



REPORT

DATE ISSUED: September 7, 2023

REPORT NO: HAR23-016

ATTENTION: Chair and Members of the Housing Authority of the City of San Diego
For the Agenda of October 10, 2023

SUBJECT: Final Bond Authorization for SkyLINE Apartments

COUNCIL DISTRICT: 5

REQUESTED ACTION

of tax-exempt Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds in the aggregate amount not to exceed \$42,476,918 to fund Bernardo Family Housing LP's construction of SkyLINE Apartments, a new affordable rental housing development at 16785-16787 West Bernardo Drive in the Rancho Bernardo neighborhood, which will consist of 99 units that will remain affordable for 55 years for individuals and families earning 30 percent to 55 percent of the San Diego Area Median Income (AMI) and one manager's unit.

STAFF RECOMMENDATIONS

That the Housing Authority of the City of San Diego (Housing Authority) take the following actions:

- 1) Authorize the issuance of tax-exempt Multifamily Housing Revenue Bonds in an aggregate amount not to exceed \$42,476,918 to fund Bernardo Family Housing LP's construction of SkyLINE Apartments (SkyLINE), a new affordable rental housing development at 16785-16787 West Bernardo Drive in the Rancho Bernardo neighborhood, which will consist of 99 units that will remain affordable for 55 years for individuals and families earning 30 percent to 55 percent of the San Diego Area Median Income (AMI) and one manager's unit.
- 2) Authorize the San Diego Housing Commission (Housing Commission) President and Chief Executive Officer (President and 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.

SUMMARY

A Development Summary is as follows:

Table 1 –Development Details

Address	16785-16787 West Bernardo Drive, San Diego. CA 92127
Council District	5
Community Plan Area	Rancho Bernardo Community Plan
Developer	Affirmed Housing (Affirmed)

Development Type	New construction
Construction Type	Type III over Type IA (five stories)
Parking Type	Proposed parking spaces will be as follows: 85 parking spaces (Metropolitan Transit System replacements) +38 spaces (parking for Affirmed's on-site offices exclusive use) 123 Subtotal of non-residential parking spaces +78 parking spaces for 100 residential units 201 Total parking spaces
Local Amenities	<u>Mass Transit</u> - This site is a portion of the Rancho Bernardo Transit Station at 17051 West Bernardo Drive, which provides bus service. <u>Grocery</u> - Vons (1.4 miles). Albertsons (1.9 miles). Barons Market Rancho Bernardo (1.2 miles). <u>Schools</u> - Westwood Elementary School (1.4 miles). Bernardo Heights Middle School (3.9 miles). Rancho Bernardo High School (3.7 miles).
Housing Type	Affordable multifamily
Accessibility	Wheelchair accessibility in 15 percent of the units, and 10 percent of the units accessible to residents with visual and/or hearing impairment.
Lot Size	1.2 acres, 52,272 square feet
Units	100 (99 units restricted/affordable)
Density	83.33 dwelling units per acre (100 units ÷ 1.2 acres = 83.33)
Unit Mix	99 affordable rental units: 49 one-bedroom units, 25 two-bedroom units, 25 three-bedroom units and one three-bedroom manager's unit.
Gross Building Area	93,976 square feet of residential space. (Plus approximately 12,950 square feet of commercial/office space and approximately 78,433 square feet of two-story parking.)
Net Rentable Area	76,926 square feet.
Federal Project Based Housing Vouchers (PBV)	30 PBVs for low-income individuals and families earning up to 30 percent of AMI .
Affordable Units in Service by Council District	Council District 5 includes 1,624 affordable rental housing units currently in service, which represents 6.36 percent of the 25,527 affordable rental housing units in service citywide.

Background

On November 17, 2022, the Housing Commission Board (Report No. HCR22-118) approved taking preliminary steps to authorize the issuance of up to \$42,500,000 of tax-exempt Multifamily Housing Revenue Bonds to finance the new construction of SkyLINE (formerly named Rancho Bernardo Transit Village) and held a Tax Equity and Fiscal Responsibility Act (TEFRA) public hearing pursuant to Section 147(f) of the Internal Revenue Code of 1986.

The Housing Commission Board is authorized to hold TEFRA hearings, pursuant to Multifamily Mortgage Revenue Bond Program Policy Amendments that the Housing Authority approved March 9, 2021 (Report No. HAR20-043; Resolution No. HA-1906).

On May 10, 2023, the California Debt Limit Allocation Committee (CDLAC) approved a \$39,204,504 tax-exempt bonds allocation, and the California Tax Credit Allocation Committee (CTCAC) approved a 4 percent tax credits allocation.

Pursuant to a June 30, 2023, revised application, on July 25, 2023, CDLAC approved a request for an additional \$3,272,414 Supplemental Allocation. The total CDLAC allocation of tax-exempt bonds is \$42,476,918.

The Development

SkyLINE will be a 100-unit, new construction development, with 99 affordable housing units and one manager's unit. The SkyLINE development will be at 16785-16787 West Bernardo Drive (Attachment 1 –Site Map). The subject site will replace a vacant portion of the San Diego Metropolitan Transit System (MTS) Rancho Bernardo Transit Station's existing parking lot. The existing Rancho Bernardo Transit Station at 17051 West Bernardo Drive provides bus service.

SkyLINE will consist of 49 one-bedroom units (537 square feet), 25 two-bedroom units (815 square feet), and 26 three-bedroom units (1,090 square feet) within one building. SkyLINE's proposed building will have five stories of modified wood construction built over a two-story concrete podium structure. The development will provide 30 units rent-restricted to households with income up to 30 percent of San Diego's Area Median Income (AMI), 39 units rent-restricted to households with income up to 50 percent of AMI, 30 units rent-restricted to households with income up to 55 percent of AMI, and an unrestricted manager's unit. Residents of 30 units will receive help to pay their rent through Project-Based Housing Vouchers (PBVs) awarded by the Housing Commission.

The proposed development's unit amenities will include air conditioning, refrigerator, oven, disposal, dishwasher, microwave, and blinds. Site amenities will include a children's play area, a community room with a computer room, shaded outdoor gathering spaces with built-in seating, and a leasing office. As discussed in greater detail within the Financing Structure section of this report, SkyLINE's proposed development cost per unit is higher than a typical multifamily rental housing development because, in addition to an affordable residential component, there is also MTS- required parking as well as the developer's proposed new headquarters. Please refer to the Financing Structure section below for a detailed breakdown of these cost drivers.

The Property

SkyLINE will be built on a vacant portion of an MTS parking lot at 17051 West Bernardo Drive, San Diego, CA 92127, which is north of Bernardo Center Drive, south of Bernardo Center Road, and west of Interstate 15. The site is near bus service, grocery stores, pharmacies, healthcare options, and the Rancho Bernardo library. A site map is at Attachment 1. MTS will enter into a ground lease for 99 years with the project ownership entity, Bernardo Family Housing LP. Rent will be paid annually, in arrears, based upon 5 percent of the available cash flow after all debt and operating expenses are paid.

Resident Services

The developer, Affirmed Housing, has a Memorandum of Understanding with Compass for Affordable Housing (Compass) to provide resident services to SkyLINE's tenants. The services will include adult education, health and wellness classes, financial literacy, nutrition, exercise, art, parenting, food preparation, career building, job readiness (resume writing, interviewing skills), computer education, voter registration, activities to develop community leadership, and other enrichment activities.

Prevailing Wages

SkyLINE's proposed use of 30 U.S. Department of Housing and Urban Development Project-Based Housing Vouchers, administered by the Housing Commission, will require this development to pay federal prevailing wages. Also, the proposed use of California Department of Housing and Community Development Infill Infrastructure Grant funds will require this development to pay California State prevailing wages.

Relocation

The subject property is vacant. No relocation is necessary.

Accessibility

The California Tax Credit Allocation Committee (CTCAC) requires wheelchair accessibility in 15 percent of the units, and an additional 10 percent of the units are required to have communication features for residents with visual and/or hearing impairment. The same units can satisfy both of these accessibility requirements. The SkyLINE units will be accessible in accordance with the Americans with Disabilities Act.

Project Sustainability

SkyLINE will be constructed in conformance with CTCAC minimum energy efficiency standards. The development's features will include a rooftop photovoltaic solar energy system, Leadership in Energy and Environmental Design (LEED) lighting, and energy efficient appliances. Water efficiency and conservation has been incorporated into the development's design, including low-flow fixtures and drought-resistant landscaping. The development will be Green Point rated.

Development Team

During the tax credit compliance period, SkyLINE will be owned by Bernardo Family Housing LP, a single-asset, California limited partnership consisting of: CFAH Housing, LLC, as the Managing General Partner, AHG Rancho Bernardo, LLC, as the Administrative General Partner, and Bank of America, as the tax credit limited partner (Attachment 2 – Organization Chart). Affirmed Housing is the developer of the SkyLINE project. Since its start in 1992, Affirmed Housing has completed, or has under construction, 70 developments with over 5,500 affordable rental and for-sale apartments and homes in various locations. Affirmed Housing has approximately 1,130 apartments in the planning stage throughout California. Affirmed Housing is an award-winning, for-profit, real estate development firm in San Diego. Affirmed Housing has completed several affordable housing developments utilizing Housing Commission loans. It has worked with the Housing Commission on multiple projects utilizing tax-exempt Multifamily Housing Revenue Bonds issued by the Housing Authority. Based upon the developer's past experience and performance, Housing Commission staff has determined that the developer has the capacity to successfully complete the proposed SkyLINE development.

Table 2 Development Team Summary

ROLE	FIRM/CONTACT
Developer	Affirmed Housing Group Inc.
Owner/Borrower	Bernardo Family Housing LP
Managing General Partner	CFAH Housing LLC
Administrative General Partner	AHG Rancho Bernardo LLC
Tax Credit Investor Limited Partner	Bank of America (B of A)
Architect	Architect Orange
General Contractor	HA Builders
Property Management	ConAm Management Corporation
Ground Lessor	San Diego Metropolitan Transit System (MTS)
Tenant Services Providers	Compass for Affordable Housing
Bond Issuance Underwriter	Lument Capital
Construction Lender	Bank of America
Permanent Lender	Citi Community Capital

Property Management

ConAm Management Corporation (ConAm) will manage SkyLINE. Established in 1975, ConAm is a nationwide management company based in San Diego, with a management portfolio of approximately 53,000 units in more than 26 metropolitan areas. It is experienced in property management, marketing, maintenance, and tax-credits. ConAm manages 599 units for Affirmed Housing.

FINANCING STRUCTURE

SkyLINE has an estimated total development cost of \$90,943,122 (\$909,431 per unit). Financing will include a combination of sources as described in Table 3. The developer's pro forma is included as Attachment 3 and summarized below. There are no Housing Commission cash loan funds proposed for the SkyLINE development.

Table 3 – SkyLINE Estimated Permanent Sources and Uses

Permanent Financing Sources	Amounts	Permanent Financing Uses	Amounts	Per Unit
Bond financed permanent loan	\$16,120,492	Land cost	\$131,001	\$1,310
State of California Department of Housing and Community Development Infill Infrastructure Grant	4,469,800	Construction cost \$57,268,585 Contingency cost + 4,008,800 Total 61,277,385	61,277,385	612,774
City of San Diego loan	5,000,000	Financing costs	13,202,894	132,029
County of San Diego loan	2,000,000	Other soft costs	3,026,788	30,268
Deferred developer fee	3,880,000	Reserves	522,000	5,220
Solar credits	204,600	Soft cost contingency	1,128,948	11,289
4 percent federal tax credit equity	40,036,982	Architect and engineering	3,075,000	30,750
State of California tax credit equity	15,408,048	City of San Diego permits and City development impact fees	2,199,106	21,991
Interest Income	3,823,200	Developer's fee	6,380,000	63,800
Total Sources	\$90,943,122	Total Development Cost (TDC)	\$90,943,122	\$909,431

Developer Fee

\$6,380,000 - Gross developer fee

- 3,880,000 - Minus deferred developer fee
\$2,500,000 - Net cash developer fee

On April 25, 2017, the 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 bonds issuances. Attachment 1 to that report stated: “*Developer Fee [for] 4% tax credits, in project costs: 15% eligible basis....*” The proposed developer fee complies with the HAR17-011 “*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 were used to evaluate the proposed development and make a funding recommendation. The key performance indicators listed in Table 4 are commonly used by industry professionals and affordable housing developers.

Table 4 - Key Performance Indicators

Development Cost Per Unit	$\$90,943,122 \div 100 \text{ units} =$	\$909,431
Housing Commission Subsidy Per Unit	$\$0 \div 100 \text{ units} =$	\$0
Land (lease) Cost Per Unit	$\$131,001 \div 100 \text{ units} =$	\$1,310
	Residential portion = 93,976 sq. ft. Non-residential portion = 12,950 sq. ft. parking = <u>78,433</u> sq. ft. Subtotal = <u>185,359</u> sq. ft.	
Gross Building Square Foot Hard Cost	$\$61,277,385 \div 185,359 \text{ sq. ft.} =$	\$331
Net Rentable Square Foot Hard Cost	$\$61,277,385 \div 76,926 \text{ sq. ft.} =$	\$797

The total hard cost of \$61,277,385 includes costs for residential, commercial/office building space (which will include developer Affirmed Housing’s new headquarters), MTS-required replacement parking and other parking. When the costs for non-residential commercial/office space and the MTS-required parking are removed from the project’s total development cost, the development’s residential portion cost per unit drops from \$909,431 to \$816,158.

	Total Cost	Cost Per Unit
Residential	\$81,615,786	\$816,158
Commercial	5,257,536	52,575
MTS Parking	4,069,800	40,698
Total	\$90,943,122	\$909,431

SkyLINE’s non-residential portion will be funded with taxable bond proceeds, tax credit equity proceeds, and State of California Infill Infrastructure grant funds. The tax-exempt bonds proceeds may not be used to fund the non-residential commercial/office space.

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 and target population, are provided as a comparison to the subject development.

Table 5 – Comparable Development Projects

New Construction Project Name	Year	Units	Total Development Cost	Cost Per Unit	HC Subsidy Per Unit	Gross Hard Cost Per Sq. Ft.
Proposed Subject – SkyLINE	2023	100	\$90,943,122 (With prevailing wage, & commercial/office space component)	\$909,431 – Total Development Cost \$816,158 – Residential portion	\$0	\$331
Modica	2023	94	\$58,165,819 (Without prevailing wage, no commercial/office space component)	\$618,785	\$31,915	\$378
Iris at San Ysidro	2022	100	\$56,449,080 (With prevailing wage, no commercial/office space component)	\$564,182	\$23,000	\$307
Ventana al Sur	2021	101	\$57,337,762 (With prevailing wage, no commercial/office space component)	\$567,701	\$43,564	\$512

SkyLINE’s \$909,431 development cost per unit is higher than a typical multifamily rental housing development because of various factors including:

- MTS requires the developer to provide 85 parking stalls within SkyLINE’s podium structure for MTS patrons as trolley replacement parking.
- MTS-required, and other, parking adds \$9,690,000 (\$96,900/unit) to the construction costs.
- Escalation of interest rates, which includes higher interest reserves.
- Higher-than-expected sewer and water off-site work is required. Through Affirmed Housing’s design review process with the City of San Diego, a water study was submitted to the City of San Diego. City of San Diego staff determined that a water loop is required rather than an upgrade of an existing system. Additionally, it was also determined that approximately 550 feet of additional sewer is required for the property.
- Construction cost inflation has significantly increased in the past year.
- Necessary increase in the contingency budget to compensate for increasing interest and construction costs.
- Utilization of a project labor agreement as well as the higher of federal or state prevailing wage rates, as a result of the funding sources attributable to the project.
- Volatility in the insurance market has increased the insurance costs.
- City of San Diego permits and development impact fees add over \$2 million to the costs.
- Due to the mixed-use zoning, the SkyLINE design will include commercial/office space.

TAX-EXEMPT AND TAXABLE MULTIFAMILY HOUSING REVENUE BONDS

Proposed Housing Bonds Financing

The bonds will be issued in one tax-exempt series in the amount of \$42,476,918 (expected to be designated Series 2023 B). In addition, Bank of America will make a direct taxable loan to the Borrower during the construction period.

The tax-exempt debt will be sold initially through a public offering and will be structured during the construction period as rated, non-credit-enhanced, 100% cash collateralized, short-term, and publicly offered Bonds that will be marketed by Lument Capital, or a related entity, as underwriter, and pursuant to a forward commitment with Citibank, N.A., will convert to a permanent loan evidenced by a note to be purchased by Citibank in a private placement transaction for the permanent loan period in accordance with the Housing Authority's policies on private placements. The permanent period note is expected to be unrated.

Security – During the construction period, bond repayment will be secured by deposits in a Collateral Fund. The Bonds will be 100% cash collateralized during the construction period. The Trustee, U.S. Bank Trust Company, National Association, will hold deposited funds in cash or they will be invested in permitted investments that are expected to include U.S. Treasury obligations. The Trustee may release the Bond proceeds to the Borrower for acquiring and developing the development only if it receives a like amount of funds into a Collateral Fund. The deposits in the Collateral Fund must be bankruptcy-proof. There will be no additional credit enhancement. The loan is expected to be secured by a first lien position on the property. From the conversion date, the obligation issued by the Housing Authority will take the form of a note (Governmental Note) to be executed and delivered by the Housing Authority for the purpose of funding a permanent loan to the Borrower to be purchased by Citibank pursuant to the terms of a forward commitment. From and after the conversion date, the Governmental Note will be secured by a mortgage and revenues of the project.

Financing Documents for the Bonds and Governmental Note:

Trust Indenture – The Bonds will be issued pursuant to an Indenture between the Housing Authority and US Bank as Trustee. The Indenture sets forth the terms of the Series 1 Bonds, including interest rate, final maturity, and redemption provisions. The Indenture establishes accounts for deposit of Bond proceeds and repayment sources. Based upon instructions contained in the Indenture, the Trustee will disburse bond proceeds for eligible costs, collect project revenues, and make payments to the Bondholders. The Bonds are expected to be repaid in full following completion of the construction period in connection with conversion.

Loan Agreement – Under the terms of the Loan Agreement between the Housing Authority and the Borrower, the Housing Authority will loan the proceeds of the Bonds to the borrower in order to develop the project. The loan is evidenced by a note in an amount corresponding to the principal amount of the Bonds. With the Loan Agreement, the Housing Authority assigns its rights to receive note payments to the Trustee.

Funding Loan Agreement – During the permanent period, a Governmental Note will be issued pursuant to a Funding Loan Agreement among Citibank, the Housing Authority and U.S. Bank Trust Company, National Association, as Fiscal Agent.

Borrower Loan Agreement – During the permanent period, the loan to the Borrower will be governed by the terms of a Borrower Loan Agreement among the Housing Authority, the Borrower and the Fiscal Agent.

Regulatory Agreement and Declaration of Restrictive Covenants – 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. The Regulatory Agreement restricts the rental of the 99 affordable apartments (the one manager unit is exempted) to low-income residents for at least 55 years.

Bond Purchase Agreement – This Agreement is among the Housing Authority, the Borrower and the Underwriter of the Bonds. It sets forth the conditions under which the Underwriter will purchase the Bonds.

Official Statement - During the Bonds' marketing period, an Official Statement (to be prepared by counsel to the Underwriter), in preliminary form, will be used. After the Bonds are sold, final pricing information will be included and the Official Statement will become final. The Official Statement, in preliminary form, will be used to market the Bonds to investors. It describes the terms, financing structure, flow of funds, the development, and the security for the Bonds during the construction period. The Official Statement, which will be executed by the Borrower, will contain limited information about the Housing Authority as issuer. This information verifies that the Housing Authority is an appropriate issuer of the Bonds and that there is not existing or threatened litigation that would jeopardize the validity of the Bonds. Financial statements of the Housing Commission or Housing Authority are not included in the Official Statement.

Financial Advisor's Recommendation

Orrick, Herrington and Sutcliffe, LLP is the Bond Counsel and PFM Advisors is the Bond Financial Advisor to work on the bonds 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 bond issuance. The Financial Advisor's analysis and recommendation is at Attachment 6.

AFFORDABLE HOUSING IMPACT

Project Based Vouchers (PBV)

Affirmed Housing applied to the Housing Commission's Fiscal Year 2022 Notice of Funding Availability (NOFA) for PBVs only and was provided a preliminary award recommendation of 30 PBVs for SkyLINE, which are for low-income individuals and families with income up to 30 percent of AMI, currently \$33,100 per year for a two-person household, \$37,250 per year for a three-person household, and \$41,350 per year for a four-person household. The recommendation for these vouchers is contingent upon additional items including, but not limited to completion of a subsidy layering review, execution of an Agreement to Enter into Housing Assistance Payment and verification of services. Under the PBV program, Work-Able families pay either the minimum monthly rent payment amount or a predetermined amount of rent that is based on the family's annual income, whichever is greater. There is no minimum monthly rent payment amount for Elderly/Disabled families, which currently are households in which all adult family members are 55 or older, disabled, or a full-time student ages 18 to 23. The Housing Assistance Payment provides a rental subsidy for residents in SkyLINE's 30 voucher-assisted units. The PBV units will be 10 one-bedroom units, 10 two-bedroom units, and 10 three-bedroom units. The tenants

will be selected from the Housing Commission’s low-income PBV Wait List. Tenant Supportive Services will be provided by Compass for Affordable Housing. Applicants for these PBVs will be selected from SDHC’s PBV wait list.

Affordability

The SkyLINE development will be subject to applicable tax credit and bond regulatory agreements, which will restrict affordability of 99 units for 55 years. The rent and occupancy restrictions required by CTCAC will be applicable.

Table 6 – Affordability and Monthly Estimated Rent Table

Unit Type	AMI	Units	CTCAC Gross Rents
One bedroom (PBVs)	30% (\$33,100/year for two-person household)	10	\$775
One bedroom	50% (\$55,150/year for two-person household)	20	\$1,292
One bedroom	55% (\$60,665/year for two-person household)	19	\$1,422
Subtotal One Bedroom Units	--	49	--
Two bedrooms (PBVs)	30% (\$37,250/year for three-person household)	10	\$930
Two bedrooms	50% (\$62,050/year for three-person household)	11	\$1,551
Two bedrooms	55% (\$68,255/year for three-person household)	4	\$1,706
Subtotal Two Bedroom Units	--	25	--
Three bedrooms (PBVs)	30% (\$41,350/year for four-person household)	10	\$1,075
Three bedrooms	50% (\$68,900/year for four-person household)	8	\$1,791
Three bedrooms	55% (\$75,790/year for four-person household)	7	\$1,971
Subtotal Three Bedroom Units	--	25	--
Manager’s three bedrooms unit	--	1	--
Total Units	--	100	--

FISCAL CONSIDERATIONS

The proposed funding sources and uses approved by this action are included in the Housing Authority-approved Fiscal Year (FY) 2024 Housing Commission Budget.

