrower and each of the Borrower's general partners or managing members: (i) the Borrower's obligations to the Governmental Lender and the Fiscal Agent under subsections (a)(i), (a)(ii), (a)(iii), and (a)(iv) of Section 4.02 hereof; (ii) the Borrower's obligations under Sections 2.05 (regarding tax covenants) and 6.01 (regarding indemnification) of this Borrower Loan Agreement; (iii) the Borrower's obligation to pay any and all rebate amounts that may be or become owing with respect to the Funding Loan and fees and expenses of the Rebate Analyst as provided in Sections 2.04, 4.02(a)(v) and 4.03 of this Borrower Loan Agreement and the Tax Certificate; and (iv) the Borrower's obligation to pay legal fees and expenses under Section 7.04 hereof.

ARTICLE V

SPECIAL COVENANTS OF BORROWER

Section 5.01 *Performance of Obligations.* The Borrower shall keep and faithfully perform all of its covenants and undertakings contained herein and in the Financing Documents, including, without limitation, its obligations to make all payments set forth herein and therein in the amounts, at the times and in the manner set forth herein and therein.

Section 5.02 *Compliance with Applicable Laws.* All work performed in connection with the Project shall be performed in strict compliance with all applicable federal, state, county and municipal laws, ordinances, rules and regulations now in force or that may be enacted hereafter.

Section 5.03 *Funding Loan Agreement Provisions.* The execution of this Borrower Loan Agreement shall constitute conclusive evidence of approval of the Funding Loan Agreement by the Borrower. Whenever the Funding Loan Agreement by its terms imposes a duty or obligation upon the Borrower, such duty or obligation shall be binding upon the Borrower to the same extent as if the Borrower were an express party to the Funding Loan Agreement, and the Borrower shall carry out and perform all of its obligations under the Funding Loan Agreement as fully as if the Borrower were a party to the Funding Loan Agreement.

Section 5.04 *Borrower to Maintain Its Existence; Certification of No Default.*

(a) The Borrower agrees to maintain its existence and maintain its current legal status with authority to own and operate the Project.

(b) In addition to performing all other similar requirements under the Financing Documents to which the Borrower is a party, the Borrower shall, within 30 days after the end of each calendar year, render to the Fiscal Agent a certificate executed by an Authorized Officer of the Borrower to the effect that the Borrower is not, as of the date of such certificate, in default of any of its covenants, agreements, representations or warranties under any of the Financing Documents to which the Borrower is a party and that, to the best of the Borrower's knowledge, after reasonable investigation, there has occurred no default or Event of Default (as such terms are defined in each respective Financing Document) under any of the Financing Documents.

Section 5.05 *Borrower to Remain Qualified in State and Appoint Agent.* The Borrower will remain duly qualified to transact business in the State and will maintain an agent in the State on whom service of process may be made in connection with any actions against the Borrower.

Section 5.06 *Sale or Other Transfer of Project.* The Borrower may convey and transfer the Project only upon strict compliance with the provisions of the Financing Documents, the Mortgage Loan Documents, and upon receipt of the prior written consent of the Governmental Lender and the Funding Lender Representative. [The foregoing notwithstanding, consent of Funding Lender shall not be required for Borrower's exercise of a purchase option right provided for under Borrower's partnership agreement so long as Borrower provides Funding Lender written notice of the same.]

Section 5.07 *Right to Perform Borrower's Obligations.* In the event the Borrower fails to perform any of its obligations under this Borrower Loan Agreement, the Governmental Lender, the Fiscal Agent, the Servicer and/or the Funding Lender Representative, after giving requisite notice, if any, and subject to Section 5.05 of the Funding Loan Agreement, may, but shall be under no obligation to, perform such obligation and pay all costs related thereto, and all such costs so advanced shall become an additional obligation of the Borrower hereunder, payable on demand and if not paid on demand with interest thereon at the default rate of interest payable under the Borrower Loan Documents.

Section 5.08 *Notice of Certain Events.* The Borrower shall promptly advise the Governmental Lender, the Fiscal Agent, the Funding Lender Representative and the Servicer in writing of the occurrence of any Event of Default hereunder or any event which, with the passage of time or service of notice or both, would constitute an Event of Default, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 5.09 *Survival of Covenants.* The provisions of Sections 2.04, 2.05, 4.02, 4.03, 6.01, 7.04 and 8.17 hereof shall survive the expiration or earlier termination of this Borrower Loan Agreement and, with regard to the Fiscal Agent, the resignation or removal of the Fiscal Agent.

Section 5.10 *Access to Project; Records.* Subject to reasonable notice and the rights of tenants at the Project, the Governmental Lender, the Fiscal Agent, the Servicer and the Funding Lender Representative, and the respective duly authorized agents of each, shall have the right (but not any duty or obligation) at all reasonable times and during normal business hours: (a) to enter the Project and any other location containing the records relating to the Borrower, the Project, the Loans and the Borrower's compliance with the terms and conditions of the Financing Documents; (b) to inspect and audit any and all of the Borrower's records or accounts pertaining to the Borrower, the Project, the Loans and the Borrower's compliance with the terms and conditions of the Financing Documents; and (c) to require the Borrower, at the Borrower's sole expense, (i) to furnish such documents to the Governmental Lender, the Fiscal Agent, the Servicer and the Funding Lender Representative, as the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative, as the case may be, from time to time, deems reasonably necessary in order to determine that the provisions of the Financing Documents have been complied with and (ii) to make copies of any records that the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative or the respective duly authorized agents of each, may reasonably require. The Borrower shall make available to the Governmental Lender, the Fiscal Agent, the Servicer and the Funding Lender Representative, such information concerning the Project and the Financing Documents as any of them may reasonably request.

Section 5.11 *Tax Regulatory Agreement.* The covenants of the Borrower in the Tax Regulatory Agreement shall be deemed to constitute covenants of the Borrower running with the land and an equitable servitude for the benefit of the Governmental Lender and the Funding Lender and shall be binding upon any owners of the Project until such time as such restrictions expire as provided in the Tax Regulatory Agreement. The Borrower covenants to file of record the Tax Regulatory Agreement and such other documents, and to take such other steps as are necessary in order to assure that the restrictions contained in the Tax Regulatory Agreement will, subject to the terms of the Tax Regulatory Agreement, be binding upon all owners of the Project. The Borrower

covenants to include such restrictions or a reference to such restrictions in any documents transferring any interest in the Project to another to the end that such transferee has notice of, and is bound by, the Tax Regulatory Agreement. Subject to the provisions of Section 7.06 of this Borrower Loan Agreement, the Governmental Lender and the Fiscal Agent shall have the right to seek specific performance of or injunctive relief to enforce the requirements of any covenants of the Borrower contained in the Tax Regulatory Agreement.

Section 5.12 *Damage, Destruction and Condemnation.* If prior to full payment of the Funding Loan (or provision for payment of the Funding Loan in accordance with the provisions of the Funding Loan Agreement) the Project or any portion of it is destroyed (in whole or in part) or is damaged by fire or other casualty, or title to, or the temporary use of, the Project or any portion of it shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, or shall be transferred pursuant to an agreement or settlement in lieu of eminent domain proceedings, the Borrower shall nevertheless be obligated to continue to pay the amounts specified in this Borrower Loan Agreement to the extent the Borrower Loan is not prepaid in full in accordance with the terms of the Borrower Loan Documents and the Mortgage Loan Documents.

Section 5.13 *Obligation of the Borrower To Construct and/or Rehabilitate the Project.* The Borrower shall proceed with reasonable dispatch (and in no event later than required under the Financing Documents or Mortgage Loan Documents) to complete the construction, rehabilitation, development and equipping of the Project as required by the Financing Documents and the Mortgage Loan Documents. If amounts designated for the Project and available to be disbursed to the Borrower are not sufficient to pay the costs of such acquisition, rehabilitation, development and equipping, the Borrower shall pay such additional costs from its own funds. The Borrower shall not be entitled to any reimbursement from the Governmental Lender, the Fiscal Agent, the Servicer, the Funding Lender Representative or the Funding Lender in respect of any such additional costs or to any diminution or abatement in the repayment of the Borrower Loan. None of the Fiscal Agent, the Governmental Lender, the Funding Lender, the Funding Lender Representative or the Servicer makes any representation or warranty, either express or implied, that money, if any, which will be made available to the Borrower will be sufficient to complete the Project, and none of the Fiscal Agent, the Governmental Lender, the Funding Lender, the Funding Lender Representative or the Servicer shall be liable to the Borrower or any other person if for any reason the Project is not completed.

Section 5.14 *Filing of Financing Statements.* The Borrower shall file or record or cause to be filed or recorded, or take all action to enable Funding Lender to cause to be filed or recorded on or prior to the Delivery Date all UCC financing statements which are required to be filed or recorded in order fully to protect and preserve the security interests relating to the priority of the Borrower Loan and the Funding Loan, and the rights and powers of the Governmental Lender, the Fiscal Agent and the Funding Lender in connection with such security interests. The Borrower shall cooperate with the Fiscal Agent in connection with the filing of any continuation statements for the purpose of continuing without lapse the effectiveness of such financing statements. In no event shall Governmental Lender be responsible for the filing or recording of any such financing statements or continuation statements.

ARTICLE VI

INDEMNIFICATION

Section 6.01 *Indemnification.*

(a) **Indemnified Losses.** Subject to Section 8.17 hereof, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Fiscal Agent, the Servicer, the Funding Lender and each of their respective officers, governing commissioners, members, directors, officials, employees, attorneys and agents (collectively, the “**Indemnified Parties**”), against any and all losses, damages (including, but not limited to, consequential and punitive damages), suits, claims, actions, liabilities, obligations, judgments, demands, penalties, fines, assessments, fees (including all fees of attorneys, auditors, and consultants), costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys’ fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, or may otherwise incur, be assessed or have imposed upon them (collectively, “**Losses**”), to the extent arising, directly or indirectly, out of or based upon or in any way relating to:

(i) any breach by the Borrower of its obligations under the Financing Documents or the execution, amendment, restructuring or enforcement thereof, or in connection with transactions contemplated thereby, including the issuance, sale, transfer or resale of the Governmental Note;

(ii) any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation, construction or equipping of, the Project or any part thereof;

(iii) any accident, injury to, or death of persons or loss of or damage to property occurring in, on or about the Project or any part thereof or growing out of or connected with the repair, management, ownership, operation, use, non-use, maintenance, rehabilitation, design, installation, condition or occupancy of the Project or any part thereof, including any and all acts or operations relating to any rehabilitation, operation, use, non-use, design, management, ownership, condition, occupancy, maintenance, installation or repair performed by the Borrower in connection with the Project;

(iv) any lien (other than liens permitted under the Mortgage Loan Documents) or charge upon payments by the Borrower to the Governmental Lender, the Fiscal Agent or the Servicer hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Governmental Lender or the Fiscal Agent in respect of any portion of the Project (other than income and similar taxes on fees received or earned in connection therewith);

(v) any violation of any environmental law, rule or regulation with respect to, or the release of any hazardous materials from, the Project or any part thereof;

(vi) the enforcement of, or any action taken by the Governmental Lender, the Fiscal Agent or the Funding Lender Representative related to remedies under this Borrower Loan Agreement, the Funding Loan Agreement or any other Financing Document, including all expenses reasonably incurred in the investigation of, preparation for or defense of any litigation, proceeding or investigation of any nature whatsoever related to the foregoing;

(vii) any untrue, misleading or inaccurate information supplied by the Borrower relating to the Project, the Borrower, the Project manager or to the terms of financing relating to the Project, including, but not limited to, any breach of any representation or warranty of the Borrower set forth in any Financing Documents or any certificate delivered pursuant thereto, and any representation, or warranty of the Borrower, or any information provided by the Borrower, and any untrue statement of a material fact or alleged untrue statement of a material fact by the Borrower contained in any offering statement or document for the Governmental Note or any of the Financing Documents to which the Borrower is a party, or any omission or alleged omission by the Borrower of a material fact from any offering statement or document for the Governmental Note necessary to be stated therein in order to make the statements made therein by the Borrower, in the light of the circumstances under which they were made, not misleading;

(viii) any declaration of taxability of interest on the Governmental Note or allegations (or regulatory inquiry) that interest on the Governmental Note is includable in gross income for federal income tax purposes;

(ix) any audit or inquiry by the Internal Revenue Service with respect to the Project and/or the tax-exempt status of the Governmental Note; or

(x) the Fiscal Agent's acceptance or administration of the trust of the Funding Loan Agreement, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Governmental Note to which it is a party;

except (A) in the case of the foregoing indemnification of the Fiscal Agent, or any of its respective officers, commissioners, members, directors, officials, employees, attorneys and agents, to the extent such Losses are caused by the negligence, unlawful acts or willful misconduct of such Indemnified Party; or (B) in the case of the foregoing indemnification of the Servicer or the Funding Lender or any of their respective officers, commissioners, members, directors, officials, employees, attorneys and agents, to the extent such Losses are caused by the gross negligence or willful misconduct of such Indemnified Party; or (C) in the case of the foregoing indemnification of the Governmental Lender or any of its respective officers, commissioners, members, directors, officials, employees, attorneys and agents, to the extent such Losses are caused by the willful misconduct of such Indemnified Party.

(b) **Procedures.** In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon

written notice from such Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected or approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that such Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may employ separate counsel at the expense of the Borrower only if, in such Indemnified Party's good faith judgment, a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

(c) **Borrower to Remain Obligated.** Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement, the Mortgage Loan Documents and the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 6.01 for Losses with respect to any claims based on actions or events occurring prior to the date of such transfer unless (i) such subsequent owner assumed in writing at the time of such transfer all obligations of the Borrower under this Section 6.01 (including obligations under this Section 6.01 for Losses with respect to any claims based on actions or events occurring prior to the date of such transfer) and (ii) any such transfer is in compliance with the requirements of the Financing Documents and the Mortgage Loan Documents.

(d) **Survival.** The provisions of this Section 6.01 shall survive the termination of this Borrower Loan Agreement.