Funding sources approved by this action:

\$42,476,918 Tax-exempt Bond
\$42,476,918 X 0.0025 = \$106,192

Total Funding Sources: up to \$106,192

Funding uses approved by this action:

Administrative costs: \$106,192
Total Funding Uses: up to \$106,192

The tax-exempt bonds will not constitute a debt of the City of San Diego. If the bonds are ultimately issued for the project, then these bonds will not financially obligate the City, the Housing Authority, nor

the Housing Commission because security for the repayment of the bonds will be limited to specific project-related revenue sources. Neither the faith and credit nor the taxing power of the City, nor the faith and credit of the Housing Authority will be pledged to the payment of these bonds. The developer is responsible for the payment of all costs under the financing, including the Housing Commission's issuer fee, annual bond administration fee, as well as the Housing Commission's Bond Counsel fee and Financial Advisor's fee.

Development Schedule

The estimated development timeline is as follows:

Milestones	Estimated Dates
<ul style="list-style-type: none">• Housing Authority consideration of bond authorization• City Council consideration of TEFRA resolution• Estimated bond issuance and escrow closing• Estimated start of construction work• Estimated completion of construction work	<ul style="list-style-type: none">• October 10, 2023• October 10, 2023• October 23, 2023• November 2023• February 2026

HOUSING COMMISSION STRATEGIC PLAN

This item relates to Strategic Priority Area No. 1 in the Housing Commission Strategic Plan for Fiscal Year (FY) 2022-2024, Increasing and Preserving Housing Solutions.

EQUAL OPPORTUNITY CONTRACTING AND EQUITY ASSURANCE

Affirmed Housing is committed to equity and inclusion as both an employer and a service provider. The Housing Commission included a requirement in the Notice of Funding Availability (NOFA) for prospective applicants to include a narrative and specific examples of activities and initiatives that support equity assurance. Affirmed Housing demonstrates a commitment to advancing racial equity and inclusion through project design and operational policies, throughout the proposed project timeline.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS

On October 21, 2021, Affirmed Housing presented the proposed development as an informational item to the Rancho Bernardo Community Planning Board. No vote was taken for that informational item.

KEY STAKEHOLDERS and PROJECTED IMPACTS

Stakeholders include Affirmed Housing as the developer, the County of San Diego as a proposed lender, MTS as the property lessor, and the Rancho Bernardo neighborhood. The development is anticipated to have a positive impact on the community as it will contribute to the quality of the surrounding neighborhood, contribute to a better quality of life for the proposed development's tenants, and create 99 new affordable rental homes for families with very low and low income.

STATEMENT for PUBLIC DISCLOSURE

The developer's Disclosure Statement is at Attachment 7.

ENVIRONMENTAL REVIEW

California Environmental Quality Act

This activity has been reviewed for consistency with the Final Negative Declaration (ND) for the Rancho Bernardo Community Plan (Project No. 88-0321) which was adopted by the San Diego City Council on December 13, 1988 (Resolution R-272585). This activity is a subsequent discretionary action within the scope of the development program evaluated in the Final ND and is not considered to be a separate project for the purposes of CEQA review pursuant to CEQA Guidelines Sections 15378(c) and 15060(c)(3). Pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162 there is no change in circumstance, additional information, or project changes to warrant additional environmental review for this action.

National Environmental Policy Act

Federal funds constitute a portion of the project's funding. The project received approval of a National Environmental Policy Act (NEPA) Environmental Assessment from the City of San Diego on May 9, 2023 and Authority to Use Grant Funds from the US Department of Housing and Urban Development (HUD) on June 20, 2023.

Respectfully submitted,



Jennifer Kreutter
Vice President
Multifamily Housing Finance
Real Estate Division

Approved by,

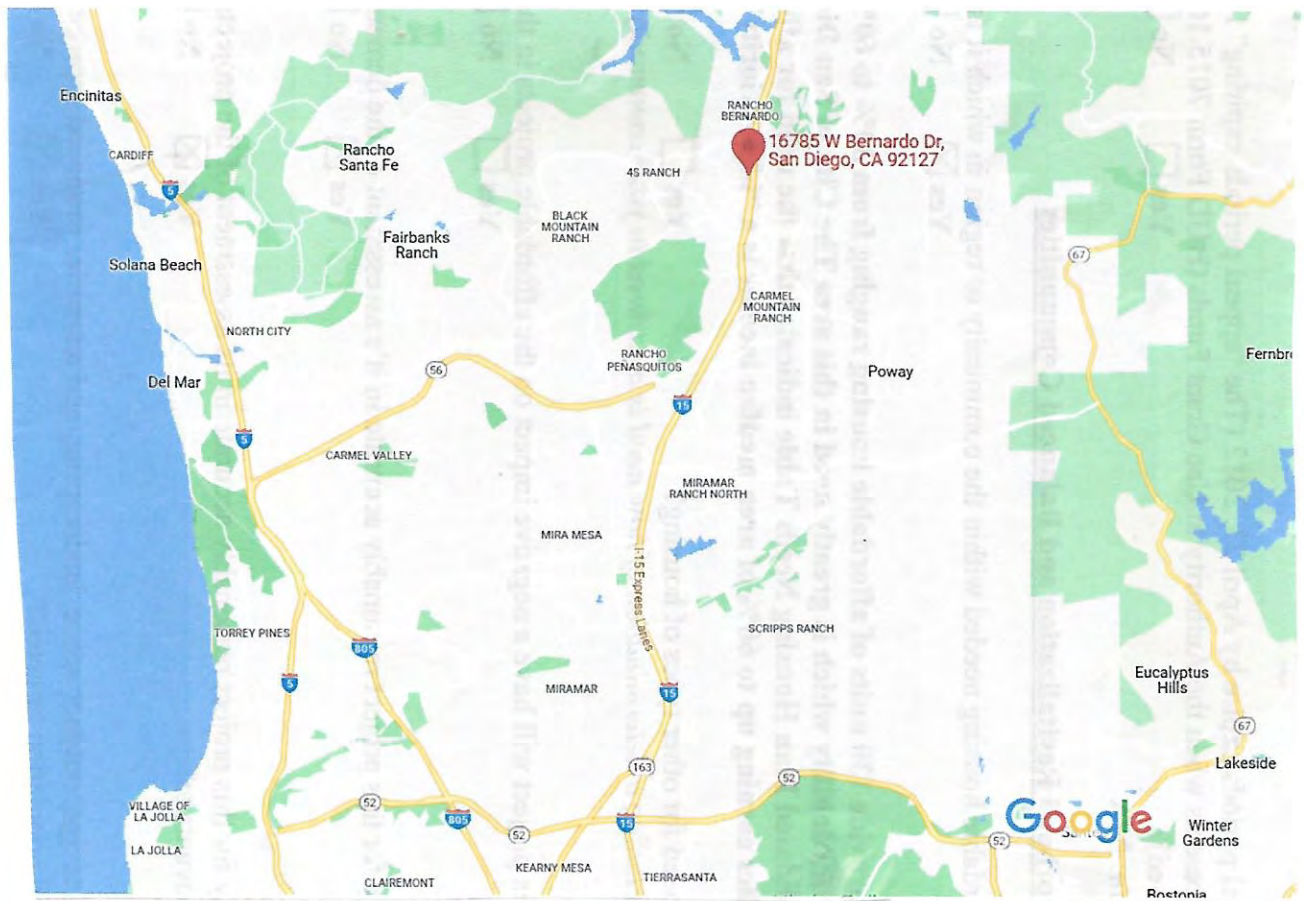


Jeff Davis
Interim President & Chief Executive Officer
San Diego Housing Commission

Attachments: 1) Site Map
2) Organization Chart
3) Developer's Project Pro Forma
4) Bond Program Summary
5) Financial Advisor's Analysis
6) Developer's Disclosure Statement

Hard copies are available for review during business hours at the information desk in the main lobby of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101. Docket materials are also available in the "Governance & Legislative Affairs" section of the San Diego Housing Commission website at www.sdhc.org

ATTACHMENT 1 - SITE MAP



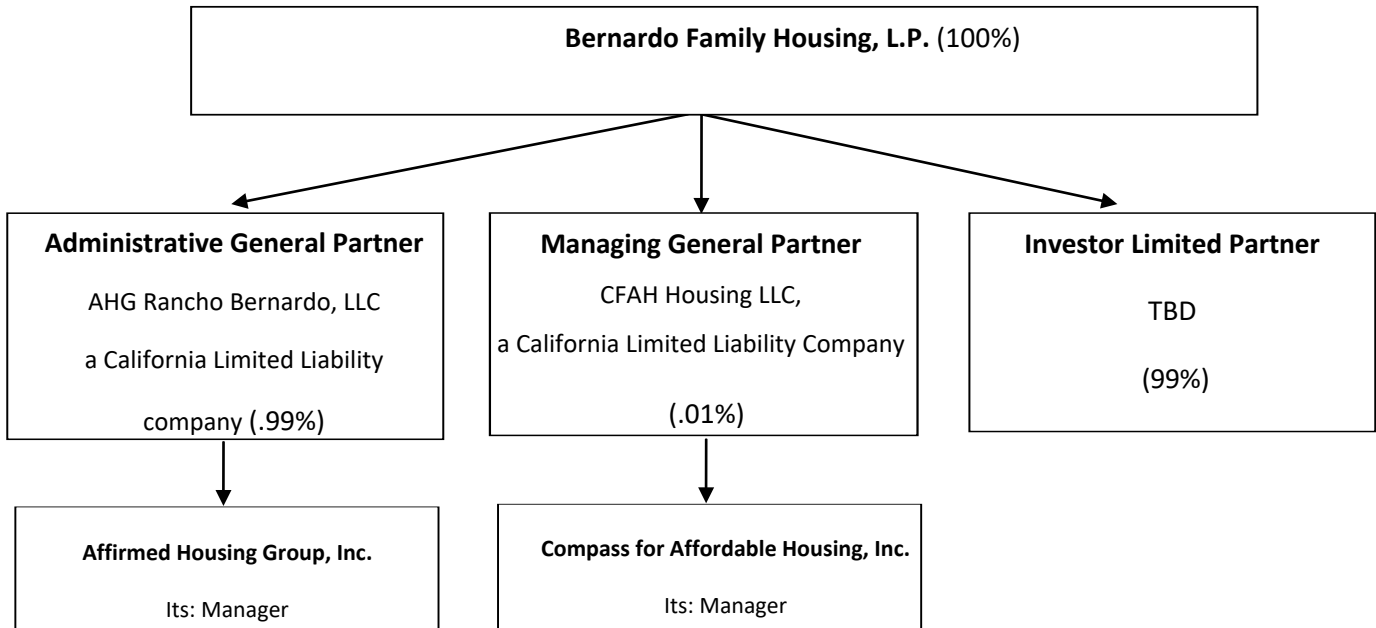
ATTACHMENT 2 - ORGANIZATION CHART

Bernardo Family Housing, L.P.

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 LLC, a California single purpose entity filed with the state will be the Administrative General Partner, owning .99% interest; CFAH Housing LLC will act as the Managing General Partner and will own .01% interest and the The Investor Limited Partner will have 99% interest in the limited partnership. The Borrower entity has been fully formed, which includes the the non-profit sponsor. Please see completed organizational documents.



OFFICERS AND/OR MANAGERS RESPONSIBLE FOR THE PROJECT:

1. James Silverwood
President
Affirmed Housing Group, Inc.
13520 Evening Creek Dr. N, #160
San Diego, CA 92128
2. Mellody Lock
Director of Development
Affirmed Housing Group, Inc.
13520 Evening Creek Dr. N, #160
San Diego, CA 92128
3. Tania Moshirian
Project Manager
Affirmed Housing Group, Inc.
13520 Evening Creek Dr. N, #160
San Diego, CA 92128
4. Katelyn Silverwood
Executive Director
Compass For Affordable Housing
13520 Evening Creek Dr. N, #560
San Diego, CA 92128

Affirmed Housing Group, Inc. (AHG) will act as the Manager of 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.

ATTACHMENT 3 DEVELOPER'S PROJECT PRO FORMA

Rancho Bernardo Transit Affordable/Mixed Use Plaza

100 Mixed Income Affordable Family Apts; 14,000 SF Commercial Office

5 stories wood frame over 2 story concrete + Replacement Parking

4%+State + City SD (LMIHAF) + SDHC PBVs (Non PSH) + County of SD (IHTF)+IIG
Public Bond Offering

SOURCES

Name of Lender/Source	Amount of Funds	Per Unit	%
Permanent Loan	\$ 16,120,492	161,205	17.7%
City of San Diego	\$ 5,000,000	50,000	5.5%
County of San Diego	\$ 2,000,000	20,000	2.2%
HCD IIG	\$ 4,469,800	44,698	4.9%
45L Credits	\$ 204,600	2,046	0.2%
Interest Income	\$ 3,823,200	38,232	4.2%
Deferred Developer Fee	\$ 3,880,000	38,800	4.3%
Federal Tax Credit Equity	\$ 40,036,982	400,370	44.0%
State Tax Credit Equity	\$ 15,408,048	154,080	16.9%
TOTAL SOURCES	\$ 90,943,122	909,431	100.0%

USES

Land/Acquisition Cost	\$ 131,001	1,310	0.1%
Total New Construction Costs	\$ 57,268,585	572,686	63.0%
Hard Cost Subtotal	\$ 57,268,585	572,686	63.0%
Construction Contingency	\$ 4,008,800	40,088	4.4%
Architecture & Engineering	\$ 3,075,000	30,750	3.4%
Construction Interest & Fees	\$ 11,322,290	113,223	12.4%
Capitalized Reserves	\$ 522,000	5,220	0.6%
Taxes & Insurance	\$ 1,144,704	11,447	1.3%
Cost of Issuance	\$ 735,900	7,359	0.8%
Construction Services	\$ 50,000	500	0.1%
Escrow & Title	\$ 80,000	800	0.1%
Legal Fees	\$ 335,000	3,350	0.4%
Devel Impact Fees & Permits	\$ 2,199,106	21,991	2.4%
Tax Credit Fees	\$ 204,538	2,045	0.2%
Misc. Soft Costs	\$ 2,357,250	23,573	2.6%
Soft Cost subtotal	\$ 22,025,788	220,258	24.2%
Soft Cost Contingency	\$ 1,128,948	11,289	1.2%
Developer Fee	\$ 6,380,000	63,800	7.0%
TOTAL USES	\$ 90,943,122	909,431	100.0%

FINANCING ASSUMPTIONS

Permanent Loan Amount	\$16,120,492
Permanent Loan Interest Rate	6.31%
Permanent Loan Term (yr.)	17
Permanent Loan Amort (yr.)	40
Net Operating Income	\$1,272,431
Debt Service	\$1,106,461
Debt Coverage Ratio	1.15
Construction Loan Amount (TE &	\$53,987,608
Construction Loan Interest Rate	7.66%
Construction Loan Term (mo.)	36
Loan to Value	46.71%

INCOME

Type	Qty.	%AMI	Net Income	Total Income
1BR-PBV	10	30%	\$ 2,343	\$ 23,430
1BR	20	50%	\$ 1,226	\$ 24,520
1BR	19	55%	\$ 1,335	\$ 25,365
2BR-PBV	10	30%	\$ 3,032	\$ 30,320
2BR	11	50%	\$ 1,469	\$ 16,159
2BR	4	55%		
3BR-PBV	10	30%	\$ 4,282	\$ 42,820
3BR	8	50%	\$ 1,652	\$ 13,216
3BR	7	55%	\$ 1,652	\$ 11,564
3BR MGR	1		\$ -	\$ -
TOTAL	100			\$ 187,394
Annual Residential Income				\$ 1,415,745
Excess PBV Income				\$ 934,354
Other Income				\$ 20,692
Total Gross Annual Income				\$ 2,370,791
Vacancy @ 5.0%				\$ (117,505)
TOTAL NET ANNUAL INCOME				\$ 2,253,286

EXPENSES

Administrative	\$ 1,250	\$ 125,000
Management	\$ 713	\$ 71,280
Utilities	\$ 1,900	\$ 190,000
Payroll	\$ 1,739	\$ 173,921
Total Insurance:	\$ 1,190	\$ 119,000
Maintenance	\$ 1,613	\$ 161,304
Other: Agency Monitoring Fees	\$ -	\$ -
Subtotal	\$ 8,405	\$ 840,505
Resident Services	\$ 500	\$ 50,000
Replacement Reserves	\$ 375	\$ 37,500
Real Estate Taxes	\$ 130	\$ 13,000
Other: Misc state & local fees, is	\$ 399	\$ 39,850
ANNUAL EXPENSES	\$	\$ 980,855

TAX CREDIT ASSUMPTIONS

9% Tie Breaker Score	N/A
Federal Tax Credits Requested	\$4,256,989
Federal Tax Credit Pricing	\$0.95
State Tax Credits Requested	\$17,509,145
State Tax Credit Pricing	\$0.88
LP Interest	99.00%
Applicable Rate	4.00%
50% Test	51.49%

PROPOSED BASIS LIMITS CALCULATIONS AND BOOSTS

Rancho Bernardo Transit Affordable/Mixed Use Plaza

Basis Limits Used: **TCAC 2023**
Application Type: **4%+State**

County: **SAN DIEGO**
Housing Type: **Large Family**

Unit Size	Unit Basis Limit	No. of Units	(Basis) X (No. of Units)
SRO/STUDIO	\$353,173	0	\$0
1	\$407,205	49	\$19,953,045
2	\$491,200	25	\$12,280,000
3	\$628,736	26	\$16,347,136
4+	\$700,451	0	\$0
TOTAL UNITS:		100	
TOTAL UNADJUSTED THRESHOLD BASIS LIMIT:			\$48,580,181
		Yes/No	
(a)	Plus (+) 20% basis adjustment for projects required to pay state or federal prevailing wages.	Yes	\$9,716,036
(b)	Plus (+) 10% basis adjustment for new construction projects which are required to provide parking beneath residential units (but not "tuck under" parking).	Yes	\$4,858,018
(c)	Plus (+) 2% basis adjustment for projects where a day care center is part of the development.	No	\$0
(d)	Plus (+) 2% basis adjustment for projects where 100 percent of the units are for Special Needs populations.	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: 0%	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: Seismic Upgrading	No	\$0
(g)	Plus (+) local development impact fees required to be paid to local government entities. Certification from local entities assessing fees also required.	Yes <small>Please Enter Amount:</small>	\$1,826,490
(h)	Plus (+) 10% basis adjustment for projects wherein at least 95% of the project's upper floor units are serviced by an elevator.	Yes	\$4,858,018
(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.	Yes	\$4,858,018
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: 99 Total Affordable Units @ 50% to 35% of AMI: 39	39%	\$19,137,647
(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: 99 Total Affordable Units @ 35% of AMI or Below: 30	30%	\$29,442,534
TOTAL ADJUSTED THRESHOLD BASIS LIMIT:			\$123,276,942

HIGH COST TEST

Total Eligible Basis

Percentage of the Adjusted Threshold Basis Limit

104.402%

UNADJUSTED THRESHOLD BASIS - 39% TEST

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

40.000%

SkyLINE_4% + State Credits _Public Bonds_23-Use Property of Affirmed Housing Group

9/1/20238:52 AM

DEVELOPMENT BUDGET

Rancho Bernardo Transit Affordable/Mixed Use PI

	TOTAL PROJECT COST	RESIDENTIAL COST	COMMERCIAL COST	70% PVC for New Construction/ Rehabilitation	30% PVC for Acquisition
Purchase Price	1	1	-		
Land Carry Cost + Misc. Fees	131,000	131,000	-		
Land Carry Cost	-	-	-		
Total Land Cost or Value	131,001	131,001	-		
Existing Improvements Value	-	-	-		-
Off-Site Improvements	-	-	-	-	-
Total Acquisition Cost	-	-	-	-	-
Total Land Cost / Acquisition Cost	131,001	131,001	-	-	-
REHABILITATION					
Abatement/Demolition	-	-	-		
Structures	-	-	-	-	-
General Requirements	-	-	-	-	-
Contractor Overhead	-	-	-	-	-
Contractor Profit	-	-	-	-	-
Prevailing Wages	-	-	-	-	-
General Liability Insurance	-	-	-	-	-
Contractor Contingency	-	-	-	-	-
Total Rehabilitation Costs	-	-	-	-	-
Total Relocation Expenses	-	-	-	-	-
NEW CONSTRUCTION					
Site Work	5,130,000	5,130,000	-	5,130,000	-
Structures	35,220,000	32,142,000	3,078,000	32,142,000	-
General Requirements	2,200,000	2,173,000	27,000	2,173,000	-
Contractor Overhead	1,000,000	1,000,000	-	1,000,000	-
Contractor Profit	2,200,000	2,167,000	33,000	2,167,000	-
Solar PV	570,000	570,000	-	570,000	-
Prevailing Wages	-	-	-	-	-
General Liability Insurance/ Bond Prem	1,087,585	1,087,585	-	1,087,585	-
Parking (MTS/Resi/Office):	9,690,000	8,756,340	933,660	8,756,340	-
Other: Site Security	171,000	171,000	-	171,000	-
Total New Construction Costs	57,268,585	53,196,925	4,071,660	53,196,925	-

DEVELOPMENT BUDGET

Rancho Bernardo Transit Affordable/Mixed Use Plaza

	TOTAL PROJECT COST	RESIDENTIAL COST	COMMERCIAL COST	70% PVC for NC/Rehab or 30% PVC for Fed Subsidized NC/Rehab	30% PVC for Acquisition
ARCHITECTURAL FEES					
Design (incl ADA)	1,975,000	1,786,575	188,425	1,786,575	-
Other:	-	-	-	-	-
Total Architectural Costs	1,975,000	1,786,575	188,425	1,786,575	-
Total Survey and Engineering	1,100,000	1,100,000		1,100,000	-
CONST. INTEREST & FEES					
Tax-Exempt Construction Loan Interest	4,130,000	4,130,000	-	4,130,000	-
Origination Fee	538,839	538,839	-	538,839	-
Cost of Issuance	735,900	735,900	-	73,590	-
Taxes	62,000	62,000	-	62,000	-
Insurance	1,082,704	1,082,704	-	1,082,704	-
Title and Recording	80,000	80,000	-	80,000	-
Construction Service Fees (Bank)	50,000	50,000	-	50,000	-
Other: Public Bond Interest	3,823,220	3,823,220	-	3,823,220	-
Other: SDHC Const Review	12,500	12,500	-	12,500	-
Other: Taxable Construction Interest	1,060,500	1,060,500	-	1,060,500	-
Total Const. Interest & Fees	11,575,663	11,575,663	-	10,913,353	-