Section 6.02 *Limitation With Respect to the Funding Lender.* Notwithstanding anything in this Borrower Loan Agreement to the contrary, in the event that the Funding Lender (or its nominee) shall become the owner of the Project as a result of a foreclosure or a deed in lieu of foreclosure, or comparable conversion of the Borrower Loan, the Funding Lender (or its nominee) shall not be liable for any breach or default of any prior owner of the Project under this Borrower Loan Agreement and shall only be responsible for defaults and obligations incurred or occurring during the period that the Funding Lender (or its nominee) is the owner of the Project. Accordingly, during any period that the Funding Lender (or its nominee) owns the Project and that this Article VI is applicable to the Funding Lender (or its nominee), the Funding Lender's (or its nominee's) obligations under this Article VI shall be limited to acts and omissions of the Funding Lender (or its nominee) occurring during the period of the Funding Lender's (or its nominee's) ownership of the Project.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01 *Events of Default.* The following shall be "Events of Default" under this Borrower Loan Agreement, and the term "Event of Default" shall mean, whenever it is used in this Borrower Loan Agreement, one or all of the following events:

(a) Any representation or warranty made by the Borrower in the Financing Documents or any certificate, statement, data or information furnished by the Borrower in connection therewith or included by the Borrower in its application to the Governmental Lender for assistance proves at any time to have been incorrect when made in any material respect;

(b) Failure by the Borrower to pay any amounts due under this Borrower Loan Agreement or the Mortgage Loan Documents at the times and in the amounts required by this Borrower Loan Agreement and the Mortgage Loan Documents, as applicable;

(c) The Borrower shall fail to observe or perform any other term, covenant, condition or agreement (after taking into account any applicable cure period) set forth in this Borrower Loan Agreement, which failure continues for a period of 30 days after written notice of such failure by the Governmental Lender, the Fiscal Agent or the Funding Lender Representative to the Borrower (unless such default cannot with due diligence be cured within 30 days but can be cured within a reasonable period and will not, in the Funding Lender Representative's sole discretion, adversely affect the Funding Lender or result in impairment of this Borrower Loan Agreement or any other Financing Document, in which case no Event of Default shall be deemed to exist so long as Borrower shall have commenced to cure the default or Event of Default within 30 days after receipt of notice, and thereafter diligently and continuously prosecutes such cure to completion); provided, however, no such notice or grace periods shall apply in the case of any such failure which could, in the Funding Lender Representative's judgment, absent immediate exercise by the Funding Lender Representative of a right or remedy under this Agreement, result in harm to the Funding Lender, impairment of this Borrower Loan Agreement or any other Financing Document;

(d) The occurrence of a default (other than a default related to a failure to make payments when due) under the Mortgage Loan Documents (after taking into account any applicable cure period thereunder) shall at the discretion of the Funding Lender Representative constitute an Event of Default under this Borrower Loan Agreement but only if the Fiscal Agent is provided written notice by the Funding Lender Representative that an Event of Default has occurred under such Financing Document and the Fiscal Agent is instructed by the Funding Lender Representative that such default constitutes an Event of Default hereunder. The occurrence of an Event of Default hereunder shall in the discretion of the Funding Lender Representative constitute a default under the other Financing Documents.

Nothing contained in this Section 7.01 is intended to amend or modify any of the provisions of the Financing Documents or the Mortgage Loan Documents or to bind the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative to any notice and cure periods other than as expressly set forth in the Financing Documents.

Notwithstanding any provision herein to the contrary, the Governmental Lender, the Fiscal Agent and the Funding Lender agree that any cure of any default made or tendered by the Tax Credit Investor under the Borrower Loan Documents, the Financing Documents or the Mortgage Loan Documents shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Section 7.02 Remedies on Default. Subject to Section 7.06 hereof, whenever any Event of Default hereunder shall have occurred and be continuing, the Funding Lender (or the Fiscal

Agent at the direction of the Funding Lender), may take any one or more of the following remedial steps:

(a) The Funding Lender (or the Fiscal Agent at the direction of the Funding Lender) may take such action, without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Project, including declaring the Borrower Loan to be immediately due and payable (including, without limitation, declaring the principal of, prepayment premium, if any, and interest on and all other amounts due hereunder to be immediately due and payable).

(b) The Funding Lender (or the Fiscal Agent at the direction of the Funding Lender) may, without being required to give any notice (other than to the Governmental Lender or the Fiscal Agent, as applicable), except as provided herein, pursue all remedies of a creditor under the laws of the State, as supplemented and amended, or any other applicable laws.

(c) The Funding Lender (or the Fiscal Agent at the direction of the Funding Lender) may take whatever action at law or in equity may appear necessary or desirable to collect the payments under this Borrower Loan Agreement then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Borrower Loan Agreement.

In addition, subject to Section 7.06 hereof, the Governmental Lender and the Fiscal Agent may pursue remedies with respect to the Unassigned Rights.

Any amounts collected pursuant to Article IV hereof and any other amounts which would be applicable to payment of principal of and interest and any premium on the Funding Loan collected pursuant to action taken under this Section 7.02 shall be applied in accordance with the provisions of the Funding Loan Agreement.

Section 7.03 *No Remedy Exclusive.* Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available against the Borrower hereunder or under the Financing Documents or Mortgage Loan Documents or otherwise at law or in equity may be exercised by the Funding Lender (or the Fiscal Agent at the direction of the Funding Lender), at any time and from time to time, whether or not the Funding Lender has accelerated the Borrower Loan, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Financing Documents or Mortgage Loan Documents. No remedy conferred upon or reserved to the Funding Lender or the Fiscal Agent by this Borrower Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Borrower Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission 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 thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Funding Lender (or the Fiscal Agent at the direction of the Funding Lender) to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly required by this Borrower Loan Agreement.

Section 7.04 *Agreement to Pay Attorneys' Fees and Expenses.* In the event the Borrower shall default under any of the provisions of this Borrower Loan Agreement and the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative shall employ attorneys or incur other expenses for the collection of loan payments or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained in this Borrower Loan Agreement, the Borrower shall on demand therefor reimburse the reasonable fees of such attorneys and such other expenses so incurred.

Section 7.05 *No Additional Waiver Implied by One Waiver.* In the event any agreement contained in this Borrower Loan Agreement shall be breached by any party and thereafter waived by the other parties, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 7.06 *Control of Proceedings.*

(a) If an Event of Default has occurred and is continuing, notwithstanding anything to the contrary herein, the Funding Lender Representative shall have the sole and exclusive right at any time to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Borrower Loan Agreement, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Borrower Loan Agreement. In addition, the Funding Lender Representative shall have the sole and exclusive right at any time to directly enforce all rights and remedies hereunder and under the other Financing Documents and Mortgage Loan Documents with or without the involvement of the Fiscal Agent or the Governmental Lender. In no event shall the exercise of any of the foregoing rights result in an acceleration of the Borrower Loan without the express direction of the Funding Lender Representative.

(b) The Governmental Lender and the Fiscal Agent covenant that they will not, without the prior written consent of the Funding Lender Representative, take any of the following actions:

(i) prosecute any action with respect to a lien on the Project; or

(ii) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Borrower Loan; or

(iii) interfere with or attempt to influence the exercise by the Funding Lender Representative of any of its rights under the Financing Documents upon the occurrence of any event of default by the Borrower under the Financing Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan or the Funding Loan.

(c) Notwithstanding Sections 7.06(a) and 7.06(b) hereof, the Governmental Lender or the Fiscal Agent may:

(i) specifically enforce the tax covenants of the Borrower specified in Section 2.04 and 2.05 hereof or seek injunctive relief against acts which may be in violation thereof;

(ii) specifically enforce the Tax Regulatory Agreement or seek injunctive relief against acts which may be in violation of the Tax Regulatory Agreement or are otherwise inconsistent with the operation of the Project in accordance with applicable requirements of the Internal Revenue Code and state law (but in neither the case of subsection (c)(i) above or this subsection (c)(ii) may the Governmental Lender or the Fiscal Agent seek any form of monetary damages from the Borrower in connection with such enforcement).

In addition, notwithstanding Section 7.06(a) and 7.06(b) hereof, the Governmental Lender and the Fiscal Agent may seek specific performance of the other Unassigned Rights (provided no monetary damages are sought), and nothing herein shall be construed to limit the rights of the Governmental Lender, the Fiscal Agent or any Indemnified Party related to the Governmental Lender or the Fiscal Agent under Section 6.01 (each a “**Related Indemnified Party**”) to enforce their respective rights against the Borrower under Sections 4.02, 4.03, 6.01 and 7.04 hereof, provided that no obligation of the Borrower to the Governmental Lender, the Fiscal Agent or any Related Indemnified Party under such sections shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of the Governmental Lender, the Fiscal Agent or any Related Indemnified Party, and all such obligations are and shall be subordinate in priority, in right to payment and in all other respects to all other obligations, liens, rights (including without limitation the right to payment) and interests arising or created under the Financing Documents or the Mortgage Loan Documents. Accordingly, none of the Governmental Lender, the Fiscal Agent or any Related Indemnified Party shall have the right to enforce any monetary obligation arising under such sections other than directly against the Borrower, without recourse to the Project. In addition, any such enforcement must not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

Notwithstanding the foregoing, the parties agree that preservation of the tax-exempt nature of the Governmental Note and the preservation of the Tax Credits are of primary importance and desire to avoid any forfeiture or voiding of the Tax Credits that may result from the exercise of remedies under this Borrower Loan Agreement. Accordingly, in the event the Governmental Lender or the Tax Credit Investor (for purposes of this clause, an “**Objecting Party**”) determines, in its reasonable judgement (supported by an opinion of legal counsel) that the exercise of any particular remedy by the Funding Lender or the Fiscal Agent under the Financing Documents is likely to result in the forfeiture or voiding of the Tax Credits, such Objecting Party shall provide written notice thereof to the parties hereto along with a copy of the supporting opinion of legal counsel within fifteen (15) days after receipt of notice of an Event of Default. In such event, the parties agree to forestall the exercise of such specific remedy and to work together toward a cure of the Event of Default in a manner which does not jeopardize the Tax Credits or the tax-exempt nature of the Governmental Note; provided that the Funding Lender and/or the Fiscal Agent, as applicable, may concurrently pursue enforcement of alternate remedies until all are extinguished.

Section 7.07 Assumption of Obligations. In the event that the Fiscal Agent or the Funding Lender or their respective assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under this Borrower Loan Agreement, the Tax Regulatory Agreement, and any other Financing Documents to which the Borrower is a party or with respect to which it is a third-party beneficiary. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 Notices.

(a) Whenever in this Borrower Loan Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth in Section 9.04 of the Funding Loan Agreement or as required or permitted by this Borrower Loan Agreement by Electronic Notice. The Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

A duplicate copy of each notice or other communication given hereunder by any party to the Servicer shall also be given to the Funding Lender Representative and a duplicate copy of each notice or other communication given hereunder by any party to the Funding Lender Representative shall be given to the Servicer.

The Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to this Borrower Loan Agreement.

(b) The Fiscal Agent shall provide to the Funding Lender Representative and the Servicer (i) prompt notice of the occurrence of any Event of Default hereunder and (ii) any written information or other communication received by the Fiscal Agent hereunder within ten (10) Business Days of receiving a written request from the Funding Lender Representative for any such information or other communication.

Section 8.02 *Concerning Successors and Assigns.* All covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the financing herein contemplated and shall continue in full force and effect so long as the obligations hereunder are outstanding. Whenever in this Borrower Loan Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of the Borrower which are contained in this Borrower Loan Agreement shall bind its successors and assigns and inure to the benefit of the successors and assigns of the Governmental Lender, the Fiscal Agent, the Servicer, the Funding Lender and the Funding Lender Representative, as applicable.

Section 8.03 *Governing Law.* This Borrower Loan Agreement and the Exhibits attached hereto shall be construed in accordance with and governed by the internal laws of the State and, where applicable, the laws of the United States of America.

Section 8.04 *Modifications in Writing.* Modification or the waiver of any provisions of this Borrower Loan Agreement or consent to any departure by the parties therefrom, shall in no event be effective unless the same shall be in writing approved by the parties hereto and shall require the prior written consent of the Funding Lender Representative and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Borrower in any case shall entitle it to any other or further notice or demand in the same circumstances.

Section 8.05 *Further Assurances and Corrective Instruments.* The Governmental Lender, the Fiscal Agent and the Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required (including such supplements or further instruments requested by the Funding Lender Representative) for correcting any inadequate or incorrect description of the performance of this Borrower Loan Agreement.

Section 8.06 *Captions.* The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Borrower Loan Agreement.

Section 8.07 *Severability.* The invalidity or unenforceability of any provision of this Borrower Loan Agreement shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.

Section 8.08 *Counterparts.* This Borrower Loan Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 8.09 *Amounts Remaining in Funds.* It is agreed by the parties hereto that any amounts remaining in any funds and accounts established under the Funding Loan Agreement upon expiration or sooner termination of the term hereof (and the repayment in full of the Borrower Loan and all other amounts owing under the Borrower Loan Documents), shall be paid in accordance with the Funding Loan Agreement.

Section 8.10 *Effective Date and Term.* This Borrower Loan Agreement shall become effective upon its execution and delivery by the parties hereto, shall be effective and remain in full force from the date hereof, and, subject to the provisions hereof, shall expire on such date as the Funding Loan Agreement shall terminate.

Section 8.11 *Cross References.* Any reference in this Borrower Loan Agreement to an “Exhibit,” an “Article,” a “Section,” a “Subsection” or a “Paragraph” shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit attached to this Borrower Loan Agreement, an article of this Borrower Loan Agreement, a section of this Borrower Loan Agreement, a subsection of the section of this Borrower Loan Agreement in which the reference appears and a paragraph of the subsection within this Borrower Loan Agreement in which the reference appears. All exhibits attached to or referred to in this Borrower Loan Agreement are incorporated by reference into this Borrower Loan Agreement.

Section 8.12 *Funding Lender Representative and Servicer as Third-Party Beneficiaries.* The parties hereto agree and acknowledge that the Funding Lender Representative and the Servicer are third-party beneficiaries of this Borrower Loan Agreement.

Section 8.13 *Non-Liability of Governmental Lender.* The Governmental Lender shall not be obligated to pay the principal (or prepayment premium) of or interest on the Funding Loan, except from Revenues and other money and assets received by the Fiscal Agent on behalf of the Governmental Lender pursuant to this Borrower Loan Agreement. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof, nor the faith and credit of the Governmental Lender or any member is pledged to the payment of the principal (or prepayment premium) or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Borrower Loan Agreement, the Funding Loan or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Borrower Loan Agreement.

The Borrower hereby acknowledges that the Governmental Lender’s sole source of money to repay the Funding Loan will be provided by the payments made by the Borrower pursuant to this Borrower Loan Agreement, together with investment income on certain funds and accounts held by the Fiscal Agent under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or prepayment premium) and interest on the Funding Loan as the same shall become due (whether by maturity, prepayment, acceleration or otherwise), then upon notice from the Fiscal Agent, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or prepayment premium) or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Fiscal Agent, the Borrower, the Governmental Lender or any third party, subject to any right of reimbursement from the Fiscal Agent, the Governmental Lender or any such third party, as the case may be, therefor.