PERMANENT FINANCING					
Loan Origination Fee	165,479	165,479	-		
Credit Enhancement/Application Fee	-	-	-		
Title and Recording	-	-	-		
Taxes	-	-	-		
Insurance	-	-	-		
Other: SDHC Monitoring & Underwriting Fee	75,642	75,642	-		
Other: Interest Prior to Conversion	2,589,110	2,589,110	-		
Total Perm. Financing Costs	2,830,231	2,830,231	-		
LEGAL FEES					
Lender Legal Pd. by Applicant	155,000	155,000	-	65,000	-
Other : Partnership & Transaction	180,000	180,000	-	10,000	-
Total Attorney Costs	335,000	335,000	-	75,000	-
RESERVES					
Rent Reserves	-	-	-		
Capitalized Operating Reserve	-	-	-		
*3- Month Operating Reserve	522,000	522,000	-		
Other: (Specify)	-	-	-		
Total Reserve Costs	522,000	522,000	-		

DEVELOPMENT BUDGET

Rancho Bernardo Transit Affordable/Mixed Use Plaza

	TOTAL PROJECT COST	RESIDENTIAL COST	COMMERCIAL COST	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	4,008,800	4,008,800	-	4,008,800	-
OTHER PROJECT COSTS					
TCAC App/Allocation/Monitoring	204,538	204,538	-		
Environmental Audit	45,000	45,000	-	45,000	-
Local Dev. Impact Fees	1,896,281	1,826,490	69,791	1,826,490	-
Permit Processing Fees	302,825	302,825	-	302,825	-
Marketing	25,000	25,000	-		
Furnishings, Fixtures, Equipment	600,000	600,000	-	600,000	-
Market Study	14,250	14,250	-	14,250	-
Accounting/Reimbursables	40,000	40,000	-	40,000	-
Soft Cost Contingency	1,128,948	1,128,948	-	1,128,948	-
Lease-Up Costs	50,000	50,000	-	-	-
Other: Transit passes	63,000	63,000	-		-
Other: MTS/City fees	50,000	50,000	-	50,000	-
Utilities	389,000	389,000	-	389,000	-
Total Other Costs	4,808,842	4,739,051	69,791	4,396,513	-
SUBTOTAL PROJECT COST	84,563,122	80,233,246	4,329,876	75,485,166	-
Total Project Cost	Total	Total	Total	75,485,166	-
	Cost	Residential	Commercial		
DEVELOPER COSTS					
Developer Overhead/Profit	6,380,000	6,380,000	-	6,380,000	-
Consultant/Processing Agent	-	-	-	-	-
Project Administration	-	-	-	-	-
Broker Fees Paid to a Related Party	-	-	-	-	-
Construction Oversight by Developer	-	-	-	-	-
Other: (Specify)	-	-	-	-	-
Total Developer Costs	6,380,000	6,380,000	-	6,380,000	-
TOTAL PROJECT COSTS	90,943,122	86,613,246	4,329,876	81,865,166	-
				-	-
				81,865,166	-

CONSTRUCTION & PERMANENT FINANCING
Rancho Bernardo Transit Affordable/Mixed Use Plaza

Construction Financing				
Name of Lender/Source	Term (months)	Interest Rate	Amount of Funds	Int. Reserve
TE Construction Loan Amount	36	7.66%	42,476,918	6,719,110
Taxable Construction Loan Amount	36	7.66%	11,510,690	
Tax Credit Equity (Fed)			16,633,509	
City Of San Diego		3.00%	4,749,985	
County of San Diego		3.00%	1,800,000	
HCD IIG			4,469,800	
Interest Income			3,823,200	
Deferred Cost to Perm			5,479,020	
Total Funds for Construction			90,943,122	

\$ -

Permanent Financing				
Name of Lender/Source	Term (months)	Interest Rate	Amount of Funds	Debt Service
Permanent Loan	204	6.31%	\$16,120,492	1,106,461
City of San Diego	660	3.00%	5,000,000	
County of San Diego	660	3.00%	2,000,000	
HCD IIG			4,469,800	
45L Credits			204,600	
Interest Income			3,823,200	
Deferred Developer Fee		1.00%	3,880,000	
Total Permanent Financing			35,498,092	
Federal Tax Credit Equity			40,036,982	
State Tax Credit Equity			15,408,048	
Total Sources of Project Funds			90,943,122	

CONFIDENTIAL

ELIGIBLE AND QUALIFIED BASIS
Rancho Bernardo Transit Affordable/Mixed Use Plaza

	70% PVC for New Construction/ Rehabilitation	30% PVC for Acquisition
Total Eligible Basis:	81,865,166	-
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:	81,865,166	-
Total Adjusted Threshold Basis Limit		123,276,942
*Qualified Census Tract (QCT) or Difficult to Develop Area (DDA) Adjustment:	130%	100%
Total Adjusted Eligible Basis:	106,424,716	-
Applicable Fraction:	100%	100%
Qualified Basis	106,424,716	-
Total Qualified Basis		106,424,716
**Total Credit Reduction:	-	0
Total Adjusted Qualified Basis:		106,424,716

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

**to be calculated in "Points System"

CONFIDENTIAL

BASIS AND CREDITS
Rancho Bernardo Transit Affordable/Mixed Use Plaza

	New Construction /Rehabilitation	Acquisition
Adjusted Qualified Basis, After Credit Reduction:	106,424,716	-
Applicable Percentage - 30% PV (4%, varies)	4.00%	
Project's Applicable Percentage:	4.00%	0.00%
Subtotal Annual Federal Credit:	4,256,989	-
Total Combined Annual Federal Credit:	4,256,989	<--- \$2.5M Max for 9%

Determination of Minimum Federal Credit Necessary For Feasibility

Total Project Cost	90,943,122	
Permanent Financing	35,498,092	
Funding Gap	55,445,030	0.95 Equity Pricing
Federal Tax Credit Factor **	0.94050	99.00% LP Interest
Total Credits Necessary for Feasibility	58,952,716	
Annual Federal Credit Necessary for Feasibility	5,895,272	
Maximum Annual Federal Credits	4,256,989	
Equity Raised From Federal Credit	40,036,982	
Remaining Funding Gap	15,408,048	

BASIS AND CREDITS: STATE

Determination of State Credit

	NC/Rehab	Acquisition
Adjusted Qualified Basis	81,865,166	-

Factor Amount *	30%	13%
Maximum Total State Credit	17,509,145	-

Determination of Minimum State Credit Necessary for Feasibility

State Tax Credit Factor **	0.8800	0.880 Equity Pricing	CERTIFICATED CREDITS
Maximum Total State Credit	17,509,145	100.00% LP Interest	
State Credit Necessary for Feasibility	17,509,145	locked per TCAC app	17,509,145 TCAC ALLOCATION
Equity Raised from State Credit	15,408,048		
Remaining Funding Gap	-		

PROJECT INCOME INFORMATION
Rancho Bernardo Transit Affordable/Mixed Use Plaza

(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
1BR-PBV	10	\$ 635	\$ 6,352	\$ 66	\$ 701	30%	\$ 2,409	\$ 1,774	\$ 17,738
1BR	20	\$ 1,226	\$ 24,525	\$ 66	\$ 1,292	50%	\$ -	\$ -	\$ -
1BR	19	\$ 1,335	\$ 25,370	\$ 66	\$ 1,401	55%	\$ -	\$ -	\$ -
2BR-PBV	10	\$ 706	\$ 7,060	\$ 82	\$ 788	30%	\$ 3,114	\$ 2,408	\$ 24,080
2BR	11	\$ 1,469	\$ 16,159	\$ 82	\$ 1,551	50%	\$ -	\$ -	\$ -
2BR	4	\$ 1,494	\$ 5,976	\$ 82	\$ 1,576	55%		\$ -	\$ -
3BR-PBV	10	\$ 777	\$ 7,765	\$ 99	\$ 876	30%	\$ 4,381	\$ 3,604	\$ 36,045
3BR	8	\$ 1,652	\$ 13,212	\$ 99	\$ 1,751	50%	\$ -	\$ -	\$ -
3BR	7	\$ 1,652	\$ 11,561	\$ 99	\$ 1,751	55%	\$ -	\$ -	\$ -
3BR MGR	1	\$ -	\$ -	\$ -	\$ -	MKT	\$ -	\$ -	\$ -
Affordable Units	99	Total Rent	\$ 117,979				Total Tranche B:		\$ 77,863

Aggregate Monthly Rents for All Units:	\$ 117,979
Aggregate Annual Rents for All Units:	\$ 1,415,745

Avg Affordability	45.45%
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Total Affordable Plus Manager Units:	100
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Annual Income from Laundry Facilities	\$ 10,692	9.00	per unit per month
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Annual Income from Vending Machines	-
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Annual Interest Income	-
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Other Annual Income (Specify)	10,000
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Total Miscellaneous Income:	\$ 20,692
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Total Annual Potential Gross Income:	\$ 1,436,437
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Excess PBV Income	\$ 934,354
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Total Gross Annual Income	\$ 2,370,791
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\$ 76,102

Utility Allowances AC: PE 6/2022					
	Studio	1 BR	2 BR	3 BR	4 BR
Space Heating:	-				
Water Heating:	-				
Cooking:	-				
Lighting:	-				
Electricity:	-				
Water:*	-				
AC	-				
City's Fee	-	-	-	-	
Total:	-	66	82	99	-

*Owner paid utilities

ANNUAL RESIDENTIAL OPERATING EXPENSES
Rancho Bernardo Transit Affordable/Mixed Use Plaza

Administrative	Advertising:	3,000	Per Unit	
	Legal:	11,000		30
	Accounting/Audit:	16,000		110
	Security:	60,000		160
	General Office Costs:	35,000		600
	Total Administrative:	125,000		350
				1,250
Management	Total Management Fee:	71,280		713
Utilities	Fuel:	-		-
	Gas:	20,000		200
	Electricity:	80,000		800
	Water/Sewer:	90,000		900
	Total Utilities:	190,000		1,900
Payroll / Payroll Taxes	On-site Manager(s):	84,821		848
	Maintenance Personnel:	46,937		469
	Other: Payroll Burden/Taxes	42,163		422
	Total Payroll/Payroll Taxes:	173,921		1,739
	Total Insurance:	119,000		1,190
Maintenance	Painting:	8,000		80
	Repairs:	20,000		200
	Trash Removal:	43,304		433
	Exterminating:	10,000		100
	Grounds & Garage Maintenance:	38,000		380
	Other: Fire Alarm Monitoring	12,000		120
	Other: Elevator	30,000		300
	Total Maintenance:	161,304		1,613
Other Expenses	Other:	-		-
	Other:			-
	Other:	-		-
	Other:	-		-
	Other:	-		-
	Total Other:	0		-
Total Expenses				
Total Annual Residential Operating Expenses:		840,505		
Total Number of Units in the Project:		100		
Total Annual Operating Expenses Per Unit:		8,405	5,700	min per unit
Total 3-Month Operating Reserve:		522,000		
Total Annual Internet Expense (site amenity election):		-		
Total Annual Service Amenities Budget (from project expenses):		50,000	500	per unit
Total Annual Reserve for Replacement:		37,500	375	per unit
Total Annual Real Estate Taxes:		13,000	150	
Other: Misc state & local fees, issuer fee		39,850		
TOTAL:		980,855	9,809	per unit
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:				-

Rancho Bernardo Transit Affordable/Mixed Use Plaza

	Inflation Factor	Year 1 2025	Year 2 2026	Year 3 2027	Year 4 2028	Year 5 2029	Year 6 2030	Year 7 2031	Year 8 2032	Year 9 2033	Year 10 2034	Year 11 2035	Year 12 2036	Year 13 2037	Year 14 2038	Year 15 2039
Rental Income	2.5%	1,415,745	1,451,139	1,487,417	1,524,603	1,562,718	1,601,786	1,641,830	1,682,876	1,724,948	1,768,072	1,812,273	1,857,580	1,904,020	1,951,620	2,000,411
PBV INCOME IF APPLICABLE	2.5%	934,354	957,712	981,655	1,006,197	1,031,352	1,057,135	1,083,564	1,110,653	1,138,419	1,166,880	1,196,052	1,225,953	1,256,602	1,288,017	1,320,217
TOTAL GROSS POTENTIAL REVENUE		2,350,099	2,408,851	2,469,072	2,530,799	2,594,069	2,658,921	2,725,394	2,793,529	2,863,367	2,934,951	3,008,325	3,083,533	3,160,622	3,239,637	3,320,628
Vacancy @	5.0%	117,505	120,443	123,454	126,540	129,703	132,946	136,270	139,676	143,168	146,748	150,416	154,177	158,031	161,982	166,031
Other Income	2.5%	20,692	21,209	21,740	22,283	22,840	23,411	23,996	24,596	25,211	25,841	26,488	27,150	27,828	28,524	29,237
TOTAL NET RENTAL INCOME		2,253,286	2,309,618	2,367,358	2,426,542	2,487,206	2,549,386	2,613,121	2,678,449	2,745,410	2,814,045	2,884,396	2,956,506	3,030,419	3,106,179	3,183,834
Advertising:	3.5%	3,000	3,105	3,214	3,326	3,443	3,563	3,688	3,817	3,950	4,089	4,232	4,380	4,533	4,692	4,856
Legal:	3.5%	11,000	11,385	11,783	12,196	12,623	13,065	13,522	13,995	14,485	14,992	15,517	16,060	16,622	17,204	17,806
Accounting/Audit:	3.5%	16,000	16,560	17,140	17,739	18,360	19,003	19,668	20,356	21,069	21,806	22,570	23,360	24,177	25,023	25,899
Security:	3.5%	60,000	62,100	64,274	66,523	68,851	71,261	73,755	76,337	79,009	81,774	84,636	87,598	90,664	93,837	97,122
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%	71,280	73,775	76,357	79,029	81,795	84,658	87,621	90,688	93,862	97,147	100,547	104,067	107,709	111,479	115,381
Electricity:	3.5%	80,000	82,800	85,698	88,697	91,802	95,015	98,340	101,782	105,345	109,032	112,848	116,798	120,885	125,116	129,496
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%	84,821	87,790	90,862	94,043	97,334	100,741	104,267	107,916	111,693	115,602	119,648	123,836	128,170	132,656	137,299
Maintenance Personnel:	3.5%	46,937	48,580	50,280	52,040	53,862	55,747	57,698	59,717	61,808	63,971	66,210	68,527	70,926	73,408	75,977
Other: Payroll Burden/Taxes	3.5%	42,163	43,638	45,166	46,747	48,383	50,076	51,829	53,643	55,520	57,463	59,475	61,556	63,711	65,941	68,249
Total Insurance:	3.5%	119,000	123,165	127,476	131,937	136,555	141,335	146,281	151,401	156,700	162,185	167,861	173,736	179,817	186,111	192,625
Painting:	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
Repairs:	3.5%	20,000	20,700	21,425	22,174	22,950	23,754	24,585	25,446	26,336	27,258	28,212	29,199	30,221	31,279	32,374
Trash Removal:	3.5%	43,304	44,820	46,388	48,012	49,692	51,432	53,232	55,095	57,023	59,019	61,085	63,223	65,435	67,726	70,096
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 & Garage Maintenance:	3.5%	38,000	39,330	40,707	42,131	43,606	45,132	46,712	48,347	50,039	51,790	53,603	55,479	57,421	59,430	61,510
Other: Fire Alarm Monitoring	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
Other: Elevator	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
Other:	3.5%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Service Amenities Budget	3.5%	50,000	51,750	53,561	55,436	57,376	59,384	61,463	63,614	65,840	68,145	70,530	72,998	75,553	78,198	80,935
Other: Misc state & local fees, issuer fee	2.5%	39,850	40,846	41,867	42,914	43,987	45,087	46,214	47,369	48,553	49,767	51,011	52,287	53,594	54,934	56,307
Real Estate Taxes	2.0%	13,000	13,260	13,525	13,796	14,072	14,353	14,640	14,933	15,232	15,536	15,847	16,164	16,487	16,817	17,153
Replacement Reserve	0.0%	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500
TOTAL EXPENSES		980,855	1,013,279	1,046,824	1,081,529	1,117,434	1,154,580	1,193,012	1,232,773	1,273,910	1,316,470	1,360,504	1,406,061	1,453,195	1,501,961	1,552,416
Cash Flow Prior to Debt Service (NOI)		1,272,431	1,296,339	1,320,534	1,345,014	1,369,772	1,394,806	1,420,109	1,445,676	1,471,500	1,497,575	1,523,893	1,550,445	1,577,224	1,604,218	1,631,418
DEBT SERVICE - Permanent Loan		1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461	1,106,461
FORECASTED CASH AVAILABLE		165,969	189,878	214,073	238,552	263,311	288,344	313,647	339,214	365,038	391,113	417,431	443,984	470,762	497,757	524,957
Percent of Gross Revenue	8% Max	7.06%	7.88%	8.67%	9.43%	10.15%	10.84%	11.51%	12.14%	12.75%	13.33%	13.88%	14.40%	14.89%	15.36%	15.81%
25% Debt Service Test	Yr 1-3 Max	15.00%	17.16%	19.35%	21.56%	23.80%	26.06%	28.35%	30.66%	32.99%	35.35%	37.73%	40.13%	42.55%	44.99%	47.44%
Debt Coverage Ratio	1.15 Min	1.15	1.17	1.19	1.22	1.24	1.26	1.28	1.31	1.33	1.35	1.38	1.40	1.43	1.45	1.47
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
Accrued Management Fee		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Accrued Management Fee - Paid		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Accrued Management Fee - Ending Bal		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash Available for Ground Lease		140,969	164,128	187,551	211,234	235,173	259,362	283,796	308,467	333,369	358,494	383,833	409,378	435,118	461,043	487,142
Ground Lease PMT	5%	7,048	8,206	9,378	10,562	11,759	12,968	14,190	15,423	16,668	17,925	19,192	20,469	21,756	23,052	24,357
Cash Available for Deferred Developer Fee		133,921	155,921	178,173	200,672	223,415	246,394	269,606	293,044	316,701	340,569	364,642	388,909	413,362	437,991	462,785
Deferred Fee	3,880,000	133,921	155,921	178,173	200,672	223,415	246,394	269,606	293,044	316,701	340,569	364,642	388,909	413,362	437,991	243,212
	1.0%	37,461	36,276	34,857	33,199	31,297	29,146	26,741	24,078	21,152	17,958	14,491	10,747	6,721	2,408	-
	balance	3,783,540	3,663,895	3,520,579	3,353,106	3,160,988	2,943,740	2,700,875	2,431,909	2,136,361	1,813,749	1,463,599	1,085,436	678,795	243,212	-
Cash Available for Distribution	Yr 31-55	Yr 1-30	-	-	-	-	-	-	-	-	-	-	-	-	-	219,573
Annual Payment to City SD	70%	50.00%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 54,893
Annual Payment toCounty of SD			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 54,893
Annual Payment to Affirmed	30%	50.00%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 109,786.50

ATTACHMENT 4

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 and 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 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 San Diego Housing Commission (Housing Commission) 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, or the 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. This process does not make the Housing Commission, the Housing Authority, or the City of San Diego financially or legally liable for the bonds or for the project.

[Note: Members of the Housing Commission or the San Diego City Council may be asked to take two actions at this stage in the bond process -- one in their capacity as approving the TEFRA hearing resolution and another as approving the bond inducement.]

- 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 Commission 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.

ATTACHMENT 5 - FINANCIAL ADVISOR'S ANALYSIS

Memorandum

To: Colin Miller, Joe Correia - San Diego Housing Commission

From: Nick Jones, Jaime Trejo - PFM Financial Advisors, LLC

RE: Actions related to the proposed issuance of up to \$42,476,918 tax-exempt and \$11,510,690 taxable Multifamily Housing Revenue Bonds (SkyLINE) Series 2023

Dear Mr. Miller and Mr. Correia,

You have asked PFM Financial Advisors, LLC (“PFM”) to review the proposed financing and recommend whether, in our judgment, it is reasonable for the Housing Authority of the City of San Diego (the “Housing Authority”) to issue the Multifamily Housing Revenue Bonds (the “Bonds”) in connection with SkyLINE (the “Project”) by Affirmed Housing Group (the “Borrower” or the “Developer”). In preparing this report, we have reviewed financial projections and background information provided by the Developer and the San Diego Housing Commission (the “Housing Commission” or “SDHC”).

The specific findings this report addresses are:

- Whether the financing will achieve a public purpose by creating or preserving affordable housing
- Whether the Housing Authority will avoid undue financial risk in undertaking the financing
- Whether the Project will be able to meet debt service payments after the proposed financing

As described below, we find that all of the conditions are met and therefore recommend that the Housing Authority authorize the issuance of the Bonds.

Description of the Project

SkyLINE is an affordable rental housing development located at 16785 - 16787 W Bernardo Drive in San Diego. The project consists of 99 restricted rental units and 1 unrestricted manager unit. The restricted units are made up of 25 three-bedroom, 25 two-bedroom, 49 one-bedroom units.

Construction is expected to begin in November 2023 and be completed in 2025.

The current estimate of site acquisition and hard construction costs is \$57,268,585 (\$572,686 per unit). Funds for the development of the Project will be raised through various sources including equity capital and the issuance of the Bonds. The proposed



development pro-forma estimates that there are \$90,948,122 in total project costs (\$909,431 per unit).

The Developer

Bernardo Family Housing, L.P. is a limited partnership formed by the Developer and Compass for Affordable Housing, which is a 501©(3) nonprofit. The Developer was founded in 1992, with a mission to create and maintain exceptional environments for the residents and communities they serve. Compass for Affordable Housing was founded in 2009, with a focus on connecting a diverse group of individuals residing in affordable housing communities to education and resources that navigate and enrich their lives.

The Financing

An aggregate amount not exceeding \$42,476,918 of tax-exempt Housing Authority Bonds will initially be issued to facilitate Bernardo Family Housing, L.P.'s construction of the Project. Bank of America (the "Lender") will serve as the construction lender and equity investor. Lument Securities (the "Underwriter") was selected through an RFP process to underwrite the bonds. Tax credits and tax exemption were allocated to the project by California Tax Credit Allocation Committee ("TCAC") and California Debt Limit Allocation Committee ("CDLAC") in an amount of \$39,204,504 on May 10, 2023. The Project subsequently applied for and received a supplemental CDLAC allocation of \$3,272,414 on July 25, 2023, bringing the total allocation to \$42,476,918. The transaction is scheduled to close before its November 6, 2023 CDLAC closing deadline.

The 2023 Bonds will be publicly offered, rated, and cash-collateralized. The bond proceeds will be deposited into a cash collateralization account held by the Bond Trustee. Bank of America will also be making a taxable construction loan during the construction period. The proceeds of that taxable loan will be advanced to the Bond Trustee to replace draws of tax-exempt bond proceeds that are used for eligible project costs during the construction period, thus maintaining the cash collateral for the bonds.