Section 8.14 *No Liability of Officers.* No recourse under or upon any obligation, covenant, or agreement or in the Governmental Note, or under any judgment obtained against the Governmental Lender, or by the enforcement of any assessment or by any legal or equitable

proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any incorporator, member, director, commissioner, employee, agent or officer, as such, past, present, or future, of the Governmental Lender, either directly or through the Governmental Lender, or otherwise, for the payment for or to the Governmental Lender or any receiver thereof, or for or to the Funding Lender, of any sum that may be due and unpaid by the Governmental Lender upon the Funding Loan. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director, commissioner, employee, agent or officer, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for or to the Governmental Lender or any receiver thereof, or for or to the Funding Lender, of any sum that may remain due and unpaid upon the Funding Loan, is hereby expressly waived and released as a condition of and consideration for the execution of this Borrower Loan Agreement and the issuance of the Governmental Note.

Section 8.15 *Capacity of the Fiscal Agent.* The Fiscal Agent is entering into this Borrower Loan Agreement solely in its capacity as Fiscal Agent and shall be entitled to the rights, protections, limitations from liability and immunities afforded it as Fiscal Agent under the Funding Loan Agreement. The Fiscal Agent shall be responsible only for the duties of the Fiscal Agent expressly set forth herein and in the Funding Loan Agreement.

Section 8.16 *Reliance.* The representations, covenants, agreements and warranties set forth in this Borrower Loan Agreement may be relied upon by the Governmental Lender, the Fiscal Agent, Bond Counsel, the Servicer, the Funding Lender and the Funding Lender Representative. In performing their duties and obligations under this Borrower Loan Agreement and under the Funding Loan Agreement, the Governmental Lender and the Fiscal Agent may rely upon statements and certificates of the Borrower, upon certificates of tenants believed to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of the Borrower pertaining to occupancy of the Project. In addition, the Governmental Lender and the Fiscal Agent may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender or the Fiscal Agent under this Borrower Loan Agreement and under the Funding Loan Agreement in good faith and in conformity with the opinion of such counsel. It is expressly understood and agreed by the parties to this Borrower Loan Agreement (other than the Governmental Lender) that:

(a) the Governmental Lender may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Governmental Lender by the Fiscal Agent, the Funding Lender or the Borrower as to the existence of a fact or state of affairs required under this Borrower Loan Agreement to be noticed by the Governmental Lender;

(b) the Governmental Lender shall not be under any obligation to perform any record keeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by the Fiscal Agent, the Funding Lender Representative, the Servicer or the Borrower, as applicable; and

(c) none of the provisions of this Borrower Loan Agreement shall require the Governmental Lender or the Fiscal Agent to expend or risk its own funds (apart from the proceeds

of Funding Loan issued under the Funding Loan Agreement) or otherwise endure financial liability in the performance of any of its duties or in the exercise of any of its rights under this Borrower Loan Agreement, unless it shall first have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred by taking any such action.

Section 8.17 *FHA Federal Laws and Requirements Control.* Notwithstanding anything in this Borrower Loan Agreement to the contrary:

(a) The Governmental Lender, the Borrower and the Fiscal Agent all acknowledge that this Borrower Loan Agreement and the other Financing Documents, and any obligations of the Borrower hereunder or thereunder, are subject and subordinate to the Mortgage Loan Documents. Notwithstanding any provision in this Borrower Loan Agreement or the other Financing Documents to the contrary, except to the extent the Borrower's payments under the Mortgage Loan are credited against the Borrower's obligations under the Borrower Loan as set forth herein and in the Funding Loan Agreement, no obligations of the Borrower hereunder or thereunder shall be payable except from (A) Surplus Cash (as defined in the Mortgage Loan Documents) or (B) funds that are not derived from revenues of the Project, any reserve or deposit made with respect to the Mortgage Loan Documents or any other party as required by HUD in connection with the Mortgage Loan Documents (collectively, "**Non-Project Sources**"). No claims or actions shall be made (or payable) under this Borrower Loan Agreement or the other Financing Documents against the Project, the proceeds of the Mortgage Loan, or the assets of the Borrower, except for Surplus Cash of the Borrower. In addition, the rights and obligations of the parties under this Borrower Loan Agreement and the other Financing Documents are and shall be subordinated in all respects rights and obligations of the parties to and under the Mortgage Loan Documents. In the event of any conflict between the provisions of (i) the Financing Documents and (ii) the provisions of the Mortgage Loan Documents or the Program Obligations (as defined in the Mortgage Loan Documents), the provisions of the Mortgage Loan Documents or the Program Obligations shall control. The provisions of this Section 8.17 shall control over any inconsistent provisions in the Financing Documents.

(b) Any subsequent amendment to this Borrower Loan Agreement affecting the provisions of this Section 8.17 or the rights under the Mortgage Loan Documents, the Funding Lender, the FHA Lender or HUD with respect to the Borrower or Project is subject to prior written approval of the Funding Lender, the FHA Lender or HUD (so long as the Project is subject to the Mortgage). No amendment to this Borrower Loan Agreement shall conflict with the provisions of the Program Obligations or the Mortgage Loan Documents.

(c) The Loans are not a debt of the United States of America, HUD, FHA, GNMA or any other agency or instrumentality of the federal government and are not guaranteed by the full faith and credit of the United States or any agency or instrumentality thereof.

(d) A default under this Borrower Loan Agreement shall not constitute a default under the Mortgage Loan Documents.

(e) Nothing contained herein shall inhibit or impair the right of FHA to require or agree to any amendment, change or modification of any Mortgage Loan Documents for curing any ambiguity, or of curing, correcting or supplementing any defective or inconsistent provision

contained therein, or in regard to matters or questions arising under said Mortgage Loan Documents.

(f) Neither the Governmental Lender nor the Fiscal Agent has or shall be entitled to assert any claim against the Project, any reserves or deposits required by HUD in connection with the Project, or the rents or deposits or other income of the Project.

(g) Proceeds from any casualty, condemnation award or from the payment of a claim under any hazard insurance policy relating to the Project will be payable in accordance with the Mortgage Loan Documents and not be payable to the Fiscal Agent.

(h) As required pursuant to 24 CFR 207.261(a)(1), in the event of an assignment of conveyance of the Mortgage to HUD subsequent to the closing of the Borrower Loan and the Funding Loan, all money remaining in all funds and accounts other than the Rebate Fund, and any other funds remaining in the possession of the Fiscal Agent under either this Borrower Loan Agreement or the Funding Loan Agreement after payment or provisions for payment of debt service on the Borrower Loan and the Funding Loan, and the fees and expenses of the Fiscal Agent, Governmental Lender, Servicer, and Funding Lender, and such other parties unrelated to the Borrower (other than funds originally deposited by the Borrower or related parties on or before the date of the closing of the Borrower Loan and the Funding Loan) shall be disbursed to the FHA Lender.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Borrower Loan Agreement as of the date first set forth above.

HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO

By: _____
[NAME]
[TITLE]

U.S. BANK NATIONAL ASSOCIATION, as Fiscal Agent

By: _____
Name:
Title:

[Fiscal Agent's Signature Page to Rancho Bernardo Senior Housing Borrower Loan Agreement]

RANCHO BERNARDO SENIOR HOUSING, L.P.,
a California limited partnership

By: AHG Rancho Bernardo Senior LLC,
a California limited liability company,
its Administrative General Partner

By: Affirmed Housing Group, Inc.,
a Delaware corporation,
its Manager

By: _____
James Silverwood
President

By: Community Advancement Development Corporation,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Randall Simmrin
President

RECORDING REQUESTED BY:
RANCHO BERNARDO SENIOR HOUSING, L.P.

WHEN RECORDED RETURN TO:
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, CA 94105-2669
Attention: Justin S. Cooper

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

By and Among

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO,

U.S. BANK NATIONAL ASSOCIATION,
as Fiscal Agent,

and

RANCHO BERNARDO SENIOR HOUSING, L.P.

Dated as of February 1, 2022

Relating to

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

[\$[24,926,225]
MULTIFAMILY HOUSING REVENUE NOTE
(RANCHO BERNARDO SENIOR HOUSING)
2022 SERIES A

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**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (as supplemented and amended from time to time, this “Regulatory Agreement”) is made and entered into as of February 1, 2022, by and among the HOUSING AUTHORITY OF THE CITY OF SAN DIEGO, a public body, corporate and politic, duly organized and existing under the laws of the State of California (together with any successor to its rights, duties and obligations, the “Governmental Lender”), U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under and by virtue of the laws of the United States of America, as fiscal agent (the “Fiscal Agent”), and RANCHO BERNARDO SENIOR HOUSING, L.P., a California limited partnership, duly organized, validly existing and in good standing under the laws of the State of California (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the “Owner”).

WITNESSETH:

WHEREAS, pursuant to Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code (as amended, the “Housing Law”), and the hereinafter defined Funding Loan Agreement, the Governmental Lender has agreed to execute and deliver its Housing Authority of the City of San Diego Multifamily Housing Revenue Note (Rancho Bernardo Senior Housing) 2022 Series A in the original aggregate face amount (maximum principal amount) of \$[24,926,225] (the “Governmental Note”);

WHEREAS, the Governmental Note will be executed and delivered pursuant to a Funding Loan and Security Agreement, dated as of February 1, 2022 (the “Funding Loan Agreement”), among the Governmental Lender, ORIX Real Estate Capital, LLC, a Delaware limited liability company, as funding lender (the “Funding Lender”) and the Fiscal Agent;

WHEREAS, the proceeds of the Governmental Note will be used to fund a loan (the “Borrower Loan” as defined in the Funding Loan Agreement) to the Owner to finance the acquisition, rehabilitation/construction and development of a 175-unit (including three manager units) multifamily rental housing development for seniors to be known as Rancho Bernardo Senior Housing (also referred to as Tizon Apartments), located on the real property site described in Exhibit A hereto (as more particularly described herein, the “Project”);

WHEREAS, to assure the Governmental Lender and the owners of the Governmental Note that interest on the Governmental Note will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “Code”), and to satisfy the public purposes for which the Governmental Note is authorized to be executed and delivered under the Housing Law, and to satisfy the purposes of the Governmental Lender in determining to execute and deliver the Governmental Note, certain limits on the occupancy of units in the Project need to be established and certain other requirements need to be met;

NOW, THEREFORE, in consideration of the execution and delivery of the Governmental Note by the Governmental Lender and the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Governmental Lender, the Fiscal Agent and the Owner hereby agree as follows:

Section 1. Definitions and Interpretation. Unless the context otherwise requires, the capitalized terms used herein shall have the respective meanings assigned to them in the first paragraph hereof and the recitals hereto, in this Section 1, or in the Funding Loan Agreement.

“Administrator” means the Governmental Lender or any administrator or program monitor appointed by the Governmental Lender to administer this Regulatory Agreement, and any successor administrator appointed by the Governmental Lender.

“Area” means the Metropolitan Statistical Area or County, as applicable, in which the Project is located as defined by the United States Department of Housing and Urban Development.

“Available Units” means residential units in the Project that are actually occupied and residential units in the Project that are vacant and have been occupied at least once after becoming available for occupancy, provided that (a) a residential unit that is vacant on the later of (i) the date the Project is acquired or (ii) the Closing Date is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after the renovations are completed.

“CDLAC” means the California Debt Limit Allocation Committee or its successors.

“CDLAC Conditions” has the meaning given such term in Section 29.

“CDLAC Resolution” means CDLAC Resolution No. 21-166 attached hereto as Exhibit D, adopted on August 11, 2021 and relating to the Project, as such resolution may be modified or amended from time to time.

“Certificate of Continuing Program Compliance” means the Certificate to be filed by the Owner with the Administrator, on behalf of the Governmental Lender, and the Fiscal Agent pursuant to Section 4(f) hereof, which shall be substantially in the form attached as Exhibit C hereto or in such other comparable form as may be provided by the Governmental Lender to the Owner, or as otherwise approved by the Governmental Lender.

“City” means the City of San Diego, California.

“Closing Date” means the date the Governmental Note is originally executed and delivered, expected to be on or about [February __, 2022].

“Compliance Period” means the period beginning on the first day of the Qualified Project Period and ending on the later of the end of the Qualified Project Period or such later date as set forth in Section 29(c) of this Regulatory Agreement.

“Conversion Date” means the date, if any, upon which the Loan converts from the construction phase to the permanent phase in accordance with the terms of the Loan Agreement.

“County” means the County of San Diego, California.

“Deed of Trust” means the “Security Instrument” as defined in the Funding Loan Agreement, as the same may be modified, amended or supplemented from time to time, or any deed of trust (or similar security instrument) containing a power of sale clause reflecting a valid, perfected first-priority lien on the fee interest in the Project delivered by the Owner to secure the Owner’s obligations to a third-party lender.

“Fiscal Agent” means U.S. Bank National Association or any successor fiscal agent appointed and acting under the Funding Loan Agreement.

“Funding Lender” means, during any period in which any of the Governmental Note is outstanding, means the “Funding Lender” under the Funding Loan Agreement, and if at any time no Governmental Note remains outstanding and the Funding Loan Agreement has been discharged, then there is no Funding Lender and references herein to the Funding Lender shall be deemed inapplicable and disregarded.

“Gross Income” means the gross income of a person (together with the gross income of all persons who intend to reside with such person in one residential unit) as calculated in the manner prescribed in under Section 8 of the Housing Act.

“Housing Act” means the United States Housing Act of 1937, as amended, or its successor.

“Housing Law” means Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code, as amended.

“Income Certification” means a Tenant Income Certification and a Tenant Income Certification Questionnaire in the form attached as Exhibit B hereto or in such other comparable form as may be provided by the Governmental Lender to the Owner, or as otherwise approved by the Governmental Lender.

“Investor Limited Partner” means the investor limited partner of the Owner, or any other successor entity in such entity’s capacity as a limited partner of the Owner.

“Loan Agreement” means the “Borrower Loan Agreement” as defined in the Funding Loan Agreement, as the same may be modified, amended or supplemented from time to time.

“Low Income Tenant” means a tenant occupying a Low Income Unit.

“Low Income Unit” means any Available Unit if the aggregate Gross Income of all tenants therein does not exceed limits determined in a manner consistent with determinations of “low-income families” under Section 8 of the Housing Act, provided that the percentage of median gross income that qualifies as low income hereunder shall be sixty percent (60%) of median gross income for the Area, with adjustments for family size. A unit occupied by one or more students shall only constitute a Low Income Unit if such students meet the requirements of Section 142(d)(2)(C) of the Code. The determination of an Available Unit’s status as a Low Income Unit shall be made by the Owner upon commencement of each lease term with respect to such unit, and annually thereafter, on the basis of an Income Certification executed by each tenant.