In addition to the Bonds, the Project will be financed by other Permanent Sources, detailed in Table 1 below:



Table 1
Permanent Financing
Sources and Uses of Funds

Sources:

Tax-Exempt permanent loan	\$ 16,120,492
City of San Diego loan	5,000,000
County of San Diego loan	2,000,000
CA HCD Infill Infrastructure Grant	4,469,800
Solar and 45L Credits	204,600
Interest Income	3,823,200
Deferred developer fee	3,880,000
Federal Tax Credit Equity	40,036,982
State Tax Credit Equity	15,408,048
Total Sources	\$ 90,943,122

Uses:

Land Acquisition	\$ 131,001
Total New Construction Cost	57,268,585
Construction Contingency	4,008,800
Financing Costs	11,322,290
Soft Costs	9,445,598
Soft Cost Contingency	1,128,948
Reserves	522,000
Cost of Issuance	735,900
Developer fee	6,380,000
Total Uses	\$ 90,943,122



Achieving Public Purpose

Through the proposed bond issuance, the Project will provide housing for low-income households. The Project proposes to restrict all 99 non-manager units for households earning no greater than 55% of Area Median Income (“AMI”), with 30 of the units targeted at households earning no greater than 30% of AMI. The affordability term of the project is 55 years. Maximum bond rents for the Project are summarized in Table 2 below:

Table 2
Rent Comparison

Unit Type	Area Median Income	Units	Proposed Gross Monthly Rents	Estimated Market Rents	Rent Savings
1 Bedroom	30%	10	\$635	\$1,542	\$907
	50%	20	1,226	1,542	316
	55%	19	1,335	1,542	207
2 Bedroom	30%	10	706	1,979	1,273
	50%	11	1,469	1,979	510
	55%	4	1,494	2,748	1,254
3 Bedroom	30%	10	777	4,381	3,604
	50%	8	1,652	4,381	2,730
	55%	7	1,652	4,381	2,730
Manager	-	1	-	-	-
Total		100	\$117,979	\$237,634	\$119,655
Annual			\$1,415,745	\$2,851,608	\$1,435,863



Meeting Debt Service After Financing

As shown in Table 3 below, the Project will have ample cash flow to meet debt service upon completion and rent-up. Based upon our review of the Developer's proposed rents and estimated costs, there will be \$1,272,431 of net income (net of reserve deposits) available for the first full year of debt service in 2025. Debt service coverage in the first full year is estimated at 1.15 times. By the fifth full year of debt service, assuming a 2.5% annual increase in gross income and a 3.5% annual increase in operating expenses, debt service coverage is projected to increase to 1.24 times.

Table 3
Estimated Cash Flow

Year:	2025	2026	2027	2028	2029
Rental Income	\$1,415,745	\$1,451,139	\$1,487,417	\$1,524,602	\$1,562,717
Less: Vacancy @ 5%	(70,787)	(72,557)	(74,371)	(76,230)	(78,136)
Rental Subsidy Income	934,354	957,712	981,655	1,006,197	1,031,352
Less: Vacancy @ 5%	(46,718)	(47,886)	(49,083)	(50,310)	(51,568)
Other Income	20,692	21,209	21,740	22,283	22,840
Effective Gross Income	\$2,253,286	\$2,309,618	\$2,367,358	\$2,426,542	\$2,487,206
Less: Operating Expenses	(943,355)	(976,372)	(1,010,545)	(1,045,915)	(1,082,522)
Less: Reserves	(37,500)	(37,500)	(37,500)	(37,500)	(37,500)
Net Income	\$1,272,431	\$1,295,745	\$1,319,313	\$1,343,128	\$1,367,184
Permanent Loan Debt Service	(\$1,106,461)	(\$1,106,461)	(\$1,106,461)	(\$1,106,461)	(\$1,106,461)
Debt Service Coverage ¹	1.15	1.17	1.19	1.21	1.24

¹Calculated by dividing Net Income by Permanent Loan Debt Service

Conclusion

The proposed financing will create no undue risk for the Housing Authority. The Borrower has agreed to pay all costs of issuance for the financing and to indemnify the City, the Housing Authority and the Housing Commission regarding matters relating to the financing. It should be noted that the Borrower will have no significant assets or sources of income other than the Project and neither the Borrower nor the Housing Authority would be required under most circumstances to make up any cash flow shortfalls.

Based upon our review, we recommend that the Housing Authority proceed with the financing. This recommendation is based upon the following findings:

- The financing would achieve a public purpose by providing 99 affordable units, all affordable at 55% of AMI, and 30 targeted at 30% of AMI, for a period of 55 years.



- The Borrower has agreed to indemnify the City, the Housing Authority and the Housing Commission regarding any matters related to the financing. The Borrower will pay all costs of the financing.
- Based upon estimates by the Developer that have been reviewed and confirmed by the bond purchaser, there are sufficient funds to complete the Project, and the Project provides adequate debt service coverage.
- The 2023 Bonds will be structured as publicly offered and cash-collateralized obligations. The proceeds of the 2023 Bonds will be loaned to the Borrower, which is an entity formed by the Developer. The Borrower will use these proceeds and other funds to finance the construction of the Project.

If there is any additional information you require concerning this matter, we will be glad to provide it as a supplement to this report.

Sincerely,
PFM Financial Advisors, LLC

Nick Jones
Senior Managing Consultant



ATTACHMENT 6 -
DEVELOPER'S DISCLOSURE STATEMENT

Real Estate Department

**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. Address and Zip Code:
13520 Evening Creek Dr. N. Suite 160
San Diego, CA 92128
3. Telephone Number:
(858) 679-2828
4. Name of Principal Contact for CONTRACTOR:
James 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:

☒ A corporation (Attach Articles of Incorporation)

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

Check one
() General Partnership (Attach statement of General Partnership)
() Limited Partnership (Attach Certificate of Limited Partnership)

☐ A business association or a joint venture known as:

(Attach joint venture or business association agreement)

☐ A Federal, State or local government or instrumentality thereof.

___ Other (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%.

Name, Address and
Zip Code _____

Position Title (if any) and
percent of interest or description
of character and extent of interest

Name and Address	Position Title (if any) and percent of interest or description of character and extent of interest
Name: James Silverwood	CEO, 60% interest
Address: 13520 Evening Creek Dr. N. Ste. 160	
San Diego, CA 92128 (858) 386-5175	
Name: Silverwood Descendants Trust - SD	Trust, 40% interest
Address: 13520 Evening Creek Dr. N. Ste 160	
San Diego, CA 92128 (858) 679-2828	
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, Address and
Zip Code _____

Position Title (if any) and
extent of interest _____

N/A (see section 8)

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:

James Silverwood, President
13520 Evening Creek Dr. N., Suite 160
San Diego, CA 92128
(858) 679-2828

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.

Affirmed Housing Group, a CA Corp
13520 Evening Creek Dr. N., Suite 160
San Diego, CA 92128

This is a sister company (combined group for reporting financials)

14. Provide 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 attached financial statements, including, but not necessarily limited to, profit and loss statements and statements of financial position.

See attachment A- CONFIDENTIAL financial statements

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:

The project will be funded through from tax credits, tax exempt bonds, City of San Diego, County of San Diego, HCD and 45 L solar credits.

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

- a. Name, Address & Zip Code of Bank/Savings & Loan:

Capital One Bank
(address will be provided upon request – see financials)
Amount: \$ 5 million

- b. By loans from affiliated or associated corporations or firms:

Name, Address & Zip Code of Bank/Savings & Loan:

US Bank
4747 Executive Drive, 3rd floor
San Diego, CA 92121
Amount: \$ 1,500,000

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

<u>Description</u>	<u>Market Value</u>	<u>Mortgages or Liens</u>
	\$N/A	\$N/A

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

Alice Harris
Banc of California
3 MacArthur Place
Santa Ana, CA 92707

Vincent Affinito
Capital One
1680 Capital One Drive
McLean, VA 22102

Christopher D Meyers
Citi Bank
740 Lomas Santa FE Drive, Suite 210
Solana Beach, CA 92075

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 X No

If yes, give 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 X No

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

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:

<u>Bond</u> <u>Type</u>	<u>Project</u> <u>Description</u>	<u>Date of</u> <u>Completion</u>	<u>Amount</u> <u>of Bond</u>	<u>Action on</u> <u>Bond</u>
----------------------------	--------------------------------------	-------------------------------------	---------------------------------	---------------------------------

N/A

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:

N/A

- a. Name and addresses of such contractor or builder:

N/A

- 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:

N/A

- 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:

List each project, including location, nature of work performed, name, address of the owner of the project, bonding companies involved, amount of contract, date of commencement of project, date of completion, state whether any change orders were sought, amount of change orders, was litigation commenced concerning the project, including a designation of where, when and the outcome of the litigation.

N/A

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

N/A

<u>Identification of</u> <u>Contract or Development</u>	<u>Location</u>	<u>Amount</u>	<u>Date to be</u> <u>Completed</u>
--	-----------------	---------------	---------------------------------------

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

N/A

<u>Awarding Agency</u>	<u>Amount</u>	<u>Date Opened</u>
------------------------	---------------	--------------------

22. Provide a detailed and complete statement respecting 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 ("COMMISSION"), 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 COMMISSION, 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

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

☐ Yes ☒ No

If yes, explain:

N/A

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

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

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)]

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 COMMISSION setting forth the provisions of this nondiscrimination clause.

28. The CONTRACTOR warrants and certifies that it will not without prior written consent of the COMMISSION, engage in any business pursuits that are adverse, hostile or take incompatible positions to the interests of the COMMISSION, 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 COMMISSION, 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 Commission 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 so state:

Government Entity
Making Complaint

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. If so, please explain the circumstances in detail. If none, please so state:

No

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:

Governmental Description	License	Date Issued	Status
Revocation			
<u>Agency</u>	<u>License</u>	<u>Number</u>	<u>(original)</u>
<u>(yes/no)</u>			<u>(current)</u>

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 COMMISSION.

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 COMMISSION.

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 COMMISSION, AUTHORITY and/or the CITY within the last five (5) years:

	Entity Involved	Status	
	(i.e., CITY	(Current, delinquent	Dollar
<u>Date</u>	<u>COMMISSION, etc.)</u>	<u>repaid, etc.)</u>	<u>Amount</u>

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	Fairmont Family Housing, L.P.-Bluewater (Entity- SDHC)	Current	\$9,468,500

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, 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, explain:

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

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 PSH Veterans & Seniors

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

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. Give a brief statement respecting 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. Give the name and experience of the proposed Construction Superintendent.

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 ("COMMISSION"), 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 COMMISSION, 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 COMMISSION, 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 COMMISSION, 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 8 day of August, 2023, at San Diego, California.

CONTRACTOR

By:



Signature

CFO

Title

CERTIFICATION

The CONTRACTOR, Affirmed Housing Group, Inc., 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:  By: _____

Title: CFO Title: _____

Dated: 8/8/2023 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.

ATTEST:

State of California

County of San Diego

Subscribed and sworn to before me this 8th day of August 2023.

*See attached
Certificate*

Signature of Notary

Name of Notary

SEAL

CALIFORNIA JURAT

GOVERNMENT CODE § 8202

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

State of California

County of San Diego

Subscribed and sworn to (or affirmed) before me on

this 8 day of August, 2023, by
Date Month Year

(1) Nicki Cometa

(and (2) _____),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



Place Notary Seal and/or Stamp Above

Signature

Bryna Geary
Signature of Notary Public

OPTIONAL

*Completing this information can deter alteration of the document or
fraudulent reattachment of this form to an unintended document.*

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

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)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/8/2023

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 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: PHONE (A/C, No. Ext): E-MAIL ADDRESS: constructioncerts@MarshMMA.com	FAX (A/C, No):
INSURED Affirmed Housing Group 13520 Evening Creek Drive North Suite 160 San Diego CA 92128	INSURER(S) AFFORDING COVERAGE INSURER A: Philadelphia Indemnity Insurance Co. INSURER B: Texas Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:	NAIC # 18058 16543

COVERAGES**CERTIFICATE NUMBER:** 1015626516**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 INSD	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:	Y	N	PHPK2556340	6/1/2023	6/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 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 <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	PHPK2556340	6/1/2023	6/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	N	N	PHUB864649	6/1/2023	6/1/2024	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$ Follow Form GL
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	2nd Layer Excess \$2M xs \$3M Follow Form GL			JT123XANN0245001	6/1/2023	6/1/2024	Limits: \$2,000,000 Occ \$2,000,000 Agg

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

CERTIFICATE HOLDER**CANCELLATION**

Evidence of Coverage

. ZZ

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

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Philadelphia Indemnity Insurance Company

PI-GLD-100 (12/16)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**GENERAL LIABILITY DELUXE ENHANCEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is 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 coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

Coverage Applicable	Limit of Insurance	Page #
Non-Owned Watercraft	Less than 58 feet	2
Supplementary Payments – Bail Bonds	\$2,500	2
Supplementary Payment – Loss of Earnings	\$1,000 per day	2
Key and Lock Replacement – Janitorial Services Client Coverage	\$10,000 limit	2
Additional Insured – Broadened Named Insured	Included	3
Additional Insured – Managers, Landlords, or Lessors of Premises	Included	3
Additional Insured – Lessor of Leased Equipment	Included	3
Duties in the Event of Occurrence, Claim or Suit	Included	4
Unintentional Failure to Disclose Hazards	Included	4
Transfer of Rights of Recovery Against Others To Us	Clarification	4
Liberalization	Included	5
Bodily Injury – includes Mental Anguish	Included	5

A. Non-Owned Watercraft**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE**

LIABILITY, Subsection **2. Exclusions**, Paragraph **g. (2)** is deleted in its entirety and replaced by the following:

- (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.

B. Supplementary Payments

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGE A AND B are amended as follows:

1. **b.** is deleted in its entirety and replaced by the following:

1. **b.** Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these.

1. **d.** is deleted in its entirety and replaced by the following:

1. **d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

C. Key and Lock Replacement – Janitorial Services Client Coverage

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B is amended to include the following:

We will pay for the cost to replace keys and locks at the "clients" premises due to theft or other loss to keys entrusted to you by your "client," up to a \$10,000 limit per occurrence and \$10,000 policy aggregate.

We will not pay for loss or damage resulting from theft or any other dishonest or criminal act that you or any of your partners, members, officers, "employees", "managers", directors, trustees, authorized representatives or any one to whom you entrust the keys of a "client" for any purpose commit, whether acting alone or in collusion with other persons.

The following, when used on this coverage, are defined as follows:

a. "Client" means any entity for whom you perform services.

b. "Employee" means:

(1) Any natural person:

(a) While in your service or for 30 days after termination of service;

(b) Who you compensate directly by salary, wages or commissions; and

(c) Who you have the right to direct and control while performing services for you; or

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent "employee" as defined in Paragraph (1) above, who is on leave; or

(b) To meet seasonal or short-term workload conditions;

while that person is subject to your direction and control and performing services for you.

(3) "Employee" does not mean:

(a) Any agent, broker, person leased to you by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(b) Any "manager," director or trustee except while performing acts coming within the scope of the usual duties of an "employee."

c. "Manager" means a person serving in a directorial capacity for a limited liability company.

D. Additional Insureds

SECTION II – WHO IS AN INSURED is amended as follows:

1. Each of the following is also an insured:

a. **Broadened Named Insured** – Any 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 organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.

b. **Managers, Landlords, 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 or rented 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; or

(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.

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

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, Paragraph 2. is amended as follows:

a. is amended to include:

This condition applies only when the “occurrence” or offense is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

b. is amended to include:

This condition will not be considered breached unless the breach occurs after such claim or “suit” is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

F. Unintentional Failure To Disclose Hazards

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 6. Representations is amended to include the following:

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.

G. Transfer of Rights of Recovery Against Others To Us

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 8. Transfer of Rights of Recovery Against Others To Us is deleted in its entirety and replaced by the following:

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring “suit” or transfer those rights to us and help us enforce them.

Therefore, the insured can waive the insurer’s rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

H. Liberalization

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, is amended to include the following:

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.

I. Bodily Injury – Mental Anguish

SECTION V – DEFINITIONS, Paragraph **3.** Is deleted in its entirety and replaced by the following:

“Bodily injury” means:

- a.** 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.

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 ISSUANCE OF ONE OR MORE MULTIFAMILY HOUSING REVENUE BONDS OR NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$42,500,000 TO FINANCE THE CONSTRUCTION OF A MULTIFAMILY RENTAL HOUSING FACILITY TO BE KNOWN AS SKYLINE (FORMERLY KNOWN AS RANCHO BERNARDO TRANSIT VILLAGE), 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, construction, and equipping of multifamily rental housing; and

WHEREAS, Bernardo Family Housing, L.P., a California limited partnership (Borrower), has requested that the Authority issue bonds and loan the proceeds thereof to the Borrower to finance and/or refinance Borrower's construction and development of a multifamily residential rental housing facility to be known as "SkyLINE" (Project), consisting of 100 apartment units (including one manager's unit) to be located at 16785 -16787 West Bernardo Drive, 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 revenue bonds, to finance costs of the acquisition, construction, development and equipping of the Project; and

WHEREAS, the Authority intends to issue, execute and deliver one or more series of bonds or notes initially designated as Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B (or such other series designation as shall be set forth in the Indenture and Funding Loan Agreement (each as defined herein) as finally executed) (Bonds), which Bonds may be designated in one or more subseries, which may be taxable or tax-exempt, to fund a loan to the Borrower (Loan) to assist in providing financing for the Project, which will allow the Borrower to reduce the cost of the Project and to assist in providing housing for low and very-low income persons; and

WHEREAS, a public hearing having been held on September 15, 2023, following notice thereof, the Council of the City of San Diego (City Council), is expected to consider for approval on the date hereof the issuance of revenue bonds for the Project 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 May 10, 2023, CDLAC allocated to the Project \$39,204,504 of available State of California ceiling or carryforward for private activity bonds under section 146 of the Code, and on July 25, 2023, CDLAC awarded the Project a supplemental allocation in the amount of \$3,272,414 (collectively, Allocation Amount); and

WHEREAS, the following documents are presented for consideration:

- (1) The form of Trust Indenture (Indenture), by and between the Authority and U.S. Bank Trust Company, National Association, as trustee (Trustee), including the form of Bonds included in the Indenture;
- (2) The form of Loan Agreement (Loan Agreement), by and between the Authority and the Borrower, in respect of the financing for the Project during the construction phase;
- (3) The form of official statement (Official Statement), to be used in connection with the sale and issuance of the Bonds;
- (4) The form of bond purchase agreement (Bond Purchase Agreement), to be entered into among the Borrower, Lument Securities, LLC, or a related entity, as underwriter (Underwriter) and the Authority;
- (5) The form of Collateral Funds Agreement (Collateral Funds Agreement), to be entered into among the Borrower, the Authority, the Trustee and Bank of America, N.A., as construction lender;
- (6) The form of Funding Loan Agreement (Funding Loan Agreement) by and among the Authority, U.S. Bank Trust Company, National Association, as fiscal agent (Fiscal Agent) and Citibank, N.A., as lender (Funding Lender) following the construction phase, including the form of note included in the Funding Loan Agreement;
- (7) The form of Borrower Loan Agreement (Borrower Loan Agreement) by and between the Authority and the Borrower in respect of the financing for the Project during the permanent period following the construction phase; and

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

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; and

WHEREAS, the Project is consistent with the Final Negative Declaration (ND) for the Rancho Bernardo Community Plan (Project No. 88-0321), which was adopted by the City Council on December 13, 1988 (Resolution R-272585) in compliance with the California Environmental Quality Act (CEQA) (Public Resources Code sections 21000-21189.70.10). This action to approve the issuance of Bonds for the Project is a subsequent discretionary action within the scope of the development program evaluated in the Final ND and is not considered to be a separate project under CEQA Guidelines sections 15378(c) and 15060(c)(3). Under Public Resources Code section 21166 and CEQA Guidelines section 15162, Housing Commission staff determined that there is no change in circumstance, additional information, or project changes to warrant additional environmental review for this action; and

WHEREAS, the Project received approval of a National Environmental Policy Act Environmental Assessment from the City of San Diego on May 9, 2023 and Authority to Use Grant Funds from the United States Department of Housing and Urban Development on June 20, 2023; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by Housing Commission staff, and verified by the Housing Commission's General Counsel, with the understanding that this information is sufficient to allow for a proper and complete analysis of this matter; 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 construction of the Project through the issuance of the Bonds 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 Bonds. For the purposes of financing the acquisition, construction, development and equipping of the Project, the Authority approves the issuance of the Bonds, in one or more series or subseries, in an aggregate principal amount not to exceed \$42,500,000, provided that the total principal amount of any tax-exempt Bonds shall not exceed the Allocation Amount. The Bonds shall be issued, 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 Indenture and Funding Loan Agreement, respectively. The Bonds shall be in substantially the form provided in the Indenture (during the construction phase) and the Funding Loan Agreement (following the construction phase), respectively, with such appropriate variations, omissions, insertions, and provisions as are required or permitted by the Indenture and Funding Loan Agreement. The Bonds shall be special, limited obligations of the Authority and shall be payable as to principal and interest, and the obligations of the Authority under the Indenture shall be paid and satisfied, solely from the revenues, receipts and other moneys and assets pledged under the Indenture and Funding Loan Agreement.

Section 3. Execution and Delivery of the Bonds. The Bonds 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 & Chief Executive Officer (President & CEO), Executive Vice President Real Estate (EVP Real Estate), Senior Vice President Housing Finance and Property Management (SVP Housing Finance & Property Management) or Vice President Multifamily Housing Finance (VP Multifamily Housing Finance), and the official seal of the Authority, or a facsimile, may be impressed or imprinted on the Bonds and, to the extent required by the Indenture or Funding Loan Agreement, attested with the manual or facsimile signature of the Secretary or a Deputy Secretary of the Authority.

Section 4. Approval of the Indenture. The Indenture, in the form on file in the Housing Commission offices, is approved. The Chairperson, the Vice Chairperson, the Executive Director, President & CEO, EVP Real Estate, SVP Housing Finance & Property Management and VP 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 Indenture 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 Indenture approved in this Resolution.

Section 5. Approval of Loan Agreement. The 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 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 Loan Agreement approved in this Resolution.

Section 6. Approval of Official Statement. The form, terms and provisions of the Official Statement in the form on file in the Housing Commission offices are hereby approved and the Authority hereby approves the distribution of the Official Statement to prospective purchasers of the Bonds with such changes, deletions and/or insertions therein as may be necessary to carry out the intent of this Resolution and as are acceptable to a Designated Officer, upon consultation with General Counsel to the Authority. Any Designated Officer is authorized to certify on behalf of the Authority that the Official Statement, as to the sections therein describing or otherwise related directly to the Authority, is deemed final as of its date, within the meaning of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934.