“Manager” means a property manager meeting the requirements of Section 27 hereof. ConAm Management Corporation, a California corporation, is hereby approved as the initial Manager.

“Noteowner” means, during any period in which any portion of the Governmental Note is outstanding, the “Funding Lender Representative” under and as such term is defined in the Funding Loan Agreement. If at any time the Governmental Note is no longer outstanding, then there is no Noteowner and references herein to the Noteowner are void and inapplicable and shall be disregarded.

“Project” means the 178-unit multifamily rental housing development (including three manager’s units) to be located at 11520 W. Bernardo Court, in the City of San Diego, San Diego County, on the real property site described in Exhibit A hereto, consisting of those facilities, including real property, structures, buildings, fixtures or equipment situated thereon, as it may at any time exist, the acquisition, construction and development of which facilities are to be financed, in whole or in part, from the proceeds of the sale of the Governmental Note or the proceeds of any payment by the Owner pursuant to the Loan Agreement, and any real property, structures, buildings, fixtures or equipment acquired in substitution for, as a renewal or replacement of, or a modification or improvement to, all or any part of the facilities described in the Loan Agreement.

“Qualified Project Period” means the period beginning on the first day on which at least 10% of the units in the Project are first occupied and ending on the later of the following:

- (A) the date that is fifteen (15) years after the date on which at least fifty percent (50%) of the units in the Project are first occupied;
- (B) the first date on which no Tax-Exempt private activity bonds with respect to the Project are Outstanding; or
- (C) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Regulations” means the Income Tax Regulations of the Department of the Treasury applicable under the Code from time to time.

“Regulatory Agreement” means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be supplemented and amended from time to time.

“Rental Payments” means the rental payments paid by the occupant of a unit, excluding any supplemental rental assistance to the occupant from the State, the federal government, or any other public agency, but including any mandatory fees or charges imposed on the occupant by the Owner as a condition of occupancy of the unit.

“Tax Certificate” means the Tax Certificate and Agreement, dated the Closing Date, executed by the Governmental Lender and the Owner, as the same may be amended from time to time.

“Tax-Exempt” means with respect to interest on any obligations of a state or local government, including the Governmental Note, that such interest is excluded from gross income for federal income tax purposes; provided, however, that such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

“Transfer” means the conveyance, assignment, sale or other disposition of all or any portion of the Project; and shall also include, without limitation to the foregoing, the following: (1) an installment sales agreement wherein Owner agrees to sell the Project or any part thereof for a price to be paid in installments; and (2) an agreement by the Owner leasing all or a substantial part of the Project to one or more persons or entities pursuant to a single or related transactions.

“Very Low Income Tenant” means a tenant occupying a Very Low Income Unit.

“Very Low Income Unit” means any Available Unit if the aggregate Gross Income of all tenants therein does not exceed limits determined in a manner consistent with determinations of “very low-income families” under Section 8 of the Housing Act, provided that the percentage of median gross income that qualifies as very low income hereunder shall be fifty percent (50%) of median gross income for the Area, with adjustments for family size. A unit occupied by one or more students shall only constitute a Very Low Income Unit if such students meet the requirements of Section 142(d)(2)(C) of the Code. The determination of an Available Unit’s status as a Very Low Income Unit shall be made by the Owner upon commencement of each lease term with respect to such unit, and annually thereafter, on the basis of an Income Certification executed by each tenant.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of any gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

The parties to this Regulatory Agreement acknowledge that each party and their respective counsel have participated in the drafting and revision of this Regulatory Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Regulatory Agreement or any supplement or exhibit hereto.

Section 2. Representations, Covenants and Warranties of the Owner.

(a) The Owner hereby incorporates herein, as if set forth in full herein, each of the representations, covenants and warranties of the Owner contained in the Tax Certificate and the Loan Agreement relating to the Project.

(b) The Owner hereby represents and warrants that the Project is located entirely within the City.

(c) The Owner acknowledges, represents and warrants that it understands the nature and structure of the transactions contemplated by this Regulatory Agreement; that it is familiar with the provisions of all of the documents and instruments relating to the Governmental Note to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the Governmental Lender for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Governmental Lender in any manner except to execute and deliver the Governmental Note in order to provide funds to assist the Owner in acquiring, constructing and developing the Project.

Section 3. Qualified Residential Rental Project. The Owner hereby acknowledges and agrees that the Project is to be owned, managed and operated as a “residential rental project” (within the meaning of Section 142(d) of the Code) for a term equal to the Compliance Period. To that end, and for the term of this Regulatory Agreement, the Owner hereby represents, covenants, warrants and agrees as follows:

(a) The Project will be acquired, constructed, developed and operated for the purpose of providing multifamily residential rental property. The Owner will own, manage and operate the Project as a project to provide multifamily residential rental property comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities, in accordance with Section 142(d) of the Code, Section 1.103-8(b) of the Regulations and the provisions of the Housing Law, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the dwelling units in the Project (except for not more than three units set aside for a resident manager or other administrative use) will be similarly constructed units, and each dwelling unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis or rented for a period of less than 30 consecutive days, or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park; provided that the use of certain units for tenant guests on an intermittent basis shall not be considered transient use for purposes of this Regulatory Agreement.

(d) No part of the Project will at any time during the Compliance Period be owned by a cooperative housing corporation, nor shall the Owner take any steps in connection with a conversion to such ownership or use, and the Owner will not take any steps in connection with a conversion of the Project to condominium ownership during the Compliance Period (except that the Owner may obtain final map approval and the Final Subdivision Public Report from the California Department of Real Estate and may file a condominium plan with the City).

(e) All of the Available Units in the Project (except for not more than three units set aside for a resident manager or other administrative use) will be available for rental during the period beginning on the date hereof and ending on the termination of the Compliance Period on a continuous, "first-come, first-served" basis to members of the general public (which, for purposes hereof, shall mean the general senior population), and the Owner will not give preference to any particular class or group in renting the dwelling units in the Project, except as permitted by applicable law, including Section 1.103-8(a)(2) of the Regulations, and to the extent that dwelling units are required to be leased or rented in such a manner that they constitute Low Income Units or Very Low Income Units.

(f) The Project consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the facilities of the Project comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) No dwelling unit in the Project shall be occupied by the Owner; provided, however, that if the Project contains five or more dwelling units, this provision shall not be construed to prohibit occupancy of not more than three dwelling units by a resident manager or maintenance personnel, any of whom may be the Owner.

(h) The Owner shall deliver to the Administrator and the Lender, (i) within 30 days after the date on which 10% of the dwelling units in the Project are occupied, a written notice specifying such date, and (ii) within 30 days after the date on which 50% of the dwelling units in the Project are occupied, a written notice specifying such date.

Section 4. Low Income Tenants and Very Low Income Tenants; Reporting Requirements. Pursuant to the requirements of the Code and the Housing Law, the Owner hereby represents, warrants and covenants as follows:

(a) During the Compliance Period, no less than 30% of the total number of completed units in the Project shall at all times be Low Income Units and no less than 10% of the total number of completed units in the Project shall at all times be Very Low Income Units. For

the purposes of this paragraph (a), a vacant unit that was most recently a Low Income Unit or Very Low Income Unit is treated as a Low Income Unit or Very Low Income Unit, respectively, until reoccupied, other than for a temporary period of not more than 31 days, at which time the character of such unit shall be redetermined.

(b) No tenant qualifying as a Low Income Tenant or Very Low Income Tenant upon initial occupancy shall be denied continued occupancy of a unit in the Project because, after admission, the aggregate Gross Income of all tenants in the unit occupied by such Low Income Tenant or Very Low Income Tenant, respectively, increases to exceed the qualifying limit for a Low Income Unit or Very Low Income Unit, respectively. However, should the aggregate Gross Income of tenants in a Low Income Unit or Very Low Income Unit as of the most recent determination thereof, exceed one hundred forty percent (140%) of the applicable income limit for a Low Income Unit or Very Low Income Unit, respectively, occupied by the same number of tenants, the next available unit of comparable or smaller size must be rented to (or held vacant and available for immediate occupancy by) Low Income Tenant(s) or Very Low Income Tenant(s), respectively. The unit occupied by such tenants whose aggregate Gross Income exceeds such applicable income limit shall continue to be treated as a Low Income Unit or Very Low Income Unit for purposes of the 30% or 10%, respectively, requirement of Section 4(a) hereof unless and until an Available Unit of comparable or smaller size is rented to persons other than Low Income Tenants or Very Low Income Tenants, respectively.

(c) For the Compliance Period, the Owner will obtain, complete and maintain on file Income Certifications for each Low Income Tenant and Very Low Income Tenant, including (i) an Income Certification dated immediately prior to the initial occupancy of such Low Income Tenant or Very Low Income Tenant, respectively, in the unit and (ii) thereafter, an annual Income Certification with respect to each Low Income Tenant or Very Low Income Tenant, respectively. The Owner will provide such additional information as may be required in the future by the Code, the State or the Governmental Lender, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to Tax-Exempt obligations. Upon request of the Administrator or the Governmental Lender, copies of Income Certifications for Low Income Tenants and/or Very Low Income Tenants commencing or continuing occupation of a Low Income Unit or Very Low Income Unit, respectively, shall be submitted to the Administrator or the Governmental Lender, as requested.

(d) The Owner shall make a good faith effort to verify that the income information provided by an applicant in an Income Certification is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain pay stubs for the three most recent pay periods, (2) obtain an income tax return for the most recent tax year, (3) obtain a credit report or conduct a similar type credit search, (4) obtain an income verification from the applicant's current employer, (5) obtain an income verification from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or (6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification reasonably acceptable to the Governmental Lender.

(e) The Owner will maintain complete and accurate records pertaining to the Low Income Units and Very Low Income Units, and will permit any duly authorized representative of the Governmental Lender, the Fiscal Agent, the Department of the Treasury or the Internal Revenue Service to inspect during normal business hours the books and records of the Owner pertaining to the Project upon reasonable written notice, including those records pertaining to the occupancy of the Low Income Units and the Very Low Income Units.

(f) The Owner will prepare and submit to the Administrator, on behalf of the Governmental Lender, not less than annually, commencing the first anniversary of the Closing Date and each anniversary thereafter, a Certificate of Continuing Program Compliance executed by the Owner in substantially the form attached hereto as Exhibit C. During the Compliance Period, the Owner shall submit a completed Internal Revenue Code Form 8703 or such other annual certification as required by the Code with respect to the Project, to the Secretary of the Treasury on or before March 31 of each year (or such other date as may be required by the Code).

(g) For the Compliance Period, all tenant leases or rental agreements shall be subordinate to this Regulatory Agreement and the Deed of Trust. All leases pertaining to Low Income Units or Very Low Income Units shall contain clauses, among others, wherein each tenant who occupies a Low Income Unit or a Very Low Income Unit, respectively: (i) certifies the accuracy of the statements made by such tenant in the Income Certification; (ii) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Owner, the Fiscal Agent, the Governmental Lender or the Administrator on behalf of the Governmental Lender, and that the failure to provide accurate information in the Income Certification or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant; (iii) acknowledges that the Owner has relied on the statements made by such tenant in the Income Certification and supporting information supplied by the Low Income Tenant or the Very Low Income Tenant, respectively, in determining qualification for occupancy of a Low Income Unit or the Very Low Income Unit, respectively, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease or rental agreement; and (iv) agrees that the tenant's income is subject to annual certification in accordance with Section 4(c) and that if upon any such certification the aggregate Gross Income of tenants in such unit exceeds the applicable income limit under Section 4(b), the unit occupied by such tenant may cease to qualify as a Low Income Unit or Very Low Income Unit, respectively, and such unit's rent may be subject to increase.

For purposes of this Section 4, no unit occupied by a residential manager shall be treated as a rental unit during the time of such occupation.

Section 5. Tax-Exempt Status of Note. The Owner and the Governmental Lender, as applicable, each hereby represents, warrants and agrees as follows:

(a) The Owner and the Governmental Lender will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-Exempt nature of the interest on the Governmental Note and, if either of them should

take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(b) The Owner and the Governmental Lender will file of record such documents and take such other steps as are necessary, in the written opinion of Tax Counsel filed with the Governmental Lender and the Fiscal Agent (with a copy to the Owner), in order to ensure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of the County.

Section 6. Requirements of the Housing Law. In addition to the other requirements set forth herein, pursuant to the requirements of Section 34312.3 of the Housing Law, the Owner agrees that it shall comply with the following:

(a) Not less than 30% of the total number of units in the Project shall be Low Income Units and not less than 10% of the total number of units in the Project shall be Very Low Income Units. The units made available to meet this requirement shall be of comparable quality and offer a range of sizes and numbers of bedrooms comparable to the units that are available to other tenants in the Project.

(b) The Rental Payments for the Low Income Units paid by the tenants thereof (excluding any supplemental rental assistance from the State, the federal government or any other public agency to those tenants or on behalf of those units) shall not exceed 30% of an amount equal to 60% of the median adjusted gross income for the Area. The Rental Payments for the Very Low Income Units paid by the tenants thereof (excluding any supplemental rental assistance from the State, the federal government or any other public agency to those tenants or on behalf of those units) shall not exceed 30% of an amount equal to 50% of the median adjusted gross income for the Area, based upon an assumed household size of one person/studio, two persons/one bedroom, three persons/two bedroom, four persons/three bedroom, and five persons/four bedroom, or as otherwise required by the Housing Law.

(c) The Owner shall accept as tenants, on the same basis as all other prospective tenants, low-income persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act. The Owner shall not permit any selection criteria to be applied to Section 8 certificate or voucher holders that is more burdensome than the criteria applied to all other prospective tenants.

(d) The units reserved for occupancy as required by Section 4(a) shall remain available on a priority basis for occupancy at all times on and after the Closing Date and continuing through the Compliance Period.

(e) During the three (3) years prior to the expiration of the Compliance Period, the Owner shall continue to make available to eligible households Low Income Units and Very Low Income Units that have been vacated to the same extent that nonreserved units are made available to noneligible households.

(f) Except as set forth in Section 13 hereof, the covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Owner.

(g) This Regulatory Agreement shall be recorded in the office of the County recorder, and shall be recorded in the grantor-grantee index under the name of the Owner as grantor and under the name of the Governmental Lender as grantee.