Section 7. Approval of Bond Purchase Agreement. The Bond Purchase Agreement, in the form on file in the Housing Commission offices, is approved. The Designated Officers are each authorized to execute and deliver the Bond Purchase 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 Bond Purchase Agreement approved in this Resolution.

Section 8. Approval of Collateral Funds Agreement. The Collateral Funds Agreement, in the form on file in the Housing Commission offices, is approved. The Designated Officers are each authorized to execute and deliver the Collateral Funds 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 Collateral Funds Agreement approved in this Resolution.

Section 9. Approval of Funding Loan Agreement. The Funding 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 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 10. 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 11. 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 12. 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 Bonds 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 deeds 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 Bonds and the making of the Loan in accordance with the Act and this Resolution.

Section 13. 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 Bonds and the lending program financed by the Bonds, 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 trustee, fiscal agent, lender or similar, any substitution of security for the Bonds, or any prepayment or redemption of the Bonds 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 14. 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 15. 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
09/25/2023
Or.Dept: Housing Authority
Doc. No. 3425036
Companion to R-2024-108

TRUST INDENTURE

By and Between

**HOUSING AUTHORITY OF THE CITY OF SAN DIEGO,
as Issuer**

and

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Trustee**

Dated as of October 1, 2023

**[\$42,476,918]
Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

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TRUST INDENTURE

THIS TRUST INDENTURE is entered into as of October 1, 2023 (this “**Indenture**”), by and between the **HOUSING AUTHORITY OF THE CITY OF SAN DIEGO** (together with its successors and assigns, the “**Issuer**”), a public body corporate and politic, organized and existing under the laws of the State of California (the “**State**”), and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association, duly organized and existing under the laws of the United States and authorized to conduct business in the State of California, as trustee (together with any successor trustee hereunder, the “**Trustee**”).

RECITALS

A. Certain of the terms and words used in these Recitals, and in the following Granting Clauses and Agreements, are defined in Section 1.01 of this Indenture.

B. Pursuant to the provisions of Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code, as amended (the “**Act**”), the Issuer is authorized to issue revenue bonds to provide financing for the acquisition, construction, development and rehabilitation of residential housing for low and moderate income Persons.

C. Pursuant to, and in accordance with the Act, at the request of Bernardo Family Housing, L.P., a California limited partnership (the “**Borrower**”), the Issuer has determined to issue and sell its \$[42,476,918] Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B (the “**Bonds**”), and use the proceeds thereof to make a loan to the Borrower upon the terms and conditions of a promissory note dated the Closing Date from the Borrower to the Issuer in the original principal amount of \$[42,476,918] (the “**Note**”) and the Loan Agreement dated as of October 1, 2023, between the Issuer and the Borrower (the “**Loan Agreement**”), for purposes of funding a portion of the costs of acquiring, constructing and equipping a multifamily rental housing project located in the State to be known as SkyLINE (formerly known as Rancho Bernardo Transit Village), which, upon completion, will contain 100 units (including one manager’s unit) (the “**Project**”).

D. The Borrower has delivered the Note to the Issuer, evidencing the Borrower’s obligation to repay the Loan. The Issuer has made the Loan to the Borrower, subject to the terms and conditions of the Loan Agreement and this Indenture, including the terms and conditions thereof and hereof governing the disbursement of advances and the investment earnings thereon, and the Note has been endorsed by the Issuer to the Trustee.

E. The obligations of the Borrower under the Loan Agreement and the Note will be secured by the Trust Estate established hereunder.

F. Bank of America, N.A., a national banking association (the “**Mortgage Lender**”) has agreed to provide a construction loan (the “**Mortgage Loan**”) to the Borrower, the proceeds of which shall be advanced pursuant to the Mortgage Loan Documents and used to finance a portion of the costs of the acquisition, construction and equipping of the Project. The Mortgage Lender will administer the Mortgage Loan during the Construction Phase in accordance with the Mortgage Loan Documents.

G. Citibank, N.A. (“**Citi**”) has entered into a Forward Commitment Agreement with the Borrower and the Mortgage Lender dated as of [____], 2023 (the “**Citi Forward Commitment**”), whereby Citi has committed, subject to the satisfaction on or before the Termination Date (as defined in the Citi Forward Commitment) of the Conditions to Conversion set forth in the Citi Forward Commitment, to facilitate the financing of the Project in the Permanent Phase.

H. If the Conditions to Conversion are satisfied on or before the Termination Date, Conversion will occur on the Conversion Date and, on such Conversion Date, (i) the Bonds shall be subject to mandatory tender in accordance with Section 3.01 hereof, (ii) the purchase price of the Bonds shall be paid with amounts on deposit in the Collateral Fund (and other Eligible Funds hereunder), (iii) a portion of the principal amount of the Bonds shall be cancelled such that the principal amount outstanding equals the Permanent Loan Amount (as determined by Citi at such time), (iv) the Bonds shall be removed from the Book-Entry System and converted to a physical Governmental Lender Note (in the form attached to the Funding Loan Agreement) which shall be purchased by Citi, (v) the Funding Loan Agreement attached hereto as Appendix C and the Borrower Loan Agreement attached hereto as Appendix D shall be delivered by the respective parties and become effective and shall supersede this Indenture and the Loan Agreement, respectively, (vi) the proceeds of the Citi Purchase Price, along with other funds of the Borrower, shall be deposited into the Mortgage Loan Prepayment Fund, and (vii) the Mortgage Loan shall be paid in full with amounts on deposit in the Mortgage Loan Prepayment Fund and all security related to the Mortgage Loan shall be released or assigned to Citi. If the Conditions to Conversion are not satisfied on or before the Termination Date, the Loan will not convert from the Construction Phase to the Permanent Phase, and Citi will not have any obligation with respect to the purchase of the Governmental Lender Note.

I. With respect to the Construction Phase, the issuance, sale and delivery of the Bonds and the execution and delivery of this Indenture and the Loan Agreement have been in all respects duly and validly authorized in accordance with the Act, and, with respect to the Permanent Phase, the sale, execution and delivery of the Governmental Lender Note and the execution and delivery of the Funding Loan Agreement and the Borrower Loan Agreement have been in all respects duly and validly authorized in accordance with the Act.

AGREEMENTS

NOW, THEREFORE, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of any or all of the Bonds issued and sold by the Issuer from time to time under this Indenture by those who shall hold the same from time to time, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in order to secure the payment of the principal of and interest on the Bonds according to their tenor and effect and to secure the performance and observance by the Issuer of the covenants set forth herein and in the Bonds and the payment and performance of all other of the Issuer’s Obligations, the Issuer does hereby grant, bargain, sell, convey, pledge and assign, without recourse, unto the Trustee and unto its successors and assigns in trust forever, and grants to the Trustee and to its successors in trust, a security interest in, the following (such property being herein referred to as the “**Trust Estate**”):

I.

All right, title and interest of the Issuer in and to all Revenues, derived or to be derived by the Issuer or the Trustee for the account of the Issuer under the terms of this Indenture and the Loan Agreement (other than the Reserved Rights of the Issuer), together with all other Revenues received by the Trustee for the account of the Issuer arising out of or on account of the Trust Estate;

II.

All right, title and interest of the Issuer in and to the Note (other than the Reserved Rights of the Issuer) including all payments and proceeds with respect thereto or replacement thereof;

III.

All moneys (including the Eligible Funds received by the Trustee for deposit into the Collateral Fund provided that Mortgage Loan proceeds become part of the Trust Estate concurrently with the Trustee's corresponding disbursement of Bond proceeds to or at the direction of the Mortgage Lender in accordance with Section 4.08 hereof) which are at any time or from time to time on deposit in any fund or account created under this Indenture (excluding funds in the Costs of Issuance Fund (but only to the extent such moneys are not proceeds of the Bonds), the Expense Fund, the Mortgage Loan Prepayment Fund and the Rebate Fund);

IV.

All right, title and interest of the Issuer in and to, and remedies under, the Loan Agreement;
and

V.

All funds, moneys 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 Bonds by the Issuer or by anyone on its behalf or with its written consent to the Trustee, 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;

PROVIDED, HOWEVER, that there shall be excluded from the granting clauses of this Indenture all the Reserved Rights of the Issuer, including all amounts paid or collected by the Issuer in connection therewith, all amounts on deposit in the Rebate Fund (including any accounts thereof), which shall be held for the sole benefit of the United States of America;

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in trust forever.

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth, for the equal and proportionate benefit, security and protection of all Holders from time to time of the Bonds issued

under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any of the other Bonds.

PROVIDED, HOWEVER, that if the Issuer shall well and truly pay, or cause to be paid, the principal of the Bonds issued hereunder, and interest due or to become due thereon, at the times and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, and shall cause the payments to be made into the Bond Fund as required under Article VIII hereof or by depositing with the Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all of the covenants and conditions pursuant to the terms of this Indenture and all other of the Issuer's Obligations to be kept, performed and observed by it, the Rebate Amount shall be paid in full and there shall be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payment, as further provided in Section 8.01 hereof, and the termination of the Loan Agreement, this Indenture and the rights hereby granted shall cease, terminate and be completely discharged; otherwise, this Indenture shall remain in full force and effect.

AND IT IS EXPRESSLY DECLARED that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all such property, moneys, revenues and receipts hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer has agreed and covenanted and does hereby agree and covenant with the Trustee and with the respective holders from time to time of the Bonds, or any part thereof, as follows:

ARTICLE I DEFINITIONS AND CONSTRUCTION

Section 1.01 Definitions. As used in this Indenture, the following terms shall have the meanings given to them in this Section unless the context clearly indicates otherwise; provided, however, that certain terms used in this Indenture are defined in the Loan Agreement and in the form of Funding Loan Agreement attached as Appendix C hereto, and when and if used herein and not otherwise defined herein, such terms shall have the meanings given to them by the Loan Agreement and such Funding Loan Agreement, unless the context clearly indicates otherwise.

“Act” has the meaning set forth in the recitals to this Indenture.

“Administrative General Partner” means AHG Rancho Bernardo, LLC, a California limited liability company.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Authorized Denomination” means a minimum of \$5,000, and any integral multiple of \$1,000 in excess thereof.

“Authorized Issuer Representative” means the Chairman of the Issuer, the Vice Chairman of the Issuer, the Executive Director of the Issuer, the Senior Vice President of Real Estate of the San Diego Housing Commission, the Vice President of Real Estate Finance and Program Development of the San Diego Housing Commission, or the Chief Operating Officer of the San Diego Housing Commission, and such additional Person or Persons, if any, duly designated by the Issuer in writing to act on its behalf and such additional Person or Persons, if any, duly designated by the Issuer in writing to act on its behalf.

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

“Bond Counsel” means Orrick, Herrington & Sutcliffe LLP or other counsel selected by the Issuer and nationally recognized as having an expertise in connection with the exclusion of interest on obligations of states and local governmental units from the gross income of holders thereof for federal income tax purposes.

“Bond Fund” means the Bond Fund established pursuant to Section 4.01 hereof.

“Bondholder” or **“Holder of the Bonds”** or **“Holder”** or **“Owner of the Bonds”** or **“Owner”** when used with respect to any Bond, means the person or persons in whose name such Bond is registered as the owner thereof on the books of the Issuer maintained at the Trust Office for that purpose.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated [____], 2023, among the Issuer, the Borrower and Underwriter.

“Bond Service Charges” means, pursuant to the Loan Agreement, payments made by the Borrower to the Issuer in amount sufficient to pay the principal of and interest on the Bonds when due to the extent that amounts otherwise available for such payment are insufficient therefor.

“Bond Year” has the meaning set forth in the Tax Certificate.

“Bonds” means the Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B authorized to be issued under and in accordance with this Indenture.

“Book-Entry Form” or **“Book-Entry System”** means a form or system, as applicable, under which (i) the ownership of beneficial interests in the Bonds may be transferred only through a book entry and (ii) physical bond certificates in fully registered form are registered only in the name of a Securities Depository or its nominee as holder, with the physical bond certificates “immobilized” in the custody of the Securities Depository.

“Borrower” means Bernardo Family Housing, L.P., a California limited partnership, organized and existing under the laws of the State of California, and its permitted successors and assigns.

“Borrower Documents” means the Loan Agreement, the Note, the Tax Certificate, the Tax Regulatory Agreement, the Bond Purchase Agreement, the Partnership Agreement, the

Continuing Disclosure Agreement, the Remarketing Agreement, the Guarantor Documents and any and all documents, agreements or instruments executed by the Borrower in connection with the Loan evidenced by the Loan Agreement, but excluding the Mortgage Loan Documents.

“Borrower Loan Agreement” means the Borrower Loan Agreement, the form of which is attached hereto as Appendix D, which Borrower Loan Agreement shall be completed, executed, and delivered and become effective on the Conversion Date.

“Borrower Representative” means a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by one of its officers, which certificate may designate an alternate or alternates.

“Borrower’s Obligations” means, without limitation, the obligations of the Borrower under the Loan Agreement, the Note, and the other Borrower Documents, including to (a) pay the principal of, and interest on the Note, when and as the same shall become due and payable (whether at the stated maturity thereof, on any payment date or by acceleration of maturity or otherwise), (b) pay all other amounts required by the Loan Agreement, the Note, and the other Borrower Documents to be paid by the Borrower to the Issuer, as and when the same shall become due and payable, and (c) timely perform, observe and comply with all of the terms, covenants, conditions, stipulations, and agreements, express or implied, which the Borrower is required by the Loan Agreement, the Note, the Tax Regulatory Agreement, and any of the other Borrower Documents, to perform or observe.

“Business Day” or **“business day”** means (a) a day, other than a Saturday or Sunday, on which (i) banks located in New York, New York, or in the city in which the Designated Office of the Trustee or the Underwriter is located, are not required or authorized by law or executive order to close for business, or (ii) the New York Stock Exchange is not closed, and (b) in respect of any action to be taken by the Issuer, a day described in (a) other than a California state holiday when the Issuer is authorized or required to be closed.

“Cash Flow Projection” means a cash flow projection prepared by an independent firm of certified public accountants, a financial advisory firm, a law firm or other independent third party qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds, designated by the Borrower and acceptable to the Rating Agency, establishing, to the satisfaction of the Rating Agency, the sufficiency of (a) the amount on deposit in the Special Funds, (b) projected investment income to accrue on amounts on deposit in the Special Funds during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower to pay Bond Service Charges due on the Bonds, the Issuer Fee, and Trustee Fees and Expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in Section 3.03, (iii) the release of Eligible Funds from the Negative Arbitrage Account of the Bond Fund, as provided in Section 4.02 hereof, (iv) the sale or other disposition by the Trustee of Eligible Investments prior to maturity at a price below par as permitted hereunder; [or (v) the optional redemption of the Bonds as provided in Section 3.05 hereof].

“Certificate of Occupancy” means the temporary or final certificate of occupancy, as the case may be, issued by the [City of San Diego] for the multifamily units in the Project, or if certificates of occupancy are not required or provided for multifamily units, then evidence of all final inspection approvals needed to occupy the multifamily units.

“Citi” means Citibank, N.A., a national banking association, and its successors and assigns.

“Citi Forward Commitment” means the Forward Commitment Agreement among the Borrower, the Mortgage Lender and Citi, pursuant to which Citi has agreed to purchase the Governmental Lender Note on the Conversion Date, subject to the terms and conditions set forth therein, as such commitment may be amended, modified or supplemented from time to time.

“Citi Purchase Price” means an amount equal to the Permanent Loan Amount to be funded by Citi on the Conversion Date.

“Closing Date” means [CLOSING DATE], the date of delivery of the Bonds in exchange for the purchase price therefor.

“Closing Memorandum” means the closing memorandum attached to the initial Requisition delivered on the Closing Date.

“Code” means the Internal Revenue Code of 1986, including applicable final, temporary and proposed regulations and revenue rulings applicable thereto.

“Collateral Fund” means the Collateral Fund established pursuant to Section 4.01 hereof.

“Completion Certificate” means a certificate submitted by the Borrower Representative to the Issuer and the Trustee as provided in Section 3.05 of the Loan Agreement, a form of which is attached as Appendix F to the Loan Agreement.

“Completion Date” means the date upon which the Completion Certificate and the Certificate of Occupancy are delivered by the Borrower to [the Issuer and] the Trustee.

“Conditions to Conversion” shall have the meaning given to such term in the Citi Forward Commitment.

“Confirmation of Rating” means a written confirmation, obtained by the Borrower (at the expense of the Borrower) prior to the event or action under scrutiny, from the Rating Agency to the effect that, following the proposed action or event under scrutiny at the time such confirmation is sought, the rating of the Rating Agency with respect to all Bonds then Outstanding and then rated by the Rating Agency will not be downgraded, suspended, qualified or withdrawn as a result of such action or event, [or an equivalent confirmation, or, if applicable, confirmation from the Rating Agency that it is no longer able to provide such a confirmation as a matter of policy or practice.]

“Construction Draw Schedule” means the schedule of the disbursement of the proceeds of the Bonds as provided in Appendix C attached to the Loan Agreement, as the same may be amended from time to time [with the consent of the Issuer].

“Construction Phase” means the construction phase of the Loan, which time period shall commence on the Closing Date and remain in effect to, but not including, the Conversion Date.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement, dated [as of October 1, 2023], between the Borrower and the Dissemination Agent, as the same may be amended, restated, supplemented or modified from time to time.

“Conversion” means the conversion of the Loan from the Construction Phase to the Permanent Phase on the Conversion Date pursuant to the provisions of the Citi Forward Commitment.

“Conversion Date” means the date Citi purchases the Governmental Lender Note upon the satisfaction of the Conditions to Conversion, as such Conversion Date is specified by Citi in the Notice of Conversion; provided, however, the Conversion Date shall occur hereunder no earlier than [May 1, 2026].

“Costs” with respect to the Project shall be deemed to include all items permitted to be financed under the applicable provisions of the Code and the Act, subject to the provisions hereof and of the Borrower Documents.

“Costs of Issuance” means all fees, costs and expenses payable or reimbursable directly or indirectly by the Issuer or the Borrower and related to the authorization, issuance and sale of the Bonds.

“Costs of Issuance Deposit” means the deposit set forth in the Closing Memorandum, which shall be paid from a source other than proceeds of the Bonds.

“Costs of Issuance Fund” means the Costs of Issuance Fund created pursuant to Section 4.01 hereof.

“Default” means any Default under the Loan Agreement as specified in and defined by Section 7.01 thereof.

“Designated Office” of the Trustee or the Underwriter means, respectively, the office of the Trustee or the Underwriter at the respective Notice Address, or at such other address as may be specified in writing by the Trustee or the Underwriter, as applicable, in accordance with Section 12.06 hereof.

“Determination of Taxability” means a final decree or judgment of any Federal court or a final action of the Internal Revenue Service determining that interest paid or payable on any Bond is or was includable in the gross income of a Holder of the Bonds for Federal income tax purposes (other than an Holder who is a “substantial user” or “related person” to a “substantial user” within the meaning of Section 147(a) of the Code); *provided*, that no such decree, judgment, or action will be considered final for this purpose unless the Borrower has been given written

notice and, if it is so desired and is legally allowed, has been afforded the opportunity to contest the same, either directly or in the name of any Holder of a Bond, and until the conclusion of any appellate review, if sought.

“Dissemination Agent” means, initially [U.S. Bank Trust Company, National Association], or any dissemination agent subsequently appointed in accordance with the Continuing Disclosure Agreement.

“Documents” means and shall include (without limitation), with respect to the Bonds, this Indenture, the Loan Agreement, the Note, the Tax Regulatory Agreement, the Tax Certificate, the Guarantor Documents and any and all other documents which the Issuer, the Borrower or any other party or parties or their representatives, have executed and delivered, or may hereafter execute and deliver, to evidence or secure the Issuer’s Obligations or the Borrower’s Obligations, or any part thereof, or in connection therewith, and any and all Supplements thereto, but excluding the Mortgage Loan Documents and the Subordinate Loan Documents.

“Eligible Funds” means, as of any date of determination, any of:

(a) the proceeds of the Bonds (including any additional amount paid to the Trustee as the purchase price thereof by the Underwriter);

(b) moneys drawn on a letter of credit;

(c) moneys received by the Trustee representing advances to the Borrower of proceeds of the Mortgage Loan;

(d) remarketing proceeds of the Bonds (including any additional amount paid to the Trustee as the purchase and or remarketing price thereof by the Remarketing Agent) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer, any Affiliate of either the Borrower or the Issuer);

(e) any other amounts, including the proceeds of any refunding bonds, for which the Trustee has received an Opinion of Counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an “insider” within the meaning of the Bankruptcy Code) to the effect that (A) the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court and (B) payments of such amounts to Holders would not be avoidable as preferential payments under Section 547 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;

(f) any payments made by the Borrower and held by the Trustee for a continuous period of 123 days, *provided* that no Act of Bankruptcy has occurred during such period;

(g) proceeds of the Citi Purchase Price received from Citi in connection with Citi’s purchase of the Governmental Lender Note on the Conversion Date; and

(h) investment income derived from the investment of the money described in subsections (a) through (g) hereof.

“Eligible Investments” means, subject to the provisions of Section 6.01 hereof, any of the following investments that mature (or are redeemable at the option of the Trustee without penalty) at such time or times as to enable timely disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of this Indenture, to the extent the same are at the time legal for investment of the Issuer’s funds (written direction of the Issuer or the Borrower to invest funds shall be conclusive evidence that the directed investment is at the time a legal investment of the Issuer’s funds):

(a) Governmental Obligations; and

(b) To the extent permitted herein, shares or units in any money market mutual fund (i) which is then rated “Aaa-mf” by Moody’s (or if no fund is available at that rating category, the highest rating category then available for that category of fund by Moody’s, or if Moody’s is not the Rating Agency or a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security) (including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the government of the United States of America.

“Event of Default” or **“Default”** means, when used in this Indenture, those events of default or defaults specified in Section 9.01 hereof and, when used in the Loan Agreement, those events of default or defaults specified in Section 7.01 thereof.

“Expense Fund” means the Expense Fund created pursuant to Section 4.01 of this Indenture.

“Extension Payment” means the amount due, if any, in connection with the change or extension of the Mandatory Tender Date pursuant to Section 3.03 hereof, and (a) which shall be determined by a Cash Flow Projection approved in writing by the Rating Agency and (b) must consist of Eligible Funds.

“Funding Loan Agreement” means the Funding Loan Agreement attached hereto as Appendix C, which Funding Loan Agreement shall be executed, delivered and become effective on the Conversion Date.

“General Partner” means, collectively, the Administrative General Partner and the Managing General Partner.

“Governmental Authority” means any federal, State or local governmental or quasi-governmental entity, including, without limitation, any agency, department, commission, board, bureau, administration, service, or other instrumentality of any governmental entity.

“Governmental Lender Note” means the Governmental Lender Note, the form of which is attached as Exhibit A to the Funding Loan Agreement, which Governmental Lender Note shall be executed, delivered and become effective on the Conversion Date.

“Governmental Obligations” means (a) noncallable, non-redeemable direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (b) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (a) or (b) issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity at less than par at the option of anyone other than the holder thereof.

“Governmental Requirements” means all laws, ordinances, orders, rules or regulations of any Governmental Authority applicable to the Project, the Issuer, the Borrower or any of the Borrower’s assets or other properties, including without limitation, laws, ordinances, orders, rules and regulations relating to securities or other public disclosures, zoning, licenses, permits, subdivision, building, safety, health, and fire protection and all environmental laws.

“Ground Lease” means [that certain [Ground Lease] dated as of [_____, 20__] between the Ground Lessor and the Borrower].

“Ground Lessor” means [_____].

“Guarantor” means [Guarantor].

“Guarantor Documents” means, collectively, [_____], each made by the Guarantor for the benefit of the Issuer and the Trustee.

“Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“PCBs”) and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; radon; mold; toxic or mycotoxin spores; any substance the presence of which on the Mortgaged Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance (whether or not naturally occurring) now or in the future that (i) is defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “solid waste”, “pesticide”, “contaminant,” or “pollutant”, or otherwise classified as hazardous or toxic by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law, excluding such quantities of any such substance as are routinely used or commercially acceptable for the purpose of the construction, operation and ongoing maintenance of multifamily residential developments in the State.

“Hazardous Materials Laws” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, rule of common

law (including, without limitation, nuisance and trespass), consent order, administrative rulings and court judgments and decrees or other government directive in effect now or in the future and including all amendments, that relate to Hazardous Materials or to the protection or conservation of the environment or human health and apply to Borrower or to the Mortgaged Property, including, without limitation, those relating to industrial hygiene, or the use, analysis, generation, manufacture, storage, discharge, release, disposal, transportation, treatment, investigation, or remediation of Hazardous Materials. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, et seq., the Superfund Amendments and Reauthorization Act, the Solid Waste Disposal Act, the Clean Air Act, the Occupational Safety and Health Act, and their state analogs.

“Indenture” means this Trust Indenture, dated as of October 1, 2023, by and between the Issuer and the Trustee, and any and all Supplements thereto.

“Independent” means any person not an employee or officer of the Borrower or its affiliates.

“Initial Deposit” means Eligible Funds in the amount of \$[_____].

“Initial Interest Rate” means [____] %.

“Initial Mandatory Tender Date” means the earlier of (i) the Conversion Date, and (ii) [May 1, 2027].

“Initial Remarketing Date” means the Initial Mandatory Tender Date, but only if the conditions for remarketing the Bonds on such date as provided in Section 3.03 hereof are satisfied.

“Interest Payment Date” means (a) May 1 and November 1 of each year beginning May 1, 2024, and (b) each Mandatory Tender Date.

“Interest Period” means, initially, the period from the Closing Date to but not including first Interest Payment Date, and thereafter, the period commencing on each succeeding Interest Payment Date and ending on the last day of the month preceding the next Interest Payment Date.

“Interest Rate” means the Initial Interest Rate to but not including the Initial Mandatory Tender Date, as applicable, and thereafter the applicable Remarketing Rate; provided, however, commencing on the Conversion Date the Interest Rate shall be as set forth in the Funding Loan Agreement.

“Investor Limited Partner” means Bank of America, N.A., a national banking association, in its capacity as investor limited partner in the Borrower, its permitted successors and assigns.

“Issuer” 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 successors and assigns.

“Issuer Authorizing Resolution” means resolution number [_____-____] of the Issuer adopted on [October 10, 2023] authorizing the issuance of the Bonds and the execution and delivery of the Issuer Documents.

“Issuer Documents” means the Loan Agreement, this Indenture, the Tax Regulatory Agreement, the Bond Purchase Agreement, the Tax Certificate and any and all documents, agreements or instruments executed by the Issuer in connection with the Loan.

“Issuer Fee” means the Issuer’s fees payable on the Closing Date and annually thereafter in accordance with Section 20 of the Regulatory Agreement.

“Issuer’s Obligations” means the obligations of the Issuer under the Bonds, this Indenture, and the other Documents to which the Issuer is a party, subject in the entirety to Sections 2.09 and 12.04 hereof, to (a) pay the principal of and interest on the Bonds (including supplemental interest), when and as the same shall become due and payable (whether at the stated maturity thereof, or by acceleration of maturity or after notice of prepayment or otherwise) and, (b) timely perform, observe and comply with all of the terms, covenants, conditions, stipulations, and agreements, express or implied, which the Issuer is required, by the Bonds, this Indenture, or any of the other Documents, to perform and observe.

“Loan” means the loan by the Issuer to the Borrower in the principal amount of \$[42,476,918] made by the Issuer to the Borrower evidenced by the Note, described in the Loan Agreement and made in connection with the issuance of the Bonds.

“Loan Agreement” means the Loan Agreement dated as of October 1, 2023, between the Issuer and the Borrower, and any and all Supplements thereto.

“Loan Payments” means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to the provisions of the Note and Section 4.02 of the Loan Agreement.

“Local Time” means Pacific time (daylight or standard, as applicable) in the State.

“Managing General Partner” means CFAH Housing LLC, a California limited liability company.

“Mandatory Tender Date” means each date on which all Outstanding Bonds are subject to mandatory tender as set forth in Section 3.01(b) hereof.

“Maturity Date” means [May 1, 2057].

“Maximum Interest Rate” means the interest rate equal to the lesser of: (a) 12% per annum, or (b) the maximum interest rate per annum permitted by applicable law.

“Moody’s” means Moody’s Investors Service, Inc., a Delaware corporation, and its successors and assigns, or if it is dissolved or no longer assigns credit ratings, then any other nationally recognized statistical rating agency, acceptable to the Remarketing Agent, that assigns credit ratings.

“Mortgage Lender” means Bank of America, N.A., and any successors or assigns.

“Mortgage Loan” means the mortgage loan to be made by the Mortgage Lender to the Borrower in the principal amount of \$[_____] with respect to the Project, as described and provided for in the Mortgage Loan Documents.

“Mortgage Loan Documents” means the Mortgage Loan Security Instrument, the mortgage note, and all other documents required by the Mortgage Lender in connection with the Mortgage Loan.

“Mortgage Loan Prepayment Amount” means an amount necessary to prepay in full the outstanding principal amount of the Mortgage Loan, together with accrued interest to, but not including, the Conversion Date, as set forth in a payoff statement submitted by the Mortgage Lender to the Trustee on or prior to the Conversion Date.

“Mortgage Loan Prepayment Fund” means the Mortgage Loan Prepayment Fund created in Section 4.01 hereof.

“Mortgage Loan Security Instrument” means the [Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing], dated [_____, 2023], executed by the Borrower for the benefit of [____], as beneficiary, securing the Mortgage Loan, as the same may be amended, supplemented or restated.

“Negative Arbitrage Account” means the Negative Arbitrage Account of the Bond Fund created in Section 4.01 hereof.

“Note” means the Promissory Note dated the Closing Date from the Borrower to the Issuer in substantially the form attached as Appendix B to the Loan Agreement, and any amendments, Supplements or modifications thereto, which Note has been assigned by the Issuer to the Trustee.

“Notice Address” means in respect of a party, the applicable notice address designated pursuant to Section 12.06 hereof:

“Notice of Conversion” means a written notice to be delivered not less than ten (10) days (or such shorter period as agreed to in writing by all the notice parties) prior to the Conversion Date by Citi to the Issuer, the Trustee, the Borrower and the Mortgage Lender (i) stating that the Conditions to Conversion have been satisfied on or before the Termination Date or, if any Condition to Conversion has not been satisfied on or before the Termination Date, stating that such Condition to Conversion has been waived in writing by Citi (if a waiver is permitted and is granted by Citi, in its sole and absolute discretion) on or before the Termination Date and (ii) confirming the Conversion Date.

“Official Statement” means the Official Statement dated October [____], 2023, relating to the Bonds.

“Opinion of Counsel” means an opinion from an attorney or firm of attorneys, acceptable to the addressee thereof, with experience in the matters to be covered in the opinion.

“Outstanding,” “outstanding” or “Bonds Outstanding” when used with respect to the Bonds means any Bonds theretofore authenticated and delivered under this Indenture, except:

(a) Bonds theretofore canceled by the Trustee or theretofore delivered to the Trustee for cancellation;

(b) Bonds for the payment of which moneys or obligations shall have been irrevocably deposited with the Trustee in accordance with Article VIII; or

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under this Indenture.

“Partnership Agreement” means the [Amended and Restated Agreement of Limited Partnership] of the Borrower, dated the Closing Date, as it may be amended in accordance with the Borrower Documents and the Mortgage Loan Documents.

“Permanent Loan Amount” has the meaning set forth in the Citi Forward Commitment.

“Permanent Phase” means the permanent phase of the Loan, which time period shall commence on the Conversion Date and remain in effect through the Maturity Date.

“Person” shall include an individual, association, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

“Project” means the 100-unit (including one manager’s unit) multifamily rental housing development located in San Diego, California to be known as SkyLINE (formerly known as Rancho Bernardo Transit Village), on the land described in [Exhibit A] to the Security Instrument. For the avoidance of doubt, no proceeds of the Bonds shall be used for the purpose of any commercial or other non-residential purpose and any such facilities are excluded from the term “Project.”

“Project Fund” means the Project Fund established pursuant to Section 4.01 hereof.

“Qualified Project Costs” means any expenditures which (a) are incurred not more than 60 days prior to the date on which the Issuer first declared its “official intent” (within the meaning of Treasury Regulation Section 1.150-2) with respect to the Project (other than preliminary expenditures with respect to the Project in an amount not exceeding 20% of the aggregate principal amount of the Bonds); (b) are made exclusively to provide facilities and improvements that constitute part of a “qualified residential rental project” within the meaning of Section 142(d) of the Code; and (c) are properly chargeable to the Project’s capital account under general federal income tax principles or that would be so chargeable with a proper election or but for a proper election by the Borrower to deduct such expenditure. However, “Qualified Project Costs” do not

include (i) issuance costs of the Bonds (within the meaning of Section 147(g) of the Code) or (ii) any fee, charge or profit payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) of the Borrower. As used herein, the term “preliminary expenditures” includes architectural, engineering, surveying, soil testing and similar costs that were incurred prior to the commencement of construction of the Project, but does not include land acquisition, site preparation and similar costs incident to commencement of construction of the Project.

“Rating Agency” means any national rating agency then maintaining a rating on the Bonds, and initially means Moody’s.

“Rating Category” means one of the generic rating categories of the Rating Agency.

“Rebate Amount” means the amount, if any, which is to be paid to the United States of America pursuant to the Section 148(f) of the Code and Section 4.06 hereof.

“Rebate Analyst” means a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and selected by the Issuer at the expense of the Borrower to calculate the Rebate Amount or, in the event that the Issuer fails to so select a Rebate Analyst and the Borrower fails to pay such fee one month prior to any date on which calculations are required to be made, any qualified person retained by the Trustee to calculate the Rebate Amount. The initial Rebate Analyst will be [_____].

“Rebate Fund” means the Rebate Fund established pursuant to Section 4.01 hereof.

“Record Date” means the 15th day of the month preceding any Interest Payment Date or 45 days prior to any Mandatory Tender Date.

“Remarketing Agent” means Lument Securities, LLC, or any successor as Remarketing Agent designated in accordance with Section 10.24 hereof.

“Remarketing Agent’s Fee” means the fee of the Remarketing Agent for its remarketing services.

“Remarketing Agreement” means the Remarketing Agreement, dated as of October 1, 2023 by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“Remarketing Date” means the Initial Remarketing Date and, if the Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to Section 3.03 for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

“Remarketing Expenses” means the costs and expenses incurred by the Trustee and its counsel, the Remarketing Agent and its counsel, the Issuer and its counsel, and Bond Counsel in connection with the remarketing of the Bonds, including bond printing and registration costs, costs of

funds advanced by the Remarketing Agent, registration and filing fees, rating agency fees and other costs and expenses incurred in connection with or properly attributable to the remarketing of Bonds as certified to the Trustee by the Remarketing Agent in writing.

“Remarketing Notice Parties” means the Borrower, the Investor Limited Partner, the Issuer, the Trustee, the Remarketing Agent, the General Partner and the Mortgage Lender.

“Remarketing Period” means the period beginning on a Remarketing Date and ending on the earlier of (i) the last day of the term for which Bonds are remarketed pursuant to Section 3.03, (ii) the Conversion Date or (iii) the final Maturity Date of the Bonds.

“Remarketing Proceeds Account” means the Remarketing Proceeds Account of the Bond Fund established pursuant to Section 4.01 hereof.

“Remarketing Rate” means the interest rate or rates established pursuant to Section 2.01 and borne by the Bonds then Outstanding from and including each Remarketing Date to, but not including, the next succeeding Remarketing Date or the final Maturity Date of the Bonds, as applicable.

“Requisition” means the written request to make a disbursement from (i) the Project Fund in substantially the form attached as **Appendix B-1** hereto, submitted in the manner provided pursuant to Section 5.02 hereof, or (ii) the Costs of Issuance Fund in substantially the form attached as **Appendix B-2** hereto submitted in the manner provided pursuant to Section 4.07 hereof.

“Reserved Rights of the Issuer” shall mean (a) all rights which the Issuer and its officers, officials, directors, agents and employees may have under this Indenture, the Loan Agreement and the Tax Regulatory Agreement to indemnification by the Borrower and by any other persons and to payments for expenses incurred by the Issuer itself, or its officers, officials, directors, agents or employees; (b) the right of the Issuer to give and receive notices, reports, certifications, or other information hereunder, under the Loan Agreement and under the Tax Regulatory Agreement; (c) the right of the Issuer to receive its fees and expenses, including the Issuer Fee; (d) the Issuer’s approval rights; (e) the rights of the Issuer with respect to inspections; (f) the rights of the Issuer with respect to publicity and signage; (g) the notification, indemnification and enforcement rights of the Issuer in Section 6.02 of the Loan Agreement; (h) the rights of the Issuer with respect to limited liability; (i) all rights of the Issuer to enforce the covenants and agreements and to take action for the breach of any representation or warranty of the Borrower pertaining in any manner or way, directly or indirectly, to the requirements of the Act or any requirements imposed by the Issuer with respect to the Project, or necessary to assure that interest on the Bonds is excluded from gross income for federal income tax purposes, as are set forth in any of the Documents, including any certificate or agreement executed by the Borrower; (j) all rights of the Issuer in connection with any amendment to or modification of any of this Indenture and the Loan Agreement, or the Tax Regulatory Agreement insofar as any such amendment or modification would affect the Reserved Rights of the Issuer; (k) any approval rights of the Issuer relating to rent increases as provided in the Tax Regulatory Agreement; and (l) all enforcement rights with respect to the foregoing. All of the foregoing rights of the Issuer under this Indenture, the Tax Regulatory Agreement and the Loan Agreement are reserved to the Issuer, as none of these rights under this

Indenture, the Tax Regulatory Agreement or the Loan Agreement are being assigned by the Issuer to the Trustee, the Mortgage Lender or Citi.

“Revenues” means (a) the Loan Payments, (b) the Eligible Funds received by the Trustee for deposit into the Collateral Fund, (c) all other money received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all money and investments in the Bond Fund, (d) any money and investments in the Special Funds, and (e) all income and profit from the investment of the foregoing moneys. The term *“Revenues”* does not include any money or investments in the Rebate Fund, the Costs of Issuance Fund (but only to the extent such moneys are not proceeds of the Bonds), the Expense Fund or the Subordinate Loan Account of the Project Fund, amounts paid as fees, reimbursement for expenses or for indemnification of the Issuer and the Trustee, or amounts paid to or collected by the Issuer in connection with any Reserved Rights of the Issuer.

“Securities Depository” means the Depository Trust Company, its successors and assigns, or any other securities depository for the Bonds designated by the Issuer or the Borrower to the Trustee in writing.

“Special Funds” means, collectively, the Bond Fund, the Collateral Fund and the Project Fund, and any accounts therein, all as established pursuant to this Indenture.

“State” means the State of California.

“Subordinate City Loan” means that certain loan to the Borrower from the City of San Diego, as Subordinate Lender, in the maximum principal amount of \$[_____].

“Subordinate County Loan” means that certain loan to the Borrower from the County of San Diego, as Subordinate Lender, in the maximum principal amount of \$[_____].

“Subordinate HCD Loan” means that certain loan to the Borrower from the Managing General Partner funded from a grant from the Department of Community Development of the State of California, as Subordinate Lender, in the maximum principal amount of \$[_____].

“Subordinate Lender” means, individually or collectively, as the context shall require, (a) the City of San Diego, (b) the County of San Diego, (c) the Department of Community Development of the State of California, (d) the Managing General Partner, and (e) any other lender in respect of a Subordinate Loan.

“Subordinate Loan Documents” means, individually or collectively, as the context shall require, all documents and instruments executed and delivered in connection with the Subordinate Loans.

“Subordinate Loans” means, individually or collectively as the context shall require, the Subordinate City Loan, the Subordinate County Loan, the Subordinate HCD Loan, the Subordinate State Tax Credit Loan, [and any other loan to the Borrower made on a subordinate basis to the Loan as approved in accordance with the Borrower Documents and the Mortgage Loan Documents.]

“Subordinate Loan Account” shall mean the Subordinate Loan Account within the Project Fund established pursuant to Section 4.01 hereof.

“Subordinate State Tax Credit Loan” means that certain loan to the Borrower from the Managing General Partner, as Subordinate Lender, in the maximum principal amount of \$[_____].

“Supplement” or “Supplements” means any and all extensions, renewals, modifications, amendments, supplements and substitutions.

“Tax Certificate” means the Tax Certificate and Agreement, dated the Closing Date between the Issuer and the Borrower.

“Tax Regulatory Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of October 1, 2023, by and among the Issuer, the Trustee and the Borrower relating to the Bonds, and any and all modifications thereof, amendments and Supplements thereto and substitutions therefor.

“Term of Agreement” means the term of the Loan Agreement as specified in Section 8.01 of the Loan Agreement.

“Termination Date” means [_____, 20___], subject to extension by Citi as provided in the Citi Forward Commitment.

“Title Company” means [Corinthian Title].

“Trust Estate” has the meaning given such term in the Granting Clauses of this Indenture.

“Trust Office” means the trust office of the Trustee located at the address set forth in Article I hereof or such other office or offices designated by the Trustee from time to time and specified to the Issuer in writing.

“Trustee” means U.S. Bank Trust Company, National Association, a national banking association, organized and existing under the laws of the United States and authorized to conduct business in the State, and its successor or successors in the trust created by this Indenture.

“Trustee’s Fee” means initially \$[_____] per year, subject to adjustment in accordance with the Trustee’s fee schedule.

“Undelivered Bond” means any Bond that is required under this Indenture to be delivered to the Remarketing Agent or the Trustee for purchase on a Mandatory Tender Date but that has not been received on the date such Bond is required to be so delivered.

“Underwriter” means Lument Securities, LLC.

Section 1.02 Rules of Construction. The words “hereof,” “herein,” “hereunder,” “hereto,” and other words of similar import refer to this Indenture in its entirety.

The terms “agree” and “agreements” contained herein are intended to include and mean “covenant” and “covenants.”

References to Articles, Sections, and other subdivisions of this Indenture are to the designated Articles, Sections, and other subdivisions of this Indenture.

The headings of this Indenture are for convenience only and shall not define or limit the provisions hereof.

All references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well.

Any reference to particular sections or subsections of the Code and applicable Income Tax Regulations shall include any successor provisions of law or regulations, to the extent the same shall apply to the Bonds.

Any reference to a Bond or to the Bonds shall include each portion in the minimum Authorized Denomination of any registered bond having a denomination greater than the minimum Authorized Denomination.

Any direction, consent, approval or similar action required hereunder shall be in writing and signed by an authorized representative of the party providing such direction, consent, approval or similar action.

Any reference to a document or instrument shall mean and include such document or instrument as it may be amended from time to time, unless expressly otherwise stated.

Section 1.03 *Determinations.* The Issuer has determined that the issuance of the Bonds under this Indenture is necessary to achieve a valid public purpose of the Issuer under the Act: to increase the housing supply for families of limited income, to alleviate the shortage of adequate safe and sanitary housing of families of low and moderate income and to promote community development. The Issuer is issuing the Bonds with the intent and expectation that the income from the Bonds will be generally excludable from gross income under the Code.

ARTICLE II CREATION OF BONDS; DETAILS OF THE BONDS

Section 2.01 *Authorization and Terms of Bonds.*

(a) *Authorization of Bonds.* The Issuer hereby authorizes for issuance under this Indenture Bonds in the original aggregate principal amount of \$[42,476,918], which shall be designated “Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B,” to be issued as hereinafter provided.

(b) *Registered Form; Numbering.* The Bonds shall be issuable only as fully registered Bonds in Authorized Denominations, substantially in the form, appropriately completed, attached

hereto as Appendix A and made a part hereof. The Bonds shall be lettered “R,” and shall be numbered separately from “1” consecutively upward.

(c) *Date, Denominations, Dates from Which Interest Payable, Interest Rate and Maturity.* The Bonds shall be dated the Closing Date, shall be issued in Authorized Denominations, and shall bear interest on the principal amount Outstanding from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or provided for, from their date of initial delivery, payable on each Interest Payment Date. The Bonds shall bear interest for each Interest Period at the Interest Rate all as more specifically set forth hereinafter. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. The Bonds shall mature on the Maturity Date, subject to Mandatory Tender for purchase as set forth in Section 3.01 hereof.

(d) *Initial Interest Rate.* From the Closing Date to, but not including, the Initial Mandatory Tender Date, the interest rate on the Bonds shall be the Initial Interest Rate. On the Initial Mandatory Tender Date, the Bonds shall be subject to Mandatory Tender pursuant to Section 3.01 hereof. If insufficient funds are available to pay the purchase price on the Bonds following such Mandatory Tender on the Initial Mandatory Tender Date, the Bonds shall accrue interest at the Maximum Interest Rate until funds are available for payment of the purchase price, with interest being paid monthly on the first Business Day of each month.