Section 7. Requirements of the Governmental Lender. In addition to other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 4 through 6 hereof, the Owner hereby agrees to comply with each of the requirements of the Governmental Lender set forth in this Section 7, as follows:

(a) For the duration of the Compliance Period, notwithstanding any retirement of the Governmental Note or termination of the Loan Agreement, the Owner will pay to the Governmental Lender all of the amounts required to be paid by the Owner under the Loan Agreement and will indemnify the Governmental Lender and the Fiscal Agent as provided in Section 9 and, with respect to the Fiscal Agent, Section 18 of this Regulatory Agreement.

(b) All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Owner and shall be maintained as required by the Governmental Lender, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Governmental Lender upon reasonable advance notice to the Owner.

(c) The Owner acknowledges that the Governmental Lender has appointed the Administrator to administer this Regulatory Agreement and to monitor performance by the Owner of the terms, provisions and requirements hereof. The Owner shall comply with any reasonable request made by the Administrator or the Governmental Lender to deliver to any such Administrator, in addition to or instead of the Governmental Lender, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by the Administrator as an agent of the Governmental Lender. The fees and expenses of the Administrator shall be paid by the Governmental Lender.

(d) For purposes of Section 6(b), the base rents shall be adjusted for household size appropriate for the unit, to the extent permitted by law.

(e) Following the expiration or termination of the Compliance Period, except in the event of foreclosure and redemption of the Governmental Note, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units reserved for occupancy as required by subsection (a) of this Section shall remain available to any eligible tenant occupying a reserved unit at the date of such expiration or termination, at the rent determined by subsection (b) of this Section, until the earliest of (1) the household's income exceeds 140% of the maximum eligible income specified above, (2) the household voluntarily moves or is evicted for good cause (as defined in the Housing Law), (3) 30 years after the date of the commencement of

the Compliance Period, or (4) the Owner pays the relocation assistance and benefits to households as provided in Section 7264(b) of the California Government Code.

(f) As provided by the CDLAC Resolution, throughout the Compliance Period, the Owner shall maintain at least 132 units as Very Low Income Units (of which 14 will be studios) and 43 units as Low Income Units.

Any of the foregoing requirements of the Governmental Lender contained in this Section 7 may be expressly waived by the Governmental Lender, in its sole discretion, in writing, but (i) no waiver by the Governmental Lender of any requirement of this Section 7 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Governmental Lender has received an opinion of Tax Counsel that any such provision is not required by the Act and the Housing Law and may be waived without adversely affecting the exclusion from gross income of interest on the Governmental Note for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the Governmental Lender and the Owner receive a written opinion of Tax Counsel to the effect that compliance with any such requirement would cause interest on the Governmental Note to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Housing Law or any other state or federal law.

Section 8. Modification of Covenants. The Owner, the Fiscal Agent and the Governmental Lender hereby agree as follows:

(a) To the extent any amendments to the Housing Law, the Regulations or the Code shall, in the written opinion of Tax Counsel filed with the Governmental Lender, the Fiscal Agent and the Owner, retroactively impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement, and if such requirements are applicable to the Project and compliance therewith is necessary to maintain the validity of, or the Tax-Exempt status of interest on the Governmental Note, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

(b) To the extent that the Housing Law, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Tax Counsel filed with the Governmental Lender, the Fiscal Agent and the Owner, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Governmental Lender, at its sole discretion, the Fiscal Agent and the Owner, with the consent of the Noteowner Representative, and only upon receipt by the Governmental Lender and the Fiscal Agent of the written opinion of Tax Counsel to the effect that such amendment will not affect the Tax-Exempt status of interest on the Governmental Note or violate the requirements of the Housing Law, and otherwise in accordance with Section 22 hereof.

(c) The Owner, the Governmental Lender and, if applicable, the Fiscal Agent, shall execute, deliver and, if applicable, the Owner or the Governmental Lender shall file of record any and all documents and instruments necessary to effectuate the intent of this Section 8, and

each of the Owner and the Governmental Lender hereby appoints the Fiscal Agent as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record (it being understood that the Fiscal Agent has no duty or obligation to take such action) on behalf of the Owner or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved in writing by Tax Counsel) if either the Owner or the Governmental Lender defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Governmental Lender or the Owner, the Fiscal Agent shall take no action under this subsection without first notifying the Owner or the Governmental Lender, or both of them, as is applicable, and without first providing the Owner or the Governmental Lender, or both of them, as is applicable, an opportunity to comply with the requirements of this Section 8. Nothing in this subsection (c) shall be construed to allow the Fiscal Agent to execute an amendment to this Regulatory Agreement on behalf of the Governmental Lender or the Owner.

Section 9. Indemnification; Other Payments. To the fullest extent permitted by law, the Owner agrees to indemnify, hold harmless and defend the Governmental Lender, the City, the Fiscal Agent and each of its officers, governing members, directors, officials, employees, attorneys and agents (collectively, the “Indemnified Parties”), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys’ fees and expenses, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under or any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(i) the Governmental Note, the Funding Loan Agreement, the Loan Agreement, this Regulatory Agreement or the Tax Certificate and all documents related thereto, or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including, as applicable, the execution and delivery or transfer of interests in the Governmental Note;

(ii) any act or omission of the Owner or any of its agents, contractors, servants, employees or licensees in connection with the Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation, construction/rehabilitation of, the Project or any part thereof;

(iii) any lien or charge upon payments by the Owner to the Governmental Lender or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Governmental Lender in respect of any portion of the Project;

(iv) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof;

(v) the defeasance and/or redemption, in whole or in part, of the Governmental Note;

(vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering statement or disclosure document for the Governmental Note or any of the documents relating to the Governmental Note, or any omission or alleged omission from any offering statement or disclosure document for the Governmental Note of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; or

(vii) any declaration of taxability of interest on the Governmental Note, or allegations (or regulatory inquiry) that interest on the Governmental Note is taxable, for federal tax purposes;

except to the extent such damages are caused by the gross negligence willful misconduct of the Fiscal Agent or the willful misconduct of any other such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Owner, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Owner shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Owner if in the judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

In addition to the foregoing, the Owner will pay upon demand all of the fees and expenses paid or incurred by the Fiscal Agent and/or the Governmental Lender in enforcing the provisions hereof, as more fully set forth in the Loan Agreement.

The provisions of this Section 9 shall survive the final payment or defeasance of the Governmental Note and this Regulatory Agreement; provided, however, the provisions of this Section shall, in the case of the Fiscal Agent, survive the term of this Regulatory Agreement or the resignation or removal of the Fiscal Agent, but only as to claims arising from events occurring during the term of this Regulatory Agreement or the Fiscal Agent's tenure as Fiscal Agent under the Funding Loan Agreement, and shall, in the case of the Governmental Lender, survive the term of this Regulatory Agreement, but only as to claims arising from events occurring during the term of this Regulatory Agreement.

Section 10. Consideration. The Governmental Lender has agreed to execute and deliver the Governmental Note to provide funds to lend to the Owner to finance the Project, all for the purpose, among others, of inducing the Owner to acquire, construct, develop and operate the Project. In consideration of the execution and delivery of the Governmental Note by the Governmental Lender, the Owner has entered into this Regulatory Agreement and has agreed to restrict the uses to which this Project can be put on the terms and conditions set forth herein.

Section 11. Reliance. The Governmental Lender and the Owner hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons, including but not limited to the Administrator and Fiscal Agent, interested in the legality and validity of the Governmental Note, in the exemption from California personal income taxation of interest on the Governmental Note and in the Tax-Exempt status of the interest on the Governmental Note. In performing their duties and obligations hereunder, the Governmental Lender, the Administrator and the Fiscal Agent may rely upon statements and certificates of the Low Income Tenants and the Very Low Income Tenants, and upon audits of the books and records of the Owner pertaining to the Project. In addition, the Governmental Lender and the Fiscal Agent may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender or the Fiscal Agent hereunder in good faith and in conformity with such opinion. In determining whether any default or lack of compliance by the Owner exists under this Regulatory Agreement, the Fiscal Agent shall not be required to conduct any investigation into or review of the operations or records of the Owner and may rely solely on any written notice or certificate delivered to the Fiscal Agent by the Owner or the Governmental Lender with respect to the occurrence of a default, and in the absence of such certificate, may assume that no default or lack of compliance exists.

Section 12. Transfer of the Project. For the Compliance Period, the Owner shall not Transfer the Project, in whole or in part, without the prior written consent of the Governmental Lender, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied: (A) the receipt by the Governmental Lender of evidence acceptable to the Governmental Lender that (1) the Owner shall not be in default hereunder or under the Loan Agreement, if in effect (which may be evidenced by a Certificate of Continuing Program Compliance), or the transferee undertakes to cure any defaults of the Owner to the reasonable satisfaction of the Governmental Lender; (2) the continued operation of the Project shall comply with the provisions of this Regulatory Agreement; (3) either (a) the transferee, or its general partner or member, or its Manager has at least three years' experience in the ownership, operation and management of similar size rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local governmental requirements applicable to such projects, or (b) the transferee agrees to retain a Manager with the experience and record described in subclause (a) above, or (c) the transferring Owner or its management company will continue to manage the Project, or another management company reasonably acceptable to the Governmental Lender will manage, for at least one year following such Transfer and, if applicable, during such period the transferring Owner or its management company will provide training to the transferee and its manager in the responsibilities relating to the Low Income Units and the Very Low Income Units; and (4) the person or entity that is to acquire the Project does not have pending against it, and does not have a history of significant and material building code violations or complaints concerning the maintenance, upkeep, operation, and regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; (B) the execution by the transferee of any document reasonably requested by the Governmental Lender with respect to the assumption of the Owner's obligations under this Regulatory Agreement and the Loan Agreement (if then in effect), including without limitation an instrument of assumption hereof and thereof, and delivery

to the Governmental Lender and the Fiscal Agent of an opinion of such transferee's counsel to the effect that each such document and this Regulatory Agreement are valid, binding and enforceable obligations of such transferee, subject to bankruptcy and other standard limitations affecting creditor's rights; (C) receipt by the Governmental Lender and the Fiscal Agent of an opinion of Tax Counsel to the effect that any such Transfer will not adversely affect the Tax-Exempt status of interest on the Governmental Note; (D) receipt by the Governmental Lender of all fees and/or expenses then currently due and payable to the Governmental Lender by the Owner and (E) receipt by the Issuer of evidence of satisfaction of compliance with the provisions of Section 29(d)(i) related to notice to CDLAC of transfer of the Project.

It is hereby expressly stipulated and agreed that any Transfer of the Project in violation of this Section 12 shall be null, void and without effect, shall cause a reversion of title to the Owner, and shall be ineffective to relieve the Owner of its obligations under this Regulatory Agreement. The written consent of the Governmental Lender to any Transfer of the Project shall constitute conclusive evidence that the Transfer is not in violation of this Section 12. Nothing in this Section shall affect any provision of any other document or instrument between the Owner and any other party which requires the Owner to satisfy certain conditions or obtain the prior written consent of such other party in order to Transfer the Project. Upon any Transfer that complies with this Regulatory Agreement, the Owner shall be fully released from its obligations hereunder to the extent such obligations have been fully assumed in writing by the transferee of the Project.

The foregoing notwithstanding, the Project may be transferred pursuant to a foreclosure, exercise of power of sale or deed in lieu of foreclosure or comparable conversion under the Deed of Trust without the consent of the Governmental Lender or compliance with the provisions of this Section 12. The Governmental Lender also hereby approves the transfer of limited partnership interests in the Owner to affiliates of the Investor Limited Partner of the Owner, including, without limitation, the transfer of partnership interests in the Owner from the Investor Limited Partner and non-managing membership interests in the limited partner of the Owner.

For the Compliance Period, the Owner shall not: (1) encumber any of the Project or grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project, except for (A) the Deed of Trust and Permitted Encumbrances (as defined in the Deed of Trust), or (B) a Transfer in accordance with the terms of this Regulatory Agreement, in each case upon receipt by the Governmental Lender and the Fiscal Agent of an opinion of Tax Counsel to the effect that such action will not adversely affect the Tax-Exempt status of interest on the Governmental Note (provided that such opinion will not be required with respect to any encumbrance, lease or transfer relating to a commercial operation or ancillary facility that will be available for tenant use and is customary to the operation of multifamily housing developments similar to the Project, as certified in writing by the Owner to the Governmental Lender and the Fiscal Agent); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is demolished or removed is replaced with comparable property or such demolition or removal is otherwise permitted by the Loan Agreement or the Deed of Trust; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Section 13. Term. This Regulatory Agreement and all and several of the terms hereof shall become effective upon its execution and delivery, and shall remain in full force and effect for the period provided herein and shall terminate as to any provision not otherwise provided with a specific termination date and shall terminate in its entirety at the end of the Compliance Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Governmental Note and discharge of the Funding Loan Agreement and the Loan Agreement; provided, however, the Fiscal Agent shall no longer be deemed a party hereto, as set forth in the last paragraph of Section 18 hereof.

The terms of this Regulatory Agreement to the contrary notwithstanding, the requirements of this Regulatory Agreement shall terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire or other casualty, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date, which prevents the Governmental Lender and the Fiscal Agent from enforcing such provisions, or condemnation or a similar event, but only if, within a reasonable period, either the Governmental Note are retired or amounts received as a consequence of such event are used to provide a project that meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure or the delivery of a deed in lieu of foreclosure or a similar event, the Owner or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Owner hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Owner nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Governmental Lender, the Fiscal Agent and the Owner, with the consent of CDLAC, upon receipt by the Governmental Lender and the Fiscal Agent of an opinion of Tax Counsel to the effect that such termination will not adversely affect the exclusion from gross income of interest on the Governmental Note for federal income tax purposes. Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and (in the case of the Governmental Lender and the Owner) record appropriate instruments of release and discharge of the terms hereof prepared by or on behalf of the Owner or the Governmental Lender; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

Section 14. Covenants to Run With the Land. Notwithstanding Section 1461 of the California Civil Code, the Owner hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Governmental Lender and the Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors in title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such

covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 15. Burden and Benefit. The Governmental Lender and the Owner hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Owner's legal interest in the Project is rendered less valuable thereby. The Governmental Lender and the Owner hereby further declare their understanding and intent that the benefits of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants and Very Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Governmental Note were executed and delivered.

Section 16. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use of the site on which the Project is located.

Section 17. Default; Enforcement. If the Owner defaults in the performance or observance of any covenant, agreement or obligation of the Owner set forth in this Regulatory Agreement, and if such default remains uncured for a period of 60 days after written notice thereof shall have been given by the Governmental Lender, Noteowner Representative or the Fiscal Agent to the Owner, or for a period of 60 days from the date the Owner should, with reasonable diligence, have discovered such default, then the Governmental Lender or the Fiscal Agent shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default is of such a nature that it cannot be corrected within 60 days, such default shall not constitute an Event of Default hereunder so long as (i) the Owner institutes corrective action within said 60 days and diligently pursues such action (to the satisfaction of the Governmental Lender) until the default is corrected, and (ii) in the opinion of Tax Counsel, the failure to cure said default within 60 days will not adversely affect the Tax-Exempt status of interest on the Governmental Note. The Governmental Lender and the Fiscal Agent shall have the right to enforce the obligations of the Owner under this Regulatory Agreement within shorter periods of time than are otherwise provided herein if necessary to ensure compliance with the Housing Law or the Code.

Following the declaration of an Event of Default hereunder, the Governmental Lender or the Fiscal Agent, at the written direction of Governmental Lender, subject to the terms of the Funding Loan Agreement, may take any one or more of the following steps, in addition to all other remedies provided by law or equity:

(i) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Owner to perform its obligations and covenants hereunder or enjoin any acts or things that may be unlawful or in violation of the rights of the Governmental Lender or the Fiscal Agent hereunder;

(ii) during reasonable hours, have access to and inspect, examine and make copies of all of the books and records of the Owner pertaining to the Project;

(iii) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Owner hereunder; and

(iv) with the consent of the Noteowner Representative, which consent shall not be unreasonably withheld, declare a default under the Loan Agreement and proceed with any remedies provided therein.

The Owner hereby agrees that specific enforcement of the Owner's agreements contained herein is the only means by which the Governmental Lender may fully obtain the benefits of this Regulatory Agreement made by the Owner herein, and the Owner therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Owner hereunder.

The Fiscal Agent shall have the right, in accordance with this Section and the provisions of the Funding Loan Agreement, without the consent or approval of the Governmental Lender, but with the consent of the Noteowner Representative, which consent shall not be unreasonably withheld, to exercise any or all of the rights or remedies of the Governmental Lender hereunder; provided that prior to taking any such action the Fiscal Agent shall give the Governmental Lender written notice of its intended action. After the Funding Loan Agreement has been discharged, the Governmental Lender may act on its own behalf to declare an "Event of Default" to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the Fiscal Agent.

The Governmental Lender and the Fiscal Agent hereby agree that cure of any Event of Default made or tendered by any partner of the Owner shall be deemed to be a cure by the Owner and shall be accepted or rejected on the same basis as if made or tendered by the Owner.

All reasonable fees, costs and expenses (including reasonable attorney's fees and expenses) of the Fiscal Agent and the Governmental Lender incurred in taking any action pursuant to this Section shall be the sole responsibility of the Owner; provided, however, that in the event that any action arises hereunder in which the Owner and the Fiscal Agent are adversaries, the prevailing party, if any, shall be entitled to recover legal fees and costs from the other party; provided, further, if the prevailing party is not the Fiscal Agent, the Fiscal Agent shall remain entitled to any indemnity applicable to it hereunder, or under the Funding Loan Agreement or Loan Agreement, for the payment of such legal fees and costs.

Section 18. The Fiscal Agent. The Fiscal Agent shall act as specifically provided herein and in the Funding Loan Agreement and may exercise such additional powers as are reasonably incidental hereto and thereto. The Fiscal Agent shall have no duty to act with respect to enforcement of the Owner's performance hereunder as described in Section 17 unless it shall have actual knowledge of any such default as provided in Section 17 and the Fiscal Agent has received written direction from the Noteowner Representative and has been indemnified to its satisfaction. The Fiscal Agent may act as the agent of and on behalf of the Governmental Lender, and any act required to be performed by the Governmental Lender as herein provided shall be deemed taken if such act is performed by the Fiscal Agent. In connection with any such performance, the Fiscal Agent is acting solely as Fiscal Agent under the Funding Loan Agreement and not in its individual

capacity, and, except as expressly provided herein, all provisions of the Funding Loan Agreement relating to the rights, privileges, powers and protections of the Fiscal Agent shall apply with equal force and effect to all actions taken (or omitted to be taken) by the Fiscal Agent in connection with this Regulatory Agreement. Neither the Fiscal Agent nor any of its officers, directors or employees shall be liable for any action taken or omitted to be taken by it or them hereunder or in connection herewith except for its or their own gross negligence or willful misconduct.

No provision of this Regulatory Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not reasonably assured to it.

The Governmental Lender shall be (or shall cause the Administrator to be) responsible for the monitoring of the Owner's compliance with the terms of this Regulatory Agreement. The Fiscal Agent shall not be responsible for such monitoring.

After the date on which no portion of the Governmental Note remains Outstanding, as provided in the Funding Loan Agreement, the Fiscal Agent shall no longer have any duties or responsibilities under this Regulatory Agreement and all references to the Fiscal Agent in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 19. Recording and Filing. (a) The Owner shall cause this Regulatory Agreement and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the County, and in such other places as the Governmental Lender may reasonably request. The Owner shall pay all fees and charges incurred in connection with any such recording.

(b) The Owner and the Governmental Lender will file of record such other documents and take such other steps as are reasonably necessary, in the opinion of Tax Counsel, in order to ensure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project.

(c) The Owner hereby covenants to include or reference the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Project to another person to the end that such transferee has notice of, and is bound by, such restrictions, and, except in the case of a foreclosure or comparable involuntary conversion of the Deed of Trust, whereby the Funding Lender becomes the owner of the Project, to obtain the agreement from any transferee to abide by all requirements and restrictions of this Regulatory Agreement.

Section 20. Payment of Fees. Notwithstanding any prepayment of the Loan and discharge of the Funding Loan Agreement, throughout the Compliance Period, the Owner shall continue to pay the fees of the Governmental Lender as provided in Section 9 hereof, unless such prepayment is made in connection with a refunding of the Governmental Note.

The Owner agrees to pay to the Governmental Lender (a) on the Closing Date, the Governmental Lender's up-front administrative fee, in the amount of \$[62,315.56], which amount is equal to 25 basis points (0.25%) of the maximum principal amount of the Governmental Note (\$[24,926,225]), subject to any limitations of the Code, and (b) commencing on the first anniversary of the Closing Date and continuing on each anniversary of the Closing Date throughout the Compliance Period, the annual ongoing Governmental Lender's administrative fee (the "Ongoing Administrative Fee") as follows: (i) prior to the Conversion Date, 0.125% per annum of the maximum authorized principal amount of the Governmental Note as of the Closing Date, and (ii) commencing with the first anniversary of the Closing Date occurring after the Conversion Date and thereafter on each subsequent anniversary of the Closing Date, an amount equal to the greater of \$10,000 per year or 0.125% of the outstanding principal amount of the Governmental Note outstanding following any partial repayment of principal of the Governmental Note on or in connection with the Conversion Date, provided, however, the Ongoing Administrative Fee in any event will not be less than \$10,000 nor more than \$62,500, which amount shall be payable annually, in arrears, on each anniversary of the Closing Date and continuing throughout the Qualified Project Period, and provided further that no further reduction in the Ongoing Administrative Fee shall be made following the Conversion Date (i.e., the Ongoing Administrative Fee will remain fixed based on the principal amount of the Governmental Note outstanding at the Conversion Date regardless of any later reductions of the outstanding principal amount of the Obligations); and (iii) the Owner agrees to pay, within 30 days after receipt of request for payment thereof, all reasonable out-of-pocket expenses of the Governmental Lender (not including salaries and wages of Governmental Lender employees) related to the Governmental Note, the Project and the financing thereof, including, without limitation, legal fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of any documents relating to the Project or the Governmental Note.

The Ongoing Administrative Fee will be charged each year during the Compliance Period hereunder in respect of administrative and monitoring costs of the Governmental Lender and will be due and payable, without the requirement for any invoice to be delivered to the Owner.

The fees of the Governmental Lender referenced in this Section 20 shall in no way limit amounts payable by the Borrower under Section 9 hereof, or otherwise arising in connection with the Governmental Lender's or Funding Lender's enforcement of the provisions of this Regulatory Agreement, but the Governmental Lender does agree to compensate any third-party Administrator appointed by it from its annual administrative fees for the ordinary duties of the Administrator hereunder. In addition to the foregoing, the Owner shall pay to the Governmental Lender, promptly following a written demand from the Governmental Lender to the Owner, any out-of-pocket expenses of the Governmental Lender incurred in connection with the administration of any of the Loan Documents.

In the event that the Governmental Note is prepaid in part or in full prior to the end of the term of this Regulatory Agreement other than (i) by means of refunding bonds issued by the Governmental Lender to refund the Governmental Notes, or (ii) in connection with a foreclosure or deed in lieu of foreclosure, and transfer of title to the Project other than to the Borrower or any party related to the Borrower; the Governmental Lender's annual fee for the remainder of the term of this Regulatory Agreement, at the option of the Governmental Lender, shall be paid by the

Borrower at the time of the prepayment of the Governmental Note and shall be a lump sum amount equal to the present value (based on a discount rate equal to the yield on the Governmental Note, as determined by the Governmental Lender at the time of prepayment) of the Governmental Lender's fee, calculated based on the principal amount of the Governmental Note outstanding immediately preceding such prepayment, for the number of remaining years of the Compliance Period.

Notwithstanding any prepayment of the Borrower Loan and discharge of the Funding Loan Agreement, the Owner shall continue to pay (or, to the extent allowed under the Code, shall prepay the present value at such time of) the fees of the Governmental Lender as provided in this Section 20.

If the Owner fails to make payment of the Governmental Lender's annual fee for a period of two consecutive years or more, then the Governmental Lender may, in its sole discretion, declare the total amount of the annual fee of the Governmental Lender through the end of the Compliance Period immediately due and payable, such amount to be discounted at a rate equal to the then current market rate for U.S. Treasury obligations of a maturity equal to the remaining term of the Compliance Period.

Occupancy Monitoring Fee. Separately from, and in addition to, the annual ongoing administrative fee the Owner will pay to the Governmental Lender an annual occupancy monitoring fee (the "Occupancy Monitoring Fee") at an initial amount of \$150/unit, for a total of \$26,250.00. The Occupancy Monitoring Fee is subject to annual adjustment. The Owner agrees to pay the Governmental Lender an initial monitoring fee in the amount set forth in schedules promulgated by Governmental Lender from time to time. In addition, in each year during the term of this Regulatory Agreement, the Owner shall pay to the Governmental Lender an annual Occupancy Monitoring Fee, as determined by the Governmental Lender in schedules promulgated by Governmental Lender from time to time.

Section 21. Governing Law. This Regulatory Agreement shall be governed by the laws of the State of California.

Section 22. Amendments; Waivers. (a) Except as provided in Section 8(a) hereof, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County, and only upon (i) receipt by the Governmental Lender and the Fiscal Agent of an opinion from Tax Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Governmental Note and is not contrary to the provisions of the Housing Law and (ii) the written consent of the Noteowner Representative, who shall receive a copy of any such amendment.

(b) Anything to the contrary contained herein notwithstanding, the Governmental Lender, the Fiscal Agent and the Owner hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Tax Counsel, in order that interest on the Governmental Note remains Tax-Exempt. The parties requesting such amendment shall notify the other parties to this Regulatory Agreement of the proposed amendment, with a copy of such proposed amendment to Tax Counsel and a request that Tax Counsel render to the Governmental

Lender and the Fiscal Agent an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Governmental Note. This provision shall not be subject to any provision of any other agreement requiring any party hereto to obtain the consent of any other person in order to amend this Regulatory Agreement.

(c) Any waiver of, or consent to, any condition under this Regulatory Agreement must be expressly made in writing.

Section 23. Notices. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, overnight delivery, certified or registered mail, postage prepaid, return receipt requested, or by telecopy, in each case at the respective addresses specified in the Funding Loan Agreement, or at such other addresses as may be specified in writing by the parties hereto. Unless otherwise specified by the Administrator, the address of the Administrator is:

San Diego Housing Commission
1122 Broadway, Suite 300
San Diego, CA 92101
Attention: Bond Project Manager-Real Estate Department
Telephone: (619) 578-7582
Facsimile: (619) 578-7356

Unless otherwise specified by CDLAC, the address of CDLAC is:

California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, CA 95814
Attention: Executive Director

The Governmental Lender, the Administrator, the Fiscal Agent, CDLAC and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission; provided that any telecopy or other electronic transmission received by any party after 4:00 p.m., local time of the receiving party, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day. A copy of each notice of default provided to the Owner hereunder shall also be provided to the Investor Limited Partner and the Noteowner Representative at the addresses set forth in the Funding Loan Agreement.

A copy of each notice sent by or to the Owner shall also be sent to the Manager at the address of the Manager provided by the Owner to the Administrator; but such copies shall not constitute notice to the Owner, nor shall any failure to send such copies constitute a breach of this Regulatory Agreement or a failure of or defect in notice to the Owner.

The Owner shall notify the Governmental Lender and the Administrator in writing of any change to the name of the Project or any change of name or address for the Owner or the Manager. The Owner shall notify CDLAC in writing of any event provided in Section 29(d) hereof.

Section 24. Severability. If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 25. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

Section 26. Limitation on Liability. Notwithstanding the foregoing or any other provision or obligation to the contrary contained in this Regulatory Agreement, (i) the liability of the Owner under this Regulatory Agreement to any person or entity, including, but not limited to, the Noteowner Representative, the Fiscal Agent or the Governmental Lender and their successors and assigns, is limited to the Owner's interest in the Project, the Pledged Revenues and the amounts held in the funds and accounts created under the Funding Loan Agreement, or any rights of the Owner under any guarantees relating to the Project, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Regulatory Agreement or any other agreement securing the obligations of the Owner under this Regulatory Agreement; and (ii) from and after the date of this Regulatory Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Regulatory Agreement, any agreement pertaining to any Project or any other agreement securing the Owner's obligations under this Regulatory Agreement), shall be rendered against the Owner, the assets of the Owner (other than the Owner's interest in the Project, this Regulatory Agreement, amounts held in the funds and accounts created under the Funding Loan Agreement, or any rights of the Owner under the Funding Loan Agreement or any other documents relating to the Governmental Note or any rights of the Owner under any guarantees relating to the Project), its partners, members, successors, transferees or assigns and each of their respective officers, directors, employees, partners, agents, heirs and personal representatives, as the case may be, in any action or proceeding arising out of this Regulatory Agreement, the Funding Loan Agreement or any agreement securing the obligations of the Owner under this Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding, except to the extent provided in the Loan Agreement.