(e) *Establishment of Remarketing Rate.* The Remarketing Agent shall establish the interest rate on the Bonds Outstanding for each Remarketing Period at the Remarketing Rate in accordance with this Section 2.01. Not less than ten (10) Business Days preceding each Remarketing Date, the Remarketing Agent, taking into consideration prevailing market conditions, shall, using its best professional judgment, determine the minimum rate(s) of interest which, if borne by the Bonds then Outstanding for the Remarketing Period specified by the Remarketing Agent at the direction of the Borrower as provided in Section 3.03 hereof, and shall offer for sale and use its best efforts to sell the Bonds Outstanding on the Remarketing Date at a price equal to 100% of the principal amount of such Bonds plus, if such Remarketing Date is a date other than a scheduled Interest Payment Date, accrued interest on such Bonds from the preceding Interest Payment Date to which interest has been paid. The rate of interest determined in accordance with the previous sentence shall be the Remarketing Rate for the specified Remarketing Period; *provided* that if the rate of interest so determined for such period would exceed the maximum interest rate per annum permitted by applicable law, the Bonds Outstanding shall be remarketed for the longest Remarketing Period for which the minimum rate of interest that would enable such Bonds to be remarketed at a price equal to 100% of the principal amount of such Bonds that would not exceed the maximum interest rate permitted by applicable law. Notwithstanding the foregoing, if the rate of interest so determined for any Remarketing Period would exceed the Maximum Interest Rate permitted by applicable State law, the Bonds Outstanding shall not be remarketed.

(f) *Notice of Remarketing Rate.* The Remarketing Agent shall, upon determination of the Remarketing Rate and Remarketing Period, immediately (and in no event later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate and the Remarketing Period) give notice of its determination by telephone or telecopy, promptly confirmed in writing within ten (10) Business Days, to the Trustee, the Issuer, the Borrower and the Investor Limited Partner. The Remarketing Rate and the Remarketing Period

shall be conclusive and binding upon the Trustee, the Issuer, the Borrower and the Holders for the purposes of this Indenture.

(g) *Book-Entry Form.* Initially, the Bonds shall be in Book-Entry Form by issuing a single bond in the amount of \$[42,476,918], registered in the name of Cede & Co. (defined below), as nominee for DTC (defined below). In the event DTC discontinues its service with respect to the Bonds and the Book-Entry System is terminated, replacement Bonds shall be issued in Authorized Denominations.

(h) *Medium and Place of Payment.* Principal of and interest on the Bonds shall be payable in lawful money of the United States of America which, at the respective times of payment, is legal tender for the payment of public and private debts, but only from the Revenues and any other monies made available to the Issuer for such purpose. Principal of the Bonds shall be payable at the Trust Office upon presentation and surrender of the Bonds as the same become due, and upon the request of any registered Owner of Bonds on the applicable Record Date having an aggregate principal amount of \$1,000,000 or more, such principal shall be paid by wire transfer of immediately available funds from the Trustee to the bank and account number specified by such Owner in writing to the Trustee. Interest on the Bonds shall be payable to each registered Owner of the Bonds by check or draft mailed to such Owners at their addresses as they appear on registration books kept by the Trustee as Bond Registrar, or, upon the request of any registered Owner of Bonds having an aggregate principal amount of \$1,000,000 or more, by wire transfer of immediately available funds from the Trustee to the bank and account number specified by such Owner in writing to the Trustee at least three (3) Business Days prior to the applicable payment date.

(i) *Form of Bonds.* The definitive Bonds, which may be printed, typewritten, photocopied, or otherwise reproduced, including the Trustee's Certificate of Authentication to be endorsed thereon, shall be substantially in the form as set forth in Appendix A attached hereto with such appropriate variations, omissions and insertions as permitted or required by this Indenture.

(j) *Payments or Actions to be taken on Saturdays, Sundays and Holidays.* In any case where the date of any action required hereunder to be taken or the date of maturity of interest on or principal of the Bonds, shall not be a Business Day, then payment of interest or principal or the taking of such action need not be made or taken on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date such action was to be taken.

Section 2.02 Source of Payment of Bonds. The Issuer shall be obligated to pay the principal of and the interest on the Bonds only out of (a) the Revenues pledged for the payment thereof under this Indenture, (b) the amounts held in any fund or account created under this Indenture, other than amounts held in the Rebate Fund, the Costs of Issuance Fund, the Expense Fund and the Subordinate Loan Account of the Project Fund, and (c) from any other moneys held pursuant to the Trust Estate. Nothing in the Bonds or in this Indenture shall be construed as pledging any other funds or assets of the Issuer. All the Bonds to be issued hereunder shall be equally and ratably secured, to the extent provided herein, by this Indenture.

Section 2.03 *Execution of Bonds.* The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of an Authorized Issuer Representative, and attested by the manual or facsimile signature of its Secretary or Deputy Secretary of Housing Authority of the City of San Diego. In case any authorized officer of the Issuer whose signature or a facsimile of whose signature shall appear on any of the Bonds shall cease to be an authorized officer of the Issuer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such authorized officer of the Issuer had remained in office until delivery. Furthermore, it shall not be necessary that the same authorized officer of the Issuer sign all of the Bonds that may be issued hereunder at any one time or from time to time.

Section 2.04 *Certificate of Authentication.* Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form set forth in the form of the Bond herein provided and duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if manually signed by an authorized officer of the Trustee, but it shall not be necessary that the same person sign the certificate of authentication on all of the Bonds issued hereunder. At the time of authentication of any Bond, the Trustee shall insert therein the date from which interest on such Bond shall be payable as provided in Section 2.01(c).

Section 2.05 *Authentication and Delivery of Bonds.* The Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate the Bonds and deliver them to the purchaser or purchasers as may be directed by the Issuer as provided in this Section.

Prior to the authentication by the Trustee of the Bonds, there shall have been filed with the Trustee:

- (a) A copy, duly certified by an officer of the Issuer, of the Issuer Authorizing Resolution, authorizing the issuance of the Bonds and the execution, delivery and performance of this Indenture and the Loan Agreement;
- (b) A fully executed copy of this Indenture;
- (c) A copy of the fully executed Loan Agreement, the Tax Regulatory Agreement, the Tax Certificate, the Guarantor Documents and a copy of the fully executed Note, along with written evidence that the original, fully executed Note has been sent to the Trustee for delivery;
- (d) An opinion of Bond Counsel with respect to the exclusion from gross income for federal and State income tax purposes of interest payable on the Bonds and the Governmental Lender Note;
- (e) Opinions of Counsel addressed to the Issuer and the Trustee, of a law firm or law firms (who may be independent counsel) to the effect that the Bonds and the

Documents have been duly executed and delivered by each of the parties thereto and constitute valid and binding obligations of each such party, and are enforceable against each such party in accordance with their respective terms, subject to bankruptcy, insolvency or other laws affecting creditors' rights generally, and with respect to certain remedies which require, or may require, enforcement by a court of equity, such principles of equity as the court having jurisdiction may impose;

(f) A request and authorization signed by an Authorized Issuer Representative authorizing the Trustee to authenticate and to deliver the Bonds to the purchaser or purchasers therein identified upon payment to the Trustee for the account of the Issuer of the amount specified in such request and authorization plus accrued interest, if any, thereon to the date of delivery; and

(g) The Initial Deposit.

The proceeds from the sale of the Bonds shall be paid over directly to the Trustee and deposited to the credit of the Project Fund, as provided under Article V hereof.

Section 2.06 *Temporary Bonds.* Until Bonds in definitive form are ready for delivery, the Issuer may execute, and upon its request in writing, the Trustee shall authenticate and deliver in lieu of any thereof, and subject to the same provisions, limitations and conditions, one or more printed, typewritten or photocopied Bonds in temporary form, substantially of the tenor of the Bonds herein described, and with appropriate omissions, variations and insertions. Such Bond or Bonds in temporary form shall be delivered in denominations authorized by this Indenture, may be numbered using the prefix "T" before any number thereon as authorized by this Indenture, and may bear a legend thereon setting forth the terms for the exchange thereof for Bonds in definitive form. Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit of this Indenture. The Issuer shall, without unreasonable delay (unless the Holders of the Bonds issued in temporary form agree otherwise), prepare, execute and deliver to the Trustee, and thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form, the Trustee shall authenticate and deliver, in exchange therefor, a Bond or Bonds in a definitive authorized form in Authorized Denominations, of the same maturity or maturities, bearing the same interest rate or rates and for the same aggregate principal amount as the Bond or Bonds in temporary form surrendered. Such exchange shall be made by the Issuer at the Borrower's expense and without making any charge to the Holders of the Bonds therefor.

Section 2.07 *Mutilated, Lost, Stolen or Destroyed Bonds.* In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate a new Bond of like date, maturity, interest rate and denomination as that of the Bond mutilated, lost, stolen or destroyed; *provided* that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond there shall be first furnished to the Issuer and the Trustee evidence of such loss, theft or destruction satisfactory to the Issuer and the Trustee, together with indemnity satisfactory to them. The Trustee may, with the consent of the Holder, provide to the Holder a typewritten (or similarly reproduced) Bond certificate in lieu of a printed Bond certificate. In the event any such Bond shall have matured, instead of issuing a duplicate Bond the Trustee may pay the same without surrender thereof. The Issuer and the Trustee may charge the Holder of such Bond their expenses and

reasonable fees, if any, in connection with the preparation, execution and authentication of a replacement Bond.

Section 2.08 *Registration, Negotiability, Transfer and Exchange of Bonds.* All of the Bonds issued under this Indenture shall be negotiable, subject to the provisions for registration and transfer contained in this Indenture and in the Bonds. So long as any of the Bonds shall remain outstanding, the Issuer shall maintain and keep at the Trust Office, books for the registration and transfer of Bonds; and, upon presentation thereof for such purpose at such office, the Trustee shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as the Issuer or the Trustee may prescribe, any Bond entitled to registration or transfer.

Each Bond shall be transferable only upon the books of the Issuer maintained for such purpose by the Trustee, at the written request of the registered Owner thereof or his attorney duly authorized in writing, upon presentation and surrender thereof, together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered Owner or his attorney duly authorized in writing. Upon the surrender for transfer of any Bond, the Issuer shall issue, and the Trustee shall authenticate, in the name of the transferee, in Authorized Denominations, a new Bond or Bonds without coupons of the same aggregate principal amount, series, maturity and interest rate as the surrendered Bond.

The Issuer and the Trustee may deem and treat the person in whose name any Outstanding registered Bond shall be registered upon the books of the Issuer as the absolute Owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond and for all other purposes, and all such payments so made to any such registered Owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

For every exchange or transfer of Bonds, whether temporary or definitive, the Issuer or the Trustee may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. Notwithstanding any other provision of this Indenture to the contrary, any expenses of the Issuer or the Trustee incurred in connection therewith (except any applicable tax or other governmental charge) shall be paid by the Borrower as required by the Loan Agreement. The Issuer shall not be obligated to make any such exchange or transfer of Bonds during the fifteen (15) days next preceding an interest payment date on the Bonds. The transferor shall also provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Section 6045 of the Code. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

Section 2.09 *Obligation of Issuer Limited.* The Bonds, together with interest thereon, do not constitute an indebtedness to which the faith and credit of the Issuer or the State are pledged but are special limited obligations of the Issuer payable solely from (a) the Revenues pledged for

the payment thereof under this Indenture, (b) the amounts held in any fund or account created under this Indenture, other than amounts held in the Rebate Fund and the Costs of Issuance Fund, and (c) from any other moneys held pursuant to the Trust Estate, and shall be a valid claim of the respective Holders thereof only against the Trust Estate, which is hereby assigned for the equal and ratable payment of the Bonds and the interest thereon and shall be used for no other purpose than to pay the principal of and interest on the Bonds, except as may be otherwise expressly authorized in this Indenture.

THE BONDS AND THE INTEREST THEREON ARE A LIMITED OBLIGATION OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE. NONE OF THE ISSUER, THE CITY OF SAN DIEGO, THE STATE OF CALIFORNIA, NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH HEREIN) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH HEREIN AND IN THE BONDS, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS 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 ISSUER HAS NO TAXING POWER.

NO MEMBER, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER OR THE CITY OF SAN DIEGO, INCLUDING ANY PERSON EXECUTING THIS INDENTURE, THE LOAN AGREEMENT OR THE BONDS, SHALL BE LIABLE PERSONALLY ON THE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, OR FOR ANY CLAIM BASED ON THE BONDS, OR OTHERWISE IN RESPECT OF THE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE, AGAINST ANY MEMBER, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE BONDS AND AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE BONDS, EXPRESSLY WAIVED AND RELEASED.

Section 2.10 *Cancellation and Destruction of Bonds.* All Bonds that have been surrendered for payment, cancellation or for registration of transfer or exchange pursuant to Section 2.08 shall be cancelled and destroyed by the Trustee and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Trustee to the Issuer and, upon written request therefor, to the Borrower and the Investor Limited Partner. Any Bonds so cancelled may be retained by the Trustee for such period of time as the Trustee may determine and shall be destroyed by the Trustee at the end of such period. Any Bonds so cancelled shall thereafter no longer be considered Outstanding for any purpose of this Indenture or the Loan Agreement.

Section 2.11 *Book-Entry System.*

(a) Except as provided in subparagraph (c) of this Section 2.11, the registered owner of all of the Bonds shall be, and the Bonds shall be registered in the name of, Cede & Co. (“**Cede**”), as nominee of The Depository Trust Company (“**DTC**”). Payment of semi-annual interest for any Bonds shall be made by transfer of same-day funds to the account of Cede on the interest payment date for the Bonds at the address indicated for Cede in the registration books of the Issuer kept by the Trustee.

(b) The Bonds shall be initially issued in the form of a separate single fully registered bond in the amount of each separately stated maturity of the Bonds. Upon initial issuance, the ownership of such Bonds shall be registered in the registry books of the Issuer kept by the Trustee in the name of Cede, as nominee of DTC. With respect to Bonds registered in the registry books kept by the Trustee in the name of Cede, as nominee of DTC, the Issuer and the Trustee shall have no responsibility or obligation to any participant of DTC (a “**Participant**”) or to any person for whom a Participant acquires an interest in the Bonds (a “**Beneficial Owner**”). Without limiting the immediately preceding sentence, the Issuer and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant, any Beneficial Owner or any other person, other than DTC, of any notice with respect to the Bonds, or (iii) the payment to any Participant, any Beneficial Owner or any other person, other than DTC, of any amount with respect to the principal of or interest on the Bonds. The Issuer and the Trustee may treat as and deem DTC to be the absolute owner of each Bond for the purpose of payment of the principal of and interest on such Bond, and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Trustee shall pay all principal of and interest on the Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer’s obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. Payments of principal may be made without requiring the surrender of the Bonds, and the Issuer and Trustee shall not be liable for the failure of DTC or any successor thereto to properly indicate on the Bonds the payment of such principal. No person other than DTC shall receive a Bond evidencing the obligation of the Issuer to make payments of principal of and interest on the Bonds pursuant to this Indenture. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede, and subject to the transfer provisions hereof, the word “Cede” in this Indenture shall refer to such new nominee of DTC.

(c) (i) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the Issuer and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is not a successor securities depository), Bond certificates will be delivered as described in this Indenture.

(ii) The Issuer, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Bonds if the Issuer determines that: (1) DTC is unable to discharge its responsibilities with respect to the Bonds or (2) a continuation of the requirement that all of the Outstanding Bonds be registered in the registration books kept by the Trustee in the name of Cede, as nominee of DTC, is not in the best interest of the Beneficial Owners of the Bonds. In the event that no substitute securities depository is found by the Issuer,

or restricted registration is no longer in effect, Bond certificates will be delivered as described in this Indenture.

(iii) Upon the termination of the services of DTC with respect to the Bonds pursuant to subparagraph (c)(i) of this Section 2.11, or upon the discontinuance or termination of the services of DTC with respect to the Bonds pursuant to subparagraph (c)(ii) of this Section 2.11 after which no substitute securities depository willing to undertake the functions of DTC hereunder can be found which, in the opinion of the Issuer, is willing and able to undertake such functions upon reasonable and customary terms, the Bonds shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of Cede as nominee of DTC, but may be registered in whatever name or names Bondholders transferring or exchanging Bonds shall designate, in accordance with the provisions of this Indenture.

In connection with any proposed transfer outside the Book-Entry System, the Issuer, the Borrower or DTC shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Section 6045 of the Code. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

(d) Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of Cede, as nominee of DTC, all payments with respect to the principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the applicable Representation Letter of the Issuer addressed to DTC, dated the date of delivery and issuance of the Bonds.

(e) In connection with any notice or other communication to be provided to Bondholders pursuant to this Indenture by the Issuer or the Trustee with respect to any consent or other action to be taken by the Bondholders, the Issuer or the Trustee, as the case may be, shall establish a special record date for such consent or other action and give DTC notice of such special record date not less than fifteen (15) calendar days in advance of such special record date to the extent possible.

Section 2.12 *Conversion.*

(a) If the Notice of Conversion is issued in the timeframe required under the Citi Forward Commitment and all conditions with respect thereto and with respect to the purchase of the Governmental Lender Note are satisfied, Conversion will occur on the Conversion Date indicated in such Notice of Conversion. If the Notice of Conversion is not so issued or all conditions with respect thereto and with respect to the funding of the Funding Loan are not so satisfied, then Conversion will not occur and Citi will not have any obligations with respect to the purchase of the Governmental Lender Note or otherwise with respect to the Loan or the Project.

(b) If Conversion occurs, on the Conversion Date, (i) the Bonds shall be subject to mandatory tender in accordance with Section 3.01 hereof, (ii) the purchase price of the Bonds shall be paid with amounts on deposit in the Collateral Fund (and/or other Eligible Funds hereunder), (iii) a portion of the principal amount of the Bonds shall be cancelled such that the principal amount

outstanding equals the Permanent Loan Amount (as determined by Citi at such time), (iv) the Bonds shall be removed from the Book-Entry System and converted into a physical Governmental Lender Note (in the form attached to the Funding Loan Agreement) which shall be purchased by Citi, (v) the Funding Loan Agreement attached hereto as Appendix C and the Borrower Loan Agreement attached hereto as Appendix D shall be delivered by the respective parties and become effective and shall supersede this Indenture and the Loan Agreement, respectively, (vi) the proceeds of the Citi Purchase Price, along with other funds of the Borrower, shall be deposited into the Mortgage Loan Prepayment Fund, and (vii) the Mortgage Loan shall be paid in full with amounts on deposit in the Mortgage Loan Prepayment Fund and all security related to the Mortgage Loan shall be released or assigned to Citi. If the Conditions to Conversion are not satisfied on or before the Termination Date, the Loan will not convert from the Construction Phase to the Permanent Phase, and Citi will not have any obligation with respect to the purchase of the Governmental Lender Note.

(c) Provided all Conditions to Conversion are satisfied, the Issuer and Trustee agree to execute and deliver the Funding Loan Agreement, the Governmental Lender Note and the Borrower Loan Agreement and any other Funding Loan Documents (as defined in the Funding Loan Agreement) to be executed in connection with Citi's purchase of the Governmental Lender Note on the Conversion Date.

(d) The Governmental Lender Note shall mature on the Maturity Date, subject to earlier prepayment as provided in the Funding Loan Agreement. The unpaid principal balance of the Governmental Lender Note shall be paid on the dates and in the amounts set forth in the Borrower Note.

(e) In addition to the Conditions to Conversion set forth in the Citi Forward Commitment, Conversion shall be conditioned upon the delivery of the items set forth in Section 6.1 of the Funding Loan Agreement.

ARTICLE III

MANDATORY TENDER AND REMARKETING OF BONDS

Section 3.01 *Mandatory Tender.*

(a) All Outstanding Bonds shall be subject to mandatory tender by the Holders for purchase in whole and not in part on each Mandatory Tender Date. The purchase price for each such Bond shall be payable in lawful money of the United States of America by check or draft, shall equal 100% of the principal amount to be purchased and accrued interest, if any, to the Mandatory Tender Date, and shall be paid in full on the applicable Mandatory Tender Date. Notwithstanding the foregoing, if the Notice of Conversion has not been delivered establishing the Conversion Date and resulting Mandatory Tender Date the Bonds must be remarketed on such Mandatory Tender Date subject to meeting the requirements set forth below.

(b) The Mandatory Tender Dates shall consist of (i) the earlier of (A) the Initial Mandatory Tender Date, or (B) the Conversion Date, and (ii) any subsequent dates for mandatory tender of the Bonds established by the Borrower, with the consent of the Investor Limited Partner, and with the consent of the Remarketing Agent in connection with a remarketing of the Bonds pursuant to Section 3.03 hereof.

(c) While tendered Bonds are in the custody of the Trustee pending purchase pursuant hereto, the tendering Holders thereof shall be deemed the owners thereof for all purposes, and interest accruing on tendered Bonds through the day preceding the applicable Mandatory Tender Date is to be paid as if such Bonds had not been tendered for purchase.

(d) Notwithstanding anything herein to the contrary, any Bond tendered under this Section 3.01 will not be purchased if such Bond matures or is redeemed on or prior to the applicable Mandatory Tender Date.

(e) The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Local Time on the Mandatory Tender Date in the following priority: (i) amounts representing proceeds of remarketed Bonds deposited in the Remarketing Proceeds Account, to pay the principal amount, plus accrued interest, of Bonds tendered for purchase, (ii) amounts on deposit in the Collateral Fund (and/or other Eligible Funds hereunder), to pay the principal amount of Bonds tendered for purchase, (iii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund to pay the accrued interest; if any, on Bonds tendered for purchase, (iv) any available interest earnings on amounts on deposit in the Project Fund to pay the accrued interest, if any, on the Bonds tendered for purchase and (v) any other Eligible Funds available or made available for such purpose at the direction of the Borrower, with the consent of the Issuer.

(f) Bonds shall be deemed to have been tendered for purposes of this Section 3.01 whether or not the Holders shall have delivered such Undelivered Bonds to the Trustee, and subject to the right of the Holders of such Undelivered Bonds to receive the purchase price of such Bonds and interest accrued thereon to the Mandatory Tender Date, such Undelivered Bonds shall be null and void. If such Undelivered Bonds are to be remarketed, the Trustee shall authenticate and deliver new Bonds in replacement thereof pursuant to the remarketing of such Undelivered Bonds.

Section 3.02 *Mandatory Tender Notice.*

(a) Not less than thirty (30) days preceding a Mandatory Tender Date (or [eight (8)] days in connection with a Mandatory Tender Date that is the Conversion Date), the Trustee shall give written notice of mandatory tender to the Holders of the Bonds then Outstanding (with a copy to the Borrower, the Investor Limited Partner, and the Remarketing Agent) by first class mail, postage prepaid, at their respective addresses appearing on the Register stating:

(i) the Mandatory Tender Date and that (a) all Outstanding Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date, (b) all Outstanding Bonds must be tendered for purchase no later than 12:00 Noon Local Time on the Mandatory Tender Date and (c) Holders will not have the right to elect to retain their Bonds;

(ii) the address of the Designated Office of the Trustee at which Holders should deliver their Bonds for purchase and the date of the required delivery;

(iii) that all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date; and

(iv) any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date.