Section 27. Property Management. The Owner agrees that at all times the Project shall be managed by a property manager (i) approved by the Governmental Lender in its reasonable discretion and (ii) who has at least three years' experience in the ownership, operation and management of similar size rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local governmental requirements applicable to such projects (the "Manager"). The Governmental Lender has approved ConAm Management Corporation, a California corporation, as the initial Manager. The Owner shall submit to the Governmental Lender from time to time such information about the background, experience and financial

condition of any existing or proposed Manager as the Governmental Lender may reasonably require to determine whether such Manager meets the requirements for a Manager set forth herein. The Governmental Lender reserves the right to conduct periodic reviews of the management practices and of the Manager to determine if the Project is being operated and managed in accordance with the requirements and standards of this Regulatory Agreement. The Owner agrees to cooperate with the Governmental Lender in such reviews.

Replacement of Manager. If the Governmental Lender determines in its reasonable judgment that the Project is not being operated and managed in accordance with one or more of the material requirements or standards of this Regulatory Agreement, the Governmental Lender may deliver written notice to the Owner, the Fiscal Agent and the Noteowner Representative requesting replacement of the Manager, which notice shall state clearly the reasons for such request. The Owner agrees that, upon receipt of such notice, it shall within 60 days submit to the Governmental Lender, with copies to the Fiscal Agent and the Noteowner Representative, a proposal to engage a new Manager meeting the requirements of this Section 27. Each of the Governmental Lender and the Noteowner Representative shall respond within 30 days to such proposal or such approval shall be deemed given. Upon receipt of such consent or deemed consent, the Owner shall within 60 days terminate the existing Manager's engagement and engage the new Manager.

Notwithstanding any other provision of this Section 27 to the contrary, the Noteowner Representative may at any time by written instruction to the Governmental Lender, the Fiscal Agent and the Owner deny the Governmental Lender's request for a replacement Manager and direct that the existing Manager be retained.

Section 28. Third-Party Beneficiary. CDLAC is intended to be and shall be a third-party beneficiary of this Regulatory Agreement. CDLAC shall have the right (but not the obligation) to enforce the CDLAC Conditions and to pursue an action for specific performance or other available remedy at law or in equity in accordance with Section 17 hereof, provided that any such action or remedy shall not materially adversely affect the interests and rights of the Holders of the Governmental Note.

Section 29. Requirements of CDLAC. In addition to other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 4 through 6 hereof, the Owner hereby agrees to comply with each of the requirements of CDLAC set forth in this Section 29, as follows:

(a) The Owner shall comply with the CDLAC Resolution attached hereto as Exhibit D and the CDLAC Conditions set forth in Exhibit A thereto (collectively, the "CDLAC Conditions"), which conditions are incorporated herein by reference and made a part hereof. The Owner will prepare and submit to the Governmental Lender, not later than February 1 of each year, until the Project is completed, and on February 1 every three years thereafter until the end of the Compliance Period, a Certificate of Compliance II for Qualified Residential Rental Projects, in substantially the form attached to the CDLAC Conditions or otherwise as provided by CDLAC from time to time, executed by an authorized representative of the Owner. Such Certificate of Compliance II for Qualified Residential Rental Projects shall be prepared pursuant to the

terms of the CDLAC Conditions. Additionally, the Owner will prepare and submit to the Governmental Lender, a Certificate of Completion, in substantially the form attached to the CDLAC Conditions or otherwise provided by CDLAC from time to time, executed by an authorized representative of the Owner certifying among other things to the substantial completion of the Project. Following the submission of the Certificate of Completion, the Owner will prepare and submit to the Governmental Lender, not later than February 1, every three years thereafter until the end of the Compliance Period, a California Tax Credit Allocation Committee Project Status Report or equivalent documentation in substantially the form required or otherwise provided by CDLAC from time to time. Compliance with the terms of the CDLAC Conditions not contained within this Regulatory Agreement, but referred to in the CDLAC Conditions are the responsibility of the Owner to report to the Governmental Lender.

(b) The Owner acknowledges that the Governmental Lender shall monitor the Owner's compliance with the terms of the CDLAC Conditions. The Owner acknowledges that the Governmental Lender will prepare and submit to CDLAC, not later than March 1 of each year, until the Project is completed, and on March 1 every three years thereafter until the end of the Compliance Period, a Self-Certification Certificate in the form provided by CDLAC. The Owner will cooperate fully with the Governmental Lender in connection with such monitoring and reporting requirements.

(c) Except as otherwise provided in Section 13 of this Regulatory Agreement, this Regulatory Agreement shall terminate on the date 55 years after the date on which at least fifty percent (50%) of the units in the Project are first occupied or otherwise after the commencement of the Qualified Project Period.

(d) The Owner shall notify CDLAC in writing of: (i) any change in ownership of the Project, (ii) any change in the Governmental Lender, (iii) any change in the name of the Project or the Manager; (iv) any material default under the Indenture, the Loan Agreement or this Regulatory Agreement, including, but not limited to, such defaults associated with the Tax-Exempt status of the Governmental Note, and the income and rental requirements as provided in Sections 4 and 6 hereof and the CDLAC Conditions; or (v) termination of this Regulatory Agreement.

(e) CDLAC shall have the right, but not the obligation, to deliver revised CDLAC Conditions to the Owner after the Closing Date at any time, that are not more restrictive than the original CDLAC Conditions; provided however, that, with the prior consent of the Lender, which shall not be unreasonably withheld: (i) any changes in the terms and conditions of such revised CDLAC Conditions prior to the recordation against the Project in the real property records of the County of a regulatory agreement between Owner and the California Tax Credit Allocation Committee ("TCAC Regulatory Agreement") shall be limited to such changes as are necessary to correct any factual errors or to otherwise conform the CDLAC Conditions to any change in facts or circumstances applicable to the Owner or the Project; and (ii) after recordation of the TCAC Regulatory Agreement, any changes in the terms and conditions of such revised CDLAC Conditions shall be limited to such changes as are necessary to conform Items 1, 6, 7, 10, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26 and/or 37 of Exhibit A to the CDLAC Conditions to any change in terms and conditions requested by Owner and approved by CDLAC. The Governmental Lender may, in its sole and absolute discretion, require the Owner to record or cause

to be recorded in the real property records of the County an amendment to this Regulatory Agreement containing such revised CDLAC Conditions, executed by the parties hereto or their successor in title and pay any expenses in connection therewith. The Owner shall provide CDLAC with a copy of that recorded amendment reflecting the revised CDLAC Conditions.

Any of the foregoing requirements of the CDLAC contained in this Section 29 may be expressly waived by CDLAC, in its sole discretion, in writing, but (i) no waiver by CDLAC of any requirement of this Section 29 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Governmental Lender has received an opinion of Bond Counsel that any such provision is not required by the Housing Law and may be waived without adversely affecting the exclusion from gross income of interest on the Bonds for federal income tax purposes; and (ii) any requirement of this Section 29 shall be void and of no force and effect if the Governmental Lender and the Owner receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Bonds to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Housing Law or any other state or federal law.

Section 30. Annual Reporting Covenant. No later than January 31 of each calendar year (commencing January 31, 2023), the Owner, on behalf of the Governmental Lender, agrees to provide to the California Debt and Investment Advisory Commission, by any method approved by the California Debt and Investment Advisory Commission, with a copy to the Governmental Lender, the annual report information required by Section 8855(k)(1) of the California Government Code. This covenant shall remain in effect until the later of the date (i) the Governmental Note are no longer outstanding or (ii) the proceeds of the Governmental Note and the Loan have been fully spent.

Section 31. HUD Rider. The provisions of the HUD Rider to Regulatory Agreement and Declaration of Restrictive Covenants attached to this Regulatory Agreement as EXHIBIT F are incorporated into this Regulatory Agreement by this reference as if fully set forth in this Section 31.

IN WITNESS WHEREOF, the Governmental Lender, the Fiscal Agent and the Owner have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

**HOUSING AUTHORITY OF THE
CITY OF SAN DIEGO**

By: _____
Name:
Title:

[Signature Page – Rancho Bernardo Senior Housing Regulatory Agreement]

U.S. BANK NATIONAL ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Signatory

[Signature Page – Rancho Bernardo Senior Housing Regulatory Agreement]

OWNER:

RANCHO BERNARDO SENIOR HOUSING, L.P.,
a California limited partnership

By: AHG Rancho Bernardo Senior LLC,
a California limited liability company,
its Administrative General Partner

By: Affirmed Housing Group, Inc.,
a Delaware corporation,
its Manager

By: _____
James Silverwood
President

By: Community Advancement Development Corporation,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Randall Simmrin
President

[Signature Page – Rancho Bernardo Senior Housing Regulatory Agreement]

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

LOT 3 OF THE MONTADURA CENTER, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 11564, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 9, 1986.

Assessor's Parcel Number: 678-251-13-00

EXHIBIT B
FORM OF INCOME CERTIFICATION

[ATTACHED]

TENANT INCOME CERTIFICATION

Initial Certification

1st Recertification

Other:

Effective Date:
Move-in Date:
(YYYY-MM-DD)

PART I - DEVELOPMENT DATA

Property Name:	County:	BIN #:
Address:	Unit Number:	# Bedrooms:

PART II. HOUSEHOLD COMPOSITION

Vacant

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (YYYY/MM/DD)	F/T Student (Y or N)	Last 4 digits of Social Security #
1				HEAD			
2							
3							
4							
5							
6							
7							

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/ Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$

Add totals from (A) through (D), above

TOTAL INCOME (E):

\$

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset

TOTALS:

\$

\$

Enter Column (H) Total

Passbook Rate

If over \$5000

\$

X

2.00% =

(J) Imputed Income

\$

Enter the greater of the total of column I, or J: imputed income **TOTAL INCOME FROM ASSETS (K)**

\$

(L) Total Annual Household Income from all Sources [Add (E) + (K)]

\$

Effective Date of Move-in Income Certification:

Household Size at Move-in Certification:

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ Signature	_____ (Date)	_____ Signature	_____ (Date)
_____ Signature	_____ (Date)	_____ Signature	_____ (Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY

RECERTIFICATION ONLY:

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 \$

Current Income Limit x 140%: _____

Unit Meets Income Restriction at
 60% 50%
 40% 30%
 %

Household Income exceeds 140% at recertification:
 Yes No

Current Income Limit per Family Size: \$ _____

Household Income at Move-in: \$ _____ Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Rent \$ _____
 Utility Allowance \$ _____

Rent Assistance: \$ _____
 Other non-optional charges: \$ _____

GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges) \$

Unit Meets Rent Restriction at:
 60% 50% 40% 30% %

Maximum Rent Limit for this unit: \$ _____

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?
 yes no

If yes, Enter student explanation* (also attach documentation)

Enter 1-5

*Student Explanation:

- 1 AFDC / TANF Assistance
- 2 Job Training Program
- 3 Single Parent/ Dependent Child
- 4 Married/Joint Return
- 5 Former Foster Care

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

- | | | | | |
|--|------------------------------------|--|-----------------------------------|--|
| a. Tax Credit <input type="checkbox"/> | b. HOME <input type="checkbox"/> | c. Tax Exempt <input type="checkbox"/> | d. AHDP <input type="checkbox"/> | e. <input type="checkbox"/>
(Name of Program) |
| See Part V above. | <i>Income Status</i> | Section 1. <i>Income Status</i> | <i>Income Status</i> | <i>Income Status</i> |
| | <input type="checkbox"/> ≤50% AMGI | <input type="checkbox"/> 50% AMGI | <input type="checkbox"/> 50% AMGI | <input type="checkbox"/> _____ |
| | <input type="checkbox"/> ≤60% AMGI | <input type="checkbox"/> 60% AMGI | <input type="checkbox"/> 80% AMGI | <input type="checkbox"/> _____ |
| | <input type="checkbox"/> ≤80% AMGI | <input type="checkbox"/> 80% AMGI | <input type="checkbox"/> OI** | <input type="checkbox"/> OI** |
| | <input type="checkbox"/> OI** | <input type="checkbox"/> OI** | | |

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)	
Row (L)	Total Annual Household Income From all Sources	Add (E) and (K) and enter the total

*Effective Date of Income Certification Enter the effective date of the income certification corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the effective date listed in Part I.

*Household Size at Certification Enter the number of tenants corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the number of tenants listed in Part II.

ARTICLE IIIHOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

ARTICLE IVPart V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in	For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Household size at move-in	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than
Current Income Limit x 140%	140% of the current income limit, then the available unit rule must be followed.
*Units Meets Income Restriction at	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

ARTICLE VPart VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

ARTICLE VIPart VII - Student Status

If all household members are full time* students, check “yes”. If at least one household member is not a full time student, check “no”.

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Full time is determined by the school the student attends.

ARTICLE VIIPart VIII – Program Type

Mark the program(s) for which this household’s unit will be counted toward the property’s occupancy requirements. Under each program marked, indicate the household’s income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit See Part V above.

HOME If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation.

Tax Exempt If the property participates in the Tax Exempt Bond program; mark the appropriate box indicating the household's designation.

AHDP If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation.

Other If the property participates in any other affordable housing program, complete the information as appropriate.

ARTICLE VIII SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

ARTICLE IX PART IX. SUPPLEMENTAL INFORMATION

Tenant Demographic Profile	Complete for each member of the household, including minors, for move-in. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.
Resident/Applicant Initials	All tenants who wish not to furnish supplemental information should initial this section. Parent/guardian may complete and initial for minor child(ren).

**Please note areas with asterisks are new or have been modified. Please ensure to note the changes or formats now being requested.*

TENANT INCOME CERTIFICATION QUESTIONNAIRE

(a)	NAME: _____	TELEPHONE NUMBER: () _____
(b)	<input type="checkbox"/> Initial Certification <input type="checkbox"/> Re-certification <input type="checkbox"/> Other	BIN # _____ Unit # _____

(A) INCOME INFORMATION

	YES		NO	MONTHLY GROSS INCOME
<input type="checkbox"/>	<input type="checkbox"/>	I am self employed. (List nature of self employment)		(use <u>net</u> income from business) \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I have a job and receive wages, salary, overtime pay, commissions, fees, tips, bonuses, and/or other compensation: List the businesses and/or companies that pay you: <u>Name of Employer</u> 1) _____ 2) _____ 3) _____		\$ _____ \$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive cash contributions of gifts including rent or utility payments, on an ongoing basis from persons not living with me.	i.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive unemployment benefits.	ii.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive Veteran's Administration, GI Bill, or National Guard/Military benefits/income.	iii.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic social security payments.	iv.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	The household receives <u>unearned</u> income from family members age 17 or under (example: Social Security, Trust Fund disbursements, etc.).	v.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive Supplemental Security Income (SSI).	vi.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive disability or death benefits other than Social Security.	vii.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive Public Assistance Income (examples: TANF, AFDC)	viii.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I am entitled to receive child support payments. I am currently receiving child support payments. If yes, from how many persons do you receive support? _____ I am currently making efforts to collect child support owed to me. List efforts being made to collect child support: _____ _____	ix.	\$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive alimony/spousal support payments	x.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic payments from trusts, annuities, inheritance, retirement funds or pensions, insurance policies, or lottery winnings. If yes, list sources: 1) _____ 2) _____	xi.	\$ _____ \$ _____

<input type="checkbox"/>	<input type="checkbox"/>	I receive income from real or personal property.	(use <u>net</u> earned income) \$
<input type="checkbox"/>	<input type="checkbox"/>	Student financial aid (public or private, not including student loans) Subtract cost of tuition from Aid received	xii. \$

Asset information

2.	YES	NO	INTEREST RATE	CASH VALUE
<input type="checkbox"/>	<input type="checkbox"/>	I have a checking account(s). If yes, list bank(s) 1) 2)	i. % %	ii. \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a savings account(s) If yes, list bank(s) 1) 2)	iii. iv. % %	v. vi. \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a revocable trust(s) If yes, list bank(s) 1)	vii. %	viii. \$
<input type="checkbox"/>	<input type="checkbox"/>	I own real estate. If yes, provide description:		ix. \$
<input type="checkbox"/>	<input type="checkbox"/>	I own stocks, bonds, or Treasury Bills If yes, list sources/bank names 1) 2) 3)	x. % % %	xi. \$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have Certificates of Deposit (CD) or Money Market Account(s). If yes, list sources/bank names 1) 2) 3)	xii. % % %	xiii. \$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have an IRA/Lump Sum Pension/Keogh Account/401K. If yes, list bank(s) 1) 2)	xiv. % %	xv. \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a whole life insurance policy. If yes, how many policies		xvi. \$
<input type="checkbox"/>	<input type="checkbox"/>	I have cash on hand.		xvii. \$
<input type="checkbox"/>	<input type="checkbox"/>	I have disposed of assets (i.e. gave away money/assets) for less than the fair market value in the past 2 years. xviii. If yes, list items and date disposed: 1) 2)		xix. \$ \$

(B)

(C) **STUDENT STATUS**

1.	YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>		Does the household consist of all persons who are <u>full-time</u> students (Examples: College/University, trade school, etc.)?
<input type="checkbox"/>	<input type="checkbox"/>		Does the household consist of all persons who have been a <u>full-time</u> student in the previous 5 months?
<input type="checkbox"/>	<input type="checkbox"/>		Does your household anticipate becoming an all full-time student household in the next 12 months?
<input type="checkbox"/>	<input type="checkbox"/>		If you answered yes to any of the previous three questions are you: <ul style="list-style-type: none">• Receiving assistance under Title IV of the Social Security Act (AFDC/TANF/Cal Works - not SSA/SSI)• Enrolled in a job training program receiving assistance through the Job Training Participation Act (JTPA) or other similar program• Married and filing (or are entitled to file) a joint tax return• Single parent with a dependant child or children and neither you nor your child(ren) are dependent of another individual• Previously enrolled in the Foster Care program (age 18-24)
<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>		

(ii) **UNDER PENALTIES OF PERJURY, I CERTIFY THAT THE INFORMATION PRESENTED ON THIS FORM IS TRUE AND ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. THE UNDERSIGNED FURTHER UNDERSTANDS THAT PROVIDING FALSE REPRESENTATIONS HEREIN CONSTITUTES AN ACT OF FRAUD. FALSE, MISLEADING OR INCOMPLETE INFORMATION WILL RESULT IN THE DENIAL OF APPLICATION OR TERMINATION OF THE LEASE AGREEMENT.**

PRINTED NAME OF APPLICANT/TENANT SIGNATURE OF APPLICANT/TENANT DATE

WITNESSED BY (SIGNATURE OF OWNER/REPRESENTATIVE) DATE

EXHIBIT C

FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

[ATTACHED]

[FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE]

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

Witnesseth that on this ___ day of _____, 20___, the undersigned, having borrowed certain funds from the HOUSING AUTHORITY OF THE CITY OF SAN DIEGO (the "Housing Authority") for the purpose of financing a multifamily rental housing development (the "Project"), does hereby certify that:

A. During the preceding year (i) such Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the Housing Authority, (ii) ___% of the units in the Project were at all times Low Income Units (minimum of 30%) and ___% of the units in the Project were at all times Very Low Income Units (minimum of 10%).

B. Set forth below is certain information regarding occupancy of the Project as of the date hereof.

1. Total Units: _____
2. Total Units Occupied: _____
3. Total Units Held Vacant
and Available for Rent to Very Low Income Tenants _____
and Available for Rent to Low Income Tenants _____
4. Total Very Low Income Units Occupied: _____
Total Low Income Units Occupied: _____
5. % of Very Low Income Units to Total Units _____%
% of Low Income Units to Total Units _____%
(equals the Total of Lines 3 and 4, divided by the lesser of Line 1 or Line 2)

C. Set forth below are the names of Very Low Income Tenants or Low Income Tenants who commenced or terminated occupancy during the preceding year.

<u>Commenced Occupancy</u>	<u>Terminated Occupancy</u>
1.	1.
2.	2.
3.	3.

D. Set forth below is the unit number and name of the head of household of each unit that was a Very Low Income Unit or a Low Income Unit as of the beginning of the previous year, but has ceased to be a Very Low Income Unit or a Low Income Unit because (a) the gross income of the tenants of such unit, as of the most recent determination thereof, exceeds one hundred forty percent (140%) of the applicable income limit for a Very Low Income Tenant or a Low Income Tenant, adjusted for family size, or (b) all the individuals in such unit are currently students (as defined under Section 151(c)(4) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code:

<u>Unit Number</u>	<u>Name (Head of Household)</u>
1.	1.
2.	2.
3.	3.

E. The Very Low Income Units or Low Income Units are of similar size and quality to other units and are dispersed throughout the Project.

F. *Select appropriate certification:* [No unremedied default has occurred under this Regulatory Agreement, the Loan Agreement or the Deed of Trust.] [A default has occurred under the _____. The nature of the default and the measures being taken to remedy such default are as follows: _____.]

G. The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief.

Date: _____
_____ Owner

EXHIBIT D
CDLAC RESOLUTION
[ATTACHED]

EXHIBIT E

HUD RIDER

HUD RIDER TO REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

This HUD RIDER TO REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (“Rider”) is attached to and made a part of the Regulatory Agreement and Declaration of Restrictive Covenants dated as of February 1, 2022, by and among **Rancho Bernardo Senior Housing, L.P.**, a California limited partnership] (“Borrower”), **U.S. Bank National Association** (“Trustee”) and **Housing Authority of the City of San Diego**, a public body, corporate and politic, duly organized and existing under the laws of the State of California (“Agency”).

WHEREAS, Borrower has obtained financing from ORIX Real Estate Capital, LLC, a Delaware limited liability company (“Lender”) for the benefit of the project known as Rancho Bernardo Senior Housing (also referred to as Tizon Apartments) (“Project”), which loan is secured by a Multifamily Deed of Trust, Assignment of Leases and Rents and Security Agreement (“Security Instrument”) dated as of February 1, 2022, and recorded in the Recorder’s Office of San Diego County, California (“Records”) contemporaneously herewith, and is insured by the United States Department of Housing and Urban Development (“HUD”);

WHEREAS, Borrower has received tax-exempt bond financing from the Agency, which Agency is requiring certain restrictions be recorded against the Project; and

WHEREAS, Borrower entered into that Regulatory Agreement and Declaration of Restrictive Covenants dated as of February 1, 2022 by and among the Borrower, the Agency and the Trustee (“Restrictive Covenants”) with respect to the Project, and recorded in the real property records of San Diego County, California; and

WHEREAS, HUD requires as a condition of its insuring Lender’s financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Agency has agreed to subordinate the Restrictive Covenants to the lien of the Mortgage Loan in accordance with the terms of this Rider.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Rider, the provision contained in this Rider shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

“Code” means the Internal Revenue Code of 1986, as amended.

“HUD” means the United States Department of Housing and Urban Development.

“HUD Regulatory Agreement” means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

“Lender” means ORIX Real Estate Capital, LLC, a Delaware limited liability company, its successors and assigns.

“Mortgage Loan” means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

“Mortgage Loan Documents” means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

“National Housing Act” means the National Housing Act of 1934, as amended.

“Program Obligations” has the meaning set forth in the Security Instrument.

“Residual Receipts” has the meaning specified in the Program Obligations.

“Security Instrument” means the Multifamily Deed of Trust, Assignment of Leases and Rents and Security Agreement from Owner in favor of Lender, as the same may be supplemented, amended or modified.

“Surplus Cash” has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the “HUD Requirements”). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Agency’s ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower’s knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In the event of foreclosure (or deed in lieu of foreclosure), the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate.

(e) Borrower and the Agency acknowledge that Borrower's failure to comply with the covenants provided in the Restrictive Covenants does not and shall not serve as a basis for default under the HUD Requirements, unless a default also arises under the HUD Requirements.

(f) Except for the Agency's reporting requirement, in enforcing the Restrictive Covenants the Agency will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- i. Available surplus cash, if the Borrower is a for-profit entity;
- ii. Available distributions of surplus cash and residual receipts authorized for release by HUD, if the Borrower is a limited distribution entity;
- iii. Available residual receipts authorized by HUD, if the Borrower is a non-profit entity; or
- iv. A HUD-approved collateral assignment of any HAP contract.

(g) For so long as the Mortgage Loan is outstanding, Borrower and Agency shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD's prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Agency may require the Borrower to indemnify and hold the Agency harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Agency relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Borrower's obligation to indemnify and hold the Agency harmless shall be limited to available surplus cash and/or residual receipts of the Borrower.

(i) No action shall be taken in accordance with the rights granted herein to preserve the tax exemption of the interest on the notes or bonds, or prohibiting the owner from taking any action that might jeopardize the tax-exemption, except in strict accord with Program Obligations.

TO Housing Authority of the City of San Diego

FROM Christine Rankin, Orrick, Herrington & Sutcliffe LLP

DATE November 30, 2021

RE Rancho Bernardo Senior Housing aka Radisson aka Tizon

If the Housing Authority of the City of San Diego (Authority) adopts a resolution authorizing the execution and delivery of the Housing Authority of the City of San Diego Multifamily Housing Revenue Note (Rancho Bernardo Senior Housing) 2022 Series A (or such other series designation as may be assigned) (Governmental Note), it is currently expected that the Governmental Note will be sold and issued in February 2022. The primary legal documents for the Governmental Note that are referenced in the Resolution of the Authority authorizing the execution and delivery of the Governmental Note (Resolution) currently contain a number of blanks or bracketed items that are related to the final principal amount of the Note, various dates and other matters. The par amounts of the Note will depend upon the final lending determinations made by ORIX Real Estate Capital, LLC, Funding Lender (Funding Lender), which will be completed closer to the issuance date.

The following table sets forth a summary of the open items in the primary legal documents for the Governmental Note referenced in the Resolution, and describes when, and by whom, the information will be provided to fill in the blanks. Capitalized terms used below and not otherwise defined have the meanings given to them in the related documents.

<u>Document</u>	<u>Location Within Document</u>	<u>Item</u>	<u>When Completed</u>	<u>Responsible Party/Parties</u>
Funding Loan and Security Agreement	Cover Page (and throughout)	Principal amount of Governmental Note	Prior to closing	Funding Lender/Borrower
	Cover Page (and throughout)	Reference date of document	Prior to closing	To be determined based on month in which closing actually occurs
	Recitals (and throughout)	Closing Date	Prior to closing	All parties

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<u>Document</u>	<u>Location Within Document</u>	<u>Item</u>	<u>When Completed</u>	<u>Responsible Party/Parties</u>
	Recitals	Principal amount of mortgage loan	Prior to closing	Funding Lender
	Section 1.01 Definitions (and references throughout)	Definition of "Bond Year"	Prior to closing	To be determined based upon final closing date
		Definition of "Default Rate"	Prior to closing	Funding Lender
		Definition of "Delivery Date"	Prior to closing	To be completed with the closing date, once finalized
		Definition of "Interest Rate"	Prior to closing	Funding Lender
		Definition of "Maturity Date"	Prior to closing	Funding Lender
		Definition of "Rebate Analyst"	Prior to closing	Borrower
	Section 3.01(d)	Mandatory Termination Date	Prior to closing	Funding Lender
	Exhibit A	Principal bond terms as set forth in Form of Governmental Note	Prior to closing	Funding Lender/Financing Team

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<u>Document</u>	<u>Location Within Document</u>	<u>Item</u>	<u>When Completed</u>	<u>Responsible Party/Parties</u>
Borrower Loan Agreement	Cover Page, recitals and throughout	Principal amount of Governmental Note	Prior to closing	Funding Lender
	Cover Page, recitals and throughout	Reference date of document	Prior to closing	To be determined based on month in which closing actually occurs
	Recitals	Principal amount of mortgage loan	Prior to closing	Funding Lender
	Section 1.01	Definition of "Borrower Loan Payment Date"	Prior to closing	Funding Lender
	Section 2.02(o)	Carve-out for ROFR under LPA	Prior to closing	Funding Lender, Borrower and counsel
	Section 4.02	Final Fee Amounts	Closing Date	Funding Lender/Borrower
	Section 5.06	Carve-out for consent of Funding Lender	Prior to Closing Date	Funding Lender and counsel
Regulatory Agreement	Cover Page (and throughout)	Principal amount	Prior to closing	Funding Lender/ Borrower
	Section 1	Definition of "Closing Date"	Prior to closing	Borrower/Funding Lender/ Authority

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<u>Document</u>	<u>Location Within Document</u>	<u>Item</u>	<u>When Completed</u>	<u>Responsible Party/Parties</u>
	Section 20	Authority's fee	Prior to closing	Authority (following confirmation of final issuance amount)
	Exhibit A	Legal Description	Prior to closing	Borrower/ Title Company



The City of San Diego
Item Approvals

Item Subject: Final Bond Authorization for Rancho Bernardo Senior Housing dba Tizon Apartments (formerly Radisson Hotel Affordable Housing)

Contributing Department	Approval Date
DOCKET OFFICE	11/08/2021

Approving Authority	Approver	Approval Date
HOUSING COMMISSION FINAL DEPARTMENT APPROVER	MARSHALL, SCOTT	11/08/2021
EXECUTIVE VICE PRESIDENT	DAVIS, JEFF	11/09/2021
CITY ATTORNEY	MIDDAUGH, MARGUERITE	11/18/2021