(b) In the event that any Bond required to be delivered to the Trustee for payment of the purchase price of such Bond shall not have been delivered to the Trustee on or before the 20th day following a Mandatory Tender Date, the Trustee shall mail a second notice to the Holder of the Bond at its address as shown on the Register setting forth the requirements set forth in this Indenture for delivery of the Bond to the Trustee and stating that delivery of the Bond to the Trustee (or compliance with the provisions of this Indenture concerning payment of lost, stolen or destroyed Bonds) must be accomplished as a condition to payment of the purchase price or redemption price applicable to the Bond.

(c) Neither failure to give or receive any notice described in this Section 3.02, nor the lack of timeliness of such notice or any defect in any notice (or in its content) shall affect the validity or sufficiency of any action required or provided for in this Section 3.02.

(d) Notice delivered as required in this Section 3.02 with respect to a mandatory tender pursuant to Section 3.01(b) hereof may be rescinded and annulled on or before the tender date set forth in such notice if Conversion does not occur by the Conversion Date.

Section 3.03 *Remarketing of Bonds.*

(a) No later than 11:00 a.m. Local Time on the 35th day prior to each Mandatory Tender Date (or the 10th day in connection with a Mandatory Tender Date due to the Conversion Date), the Trustee shall give notice to the Borrower, the Investor Limited Partner, and the Remarketing Agent by telephone or telecopy, confirmed on the same day in writing, which states the Mandatory Tender Date and that all of the Bonds are to be tendered or deemed to be tendered on the Mandatory Tender Date pursuant to Section 3.01 hereof.

(b) No later than 11:00 a.m. Local Time on the 15th day prior to the Mandatory Tender Date then in effect (excluding a Mandatory Tender Date in connection with a Conversion Date), the Borrower may give notice to the Remarketing Notice Parties by telephone or telecopy, confirmed on the same day in writing, that it elects to cause the Bonds to be remarketed. A remarketing of the Bonds shall be permitted only if the following conditions are satisfied no later than the time the foregoing election notice is given:

(i) Notice by the Borrower to the Issuer, the Investor Limited Partner, the Remarketing Agent and the Trustee of the Remarketing Period pursuant to and in accordance with Section 4.05 of the Loan Agreement;

(ii) Delivery to the Issuer, the Trustee and the Remarketing Agent of a preliminary Cash Flow Projection with respect to the proposed Remarketing Period; and

(iii) The Borrower shall have notified the Trustee in writing that it has approved as to form and substance any disclosure document or offering materials which, in the Opinion of Counsel to the Remarketing Agent, is necessary to be used in connection with the remarketing of the Outstanding Bonds.

(c) Not less than ten (10) days before each Remarketing Date, the Remarketing Agent shall offer for sale and use its best efforts to sell the Bonds Outstanding on the Remarketing Date at a price equal to 100% of the principal amount of such Bonds plus, if such Remarketing Date is a date other than an Interest Payment Date, accrued interest on such Bonds from the preceding Interest Payment Date to which interest has been paid. Not less than four (4) Business Days before each Remarketing Date, the Remarketing Agent shall give notice, by telephone or telecopy, promptly confirmed in writing, to the Remarketing Notice Parties specifying the principal amount of Bonds, if any, it has remarketed (including Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account), the Remarketing Rate(s) and the Remarketing Period applicable to the Bonds.

The Remarketing Agent shall remarket any Bond tendered pursuant to Section 3.01 hereof; *provided, however*, that no such Bond shall be remarketed at a price less than 100% of the principal amount thereof plus accrued interest (if any) without the prior written consent of the Borrower and the General Partner; and *provided, further*, that the purchase price of any Bond paid to the tendering Holder allocable to such discount shall be paid with Eligible Funds made available by the Borrower therefor and on deposit with the Trustee prior to the remarketing of such Bonds. The Remarketing Agent shall have the right to purchase any Bond tendered or deemed tendered pursuant to Section 3.01 hereof at 100% of the principal amount thereof, and to thereafter sell such Bond. Any such purchase shall constitute a remarketing hereunder.

The Remarketing Agent shall not remarket any Bond to the Issuer, the Borrower, any guarantor of the Bonds or any person which is an “insider” of the Issuer, Borrower, or any such guarantor within the meaning of the Bankruptcy Code.

(d) If, not less than four (4) or two (2) Business Days, as applicable, preceding the Remarketing Date:

(i) if, not less than four (4) Business Days preceding the Remarketing Date, the Remarketing Agent shall have notified the Trustee in writing of the remarketing of the Outstanding Bonds and that the proceeds from the remarketing (including proceeds of remarketing of Outstanding Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account) and other Eligible Funds equal to the amount needed to purchase the remarketed Bonds on the Remarketing Date are expected to be available to the Trustee on the Remarketing Date for deposit into the Remarketing Proceeds Account;

(ii) if, not less than four (4) Business Days preceding the Remarketing Date, the Trustee shall have received written notice from the Remarketing Agent that the Remarketing Agent has received a Confirmation of Rating from the Rating Agency, together with a copy of such Confirmation of Rating from the Rating Agency;

(iii) if, not less than two (2) Business Days preceding the Remarketing Date, there shall be on deposit with the Trustee, from Eligible Funds provided by the Borrower an amount sufficient to pay the Extension Payment set forth in the Cash Flow Projection for deposit to the Negative Arbitrage Account of the Bond Fund with respect to the payment of interest and principal during the new Remarketing Period;

(iv) if, not less than two (2) Business Days preceding the Remarketing Date, there shall either (A) be on deposit with the Trustee in the Costs of Issuance Fund an amount sufficient to pay the estimated Remarketing Expenses as certified in writing to the Trustee by the Borrower, or (B) the Remarketing Agent shall have certified in writing to the Trustee that provision for the payment of the estimated Remarketing Expenses shall have been made to the satisfaction of the Remarketing Agent;

then the Trustee shall immediately give notice, by telephone or telecopy, which notice shall be immediately confirmed in writing, to the Remarketing Agent, the Borrower the Investor Limited Partner that (a) all conditions precedent to the remarketing of the Outstanding Bonds have been satisfied and (b) the sale and settlement of the Outstanding Bonds is expected to occur on the Remarketing Date. Following the Trustee's notice, the Outstanding Bonds shall be sold to the purchasers identified by the Remarketing Agent for delivery and settlement on the Remarketing Date, and the Trustee shall apply the funds in the Remarketing Proceeds Account of the Bond Fund on the Remarketing Date to payment of the purchase price of the Outstanding Bonds.

(e) If, not less than four (4) or two (2) Business Days, as applicable, preceding a Remarketing Date, any condition set forth in paragraph (d) of this Section 3.03 has not been satisfied, then, unless the Outstanding Bonds are otherwise purchased on the Remarketing Date, the Remarketing Agent shall not sell any of the Outstanding Bonds on the Remarketing Date.

(f) No later than 11:00 a.m. Local Time on each Remarketing Date, the Remarketing Agent shall pay to the Trustee, in immediately available funds, the proceeds theretofore received by the Remarketing Agent from the remarketing of Bonds tendered for purchase on such Remarketing Date; provided that the Remarketing Agent may use its best efforts to cause the purchasers of the remarketed Bonds to pay the purchase price plus accrued interest (if any) to the Trustee in immediately available funds. The proceeds from the remarketing of the Bonds shall be segregated from any funds of the Borrower and the Issuer and shall in no case be considered to be or be assets of the Borrower or the Issuer. Funds representing remarketing proceeds received by the Remarketing Agent after 11:00 a.m. Local Time on each Remarketing Date shall be paid to the Trustee as soon as practicable upon such receipt.

(g) On or before the Business Day next preceding each Remarketing Date, the Remarketing Agent, by telephonic advice, shall notify the Trustee of (i) the principal amount of Bonds to be sold by the Remarketing Agent pursuant to this Section 3.03 hereof and the purchase price, and, unless the Bonds are then in the Book-Entry System, the names, addresses and social security numbers or other tax identification numbers of the proposed purchasers thereof and (ii) the principal amount of Bonds tendered for purchase on such Remarketing Date which will not be sold by the Remarketing Agent pursuant to this Section 3.03 hereof. Such telephonic advice shall be confirmed by written notice delivered or electronically communicated at the same time as the telephonic advice.

Bonds purchased by the Trustee on a Mandatory Tender Date that have been remarketed shall be delivered to the purchasers thereof as directed by the Remarketing Agent. Bonds delivered as provided in this Section shall be registered in the manner directed by the recipient thereof.

Section 3.04 *Mandatory Redemption.*

The Bonds are subject to mandatory redemption, in whole, on any Mandatory Tender Date other than the Conversion Date, upon the occurrence of any of the following events: (i) the Borrower has not previously elected pursuant to Section 3.03 hereof and Section 4.05 of the Loan Agreement to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in Section 3.03(b) or Section 3.03(d) have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Local Time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. The Bonds shall be redeemed at a redemption price equal to 100% of the principal amount of such Bonds plus accrued interest to the applicable redemption date from funds on deposit in, or transferred from, the Bond Fund, the Collateral Fund, and the Project Fund.

Section 3.05 [Optional Redemption.]

[The Bonds are subject to optional redemption prior to their maturity, at direction of the Borrower, either in whole or in part on any date on or after the later to occur of (i) the date that the Project is placed in service, as certified in writing by the Borrower to the Trustee, and (ii) the Initial Mandatory Tender Date, at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the Redemption Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Bond Fund, other than funds in the Negative Arbitrage Account therein, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.]

Section 3.06 Cancellation of Bonds.

The Trustee shall immediately cancel Bonds if the tender price of the Bonds is paid from amounts other than proceeds derived from the remarketing of the Bonds; provided, however, on the Conversion Date only a portion of the Bonds shall be cancelled such that the outstanding principal amount is equal to the Permanent Loan Amount (which remaining outstanding principal balance of the Bonds in the amount of the Permanent Loan Amount shall be converted into the Governmental Lender Note in accordance with Section 2.12 hereof).

ARTICLE IV REVENUES AND FUNDS

Section 4.01 Creation of Funds. The following trust funds are hereby created by the Issuer and ordered established with the Trustee, to be maintained in the custody of the Trustee each as a separate bank account, to be used for the purposes as hereinafter provided in this Indenture:

(a) **Bond Fund.** The Bond Fund, and within the Bond Fund, the “**Negative Arbitrage Account**” and the “**Remarketing Proceeds Account**”.

(b) **Project Fund.** The Project Fund, [and within the Project Fund a “**Subordinate Loan Account**”, which fund shall be administered in accordance with the provisions of Section 4.08 and Section 5.02 of this Indenture. Moneys held in the

Subordinate Loan Account of the Project Fund are not held for the benefit of the Owners and are not part of the Trust Estate.]

(c) **Rebate Fund.** The Rebate Fund, which fund shall be administered in accordance with the provisions of Section 4.06 of this Indenture. Moneys held in the Rebate Fund are not held for the benefit of the Owners and are not part of the Trust Estate.

(d) **Costs of Issuance Fund.** Moneys held in the Costs of Issuance Fund that are not proceeds of the Bonds are not held for the benefit of the Owners and are not part of the Trust Estate. Any moneys held in the Costs of Issuance Fund that are proceeds of the Bonds are held for the benefit of the Owners and are part of the Trust Estate.

(e) **Collateral Fund.** The Collateral Fund, which fund shall be administered in accordance with the provisions of Section 4.08 of this Indenture. Moneys held in the Collateral Fund are held for the benefit of the Owners and are part of the Trust Estate.

(f) **Mortgage Loan Prepayment Fund.** The Mortgage Loan Prepayment Fund shall not be pledged to the payment of the Bonds and shall not be part of the Trust Estate.

(g) **Expense Fund.** The Expense Fund, which fund shall be administered in accordance with the provisions of Section 4.10 of this Indenture. Moneys held in the Expense Fund are not held for the benefit of the Owners and are not part of the Trust Estate.

The Trustee may create one or more accounts or subaccounts within any fund authorized by this Indenture for the purpose of accounting for funds deposited into or held in each fund or for carrying out any of the requirements of this Indenture. The Trustee may transfer funds between accounts and subaccounts within any fund.

In the event certain moneys are deposited with the Trustee prior to the Closing Date, whether or not pursuant to one or more letters of instruction from the provider or providers of such moneys, such moneys shall be held by the Trustee subject to the terms and conditions of this Indenture, in addition to the terms of any such letter(s) of instruction. For such purpose, the standards of care, any provisions governing the responsibilities and indemnification and other provisions relating to the Trustee contained in this Indenture and in the Loan Agreement (the “Effective Provisions”) shall be effective as of the first date of receipt by the Trustee of such moneys. The Effective Provisions shall be deemed incorporated into any such letter(s) of instructions.

Section 4.02 Deposits into and Use of Moneys in the Bond Fund. On the Closing Date, the Trustee shall deposit the Initial Deposit, if any, in the Negative Arbitrage Account of the Bond Fund; the Bond Fund and amounts on deposit in the Bond Fund are to be invested pursuant to Section 6.01 hereof. Any Extension Payment received by the Trustee in connection with an extension of the Mandatory Tender Date pursuant to Section 3.03 hereof shall also be deposited into the Negative Arbitrage Account. The Trustee is authorized to release funds in the Negative Arbitrage Account to the Borrower upon receipt of a written instruction from the Borrower, an updated Cash Flow Projection and a Confirmation of Rating.

Bond Service Charges shall be payable as they become due, (i) in the first instance from money on deposit in the Bond Fund (excluding the Negative Arbitrage Account therein), (ii) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (iv) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund.

Except as provided in Section 4.05 hereof, moneys in the Bond Fund shall be used solely for the payment of the principal of and interest on the Bonds when due.

Section 4.03 *Custody of the Bond Fund.* The Bond Fund shall be in the custody of the Trustee but in the name of the Issuer, and the Issuer hereby authorizes and directs the Trustee (a) to withdraw sufficient funds from the Bond Fund to pay the principal of and interest on the Bonds as the same become due and payable, and (b) to make such funds so withdrawn available to the Trustee, as paying agent, for the purpose of paying such principal and interest, which authorization and direction the Trustee accepts.

Section 4.04 *Non-Presentation of Bonds.* Subject to the provisions of Section 10.21 hereof, in the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, if funds sufficient to pay such Bonds shall have been made available to the Trustee for the benefit of the Holder or Holders thereof, all liability of the Issuer to the Holder thereof for the payment of such Bond shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on its part under this Indenture or on, or with respect to, such Bond. Any such Bonds shall cease to bear interest on the specified maturity and such Bonds or portions thereof shall no longer be protected by or subject to the benefit or security of this Indenture and shall not be deemed to be outstanding under the provisions of this Indenture.

Section 4.05 *Payment to Borrower of Excess Moneys in Bond Fund.* Any amounts remaining in the Bond Fund (except for amounts then held by the Trustee for payment of principal of, or interest on any of the Bonds) after payment in full of the purchase price of the Bonds on the Conversion Date, and other costs associated with the conversion of the Bonds, the payment of any Rebate Amount, and payment in full of any outstanding fees and expenses of the Paying Agent, the Issuer and the Trustee and any other fees and expenses due under the Documents, shall, upon written instruction to the Trustee from the Borrower, be deposited into the [Loan Payment Fund] established under the Funding Loan Agreement or for any other purpose *provided* that the Trustee is furnished with an opinion of Bond Counsel substantially to the effect that such deposit will not, in and of itself adversely affect any exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 4.06 *Rebate Fund; Rebate Amount; Tax Certificate Controlling.* The Trustee shall deposit into the Rebate Fund amounts paid by the Borrower pursuant to the Tax Certificate and written direction from the Borrower.

(a) The determination of the Rebate Amount shall be made in accordance with the Tax Certificate and the Rebate Amount shall be paid at such times and in such

installments as provided therein. As further provided in the Tax Certificate, the Borrower shall be responsible for calculating or causing to be calculated and paying the Rebate Amount.

(b) Neither the Issuer nor the Trustee shall be obligated to pay any portion of the Rebate Amount (except from funds on deposit in the Rebate Fund). In addition, neither the Issuer nor the Trustee shall have any responsibility with respect to the calculation of the Rebate Amount.

(c) Any moneys held as part of the Rebate Fund and not immediately required to be paid to the United States pursuant to the Tax Certificate shall be invested or reinvested by the Trustee, at the written direction of the Borrower Representative, in Governmental Obligations or in any money market or short term investment fund investing in or consisting solely of and secured by Governmental Obligations, including any such fund maintained by the Trustee or an affiliate thereof, having maturities consonant with the need for moneys as reasonably estimated by the Borrower. In connection with the investment of moneys held as part of the Rebate Fund (as provided in Section 6.01 hereof), interest and other income received on the investment of moneys held as part of the Rebate Fund shall be credited to the Rebate Fund.

(d) The Borrower is required to (i) obtain a rebate calculation with respect to the Rebate Amount upon the redemption or final maturity of the Bonds and either (ii) (a) pay to the Trustee for deposit into the Rebate Fund an amount of money as determined by such calculation within thirty (30) days of such calculation or (b) provide the Trustee with written notice (signed by the Borrower Representative and the Rebate Analyst) that (1) no deposit is required or (2) the amount in the Rebate Fund is in excess of the amount required to be on deposit as determined by the most recent rebate calculation, in which case the Trustee shall, with the prior written consent of the Issuer, pay such excess over to the Borrower. If the Trustee does not receive either of the items required in (ii)(a) or (ii)(b) above within 30 days after the completion of construction of the Project, the Trustee shall notify the Issuer; *provided, however*, that the Trustee shall not incur any liability if it should fail to provide such notice.

(e) Notwithstanding anything to the contrary in this Indenture, the Loan Agreement, the Funding Loan Agreement or the Borrower Loan Agreement, to the extent of any conflict or ambiguity as between the provisions of the foregoing documents and the Tax Certificate, the requirements of the Tax Certificate shall control.

Section 4.07 *Costs of Issuance Fund.* On the Closing Date, the Trustee shall deposit the Costs of Issuance Deposit, if any, in the Costs of Issuance Fund to pay the Costs of Issuance from amounts available therein, which Costs of Issuance shall not exceed the amounts set forth in a certificate of the Issuer. The Trustee shall disburse funds on deposit in the Costs of Issuance Fund upon receipt by the Trustee of Requisitions substantially in the form attached as **Appendix B-2** hereto. Any funds remaining in the Costs of Issuance Fund more than one hundred eighty (180) days after the Closing Date, and not specifically committed to the payment of Costs of Issuance shall be returned to the Borrower upon Borrower's written request, to the extent such funds are not Bond proceeds or otherwise restricted funds, and the Costs of Issuance Fund shall be closed. If

such remaining funds are Bond proceeds or otherwise restricted, such funds shall be deposited by the Trustee into the Bond Fund in accordance with a written direction to Trustee from Borrower.

Section 4.08 *Collateral Fund; Project Fund.*

Upon receipt, the Trustee shall deposit into the Collateral Fund all Eligible Funds received pursuant to Section 4.06 of the Loan Agreement and any other Eligible Funds received by the Trustee for deposit into the Collateral Fund. Section 4.06 of the Loan Agreement requires the Borrower to cause Eligible Funds to be delivered to the Trustee for deposit into the Collateral Fund in a principal amount equal to, and as a prerequisite to the disbursement of, the amount of Bond proceeds on deposit in the Project Fund to be disbursed by the Trustee to pay Project Costs.

Each deposit into the Collateral Fund shall constitute an irrevocable deposit solely for the benefit of the Holders, subject to the provisions hereof.

The Trustee shall transfer money in the Collateral Fund as follows: (i) on a Mandatory Tender Date, to the Bond Fund, the amount necessary to pay the purchase price of the Bonds, to the extent amounts on deposit in the Remarketing Proceeds Account and the Negative Arbitrage Account of the Bond Fund are insufficient therefor; and (iii) on any Redemption Date, to the Bond Fund the amount, together with amounts on deposit in the Bond Fund, necessary to pay the principal and interest due on the Bonds on such date.

The Bonds shall not be, and shall not be deemed to be, paid or prepaid by reason of any deposit into the Collateral Fund unless and until the amount on deposit in the Collateral Fund is transferred to the Bond Fund and applied to the payment of the principal of any of the Bonds or the principal component of the redemption price of any of the Bonds, all as provided in this Indenture.

To the extent moneys are not otherwise provided to the Trustee to make the necessary interest and principal payments on each Interest Payment Date, including moneys deposited into the Bond Fund or the Collateral Fund, the Trustee shall, without further written direction, transfer from the Project Fund to the Bond Fund sufficient Eligible Funds to make such necessary interest and principal payments on each Interest Payment Date.

The Trustee shall cause to be kept and maintained adequate records pertaining to the Project Fund and all disbursements therefrom. If requested by the Issuer or the Borrower, after the Project has been completed and a Completion Certificate is filed by the Borrower as provided herein, the Trustee shall file copies of the records pertaining to the Project Fund and disbursements therefrom with the Issuer and the Borrower.

The Borrower expects that the Project will proceed substantially in accordance with the Construction Draw Schedule. Each Requisition submitted to the Trustee shall evidence and request disbursements from the Project Fund and/or the Costs of Issuance Fund.

Notwithstanding any other provision of this Indenture to the contrary, after the Closing Date the Trustee shall not disburse moneys from the Project Fund, other than to pay Bond Service Charges on the Bonds, unless and until the Trustee receives satisfactory evidence that Eligible Funds in an amount equal to or greater than the requested disbursement amount (the “Collateral

Deposit”) has been deposited in the Collateral Fund. Prior to making any disbursement, the Trustee shall verify that upon making the disbursement, the aggregate amount to be held in (i) the Collateral Fund and (ii) the Project Fund, together with projected investment earnings thereon, will be sufficient to pay Bond Service Charges on the outstanding Bonds as and when they become due. In the event that, following receipt of the Collateral Deposit and Requisition, the Trustee determines that it cannot correspondingly disburse Bond proceeds to or at the direction of the Borrower or the Mortgage Lender, the Trustee shall immediately notify the Borrower and the Mortgage Lender, as applicable, of the reason for such determination and shall, immediately upon the request of the Borrower or the Mortgage Lender, return the subject Collateral Deposit to the party that deposited such Collateral Deposit with the Trustee.

The proceeds of the Bonds shall be allocated exclusively to pay costs that (i) are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code’s regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 142(d) of the Code; and (ii) shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located, so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code; *provided, however*, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Trustee nor the Issuer shall have any obligation to enforce this covenant nor shall they incur any liability to any person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders of the Bonds for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and *provided, further*, failure to comply with this representation, covenant and warranty shall not constitute a default or Event of Default under this Indenture.

Upon the occurrence and continuance of an Event of Default hereunder because of which the principal amount for the Bonds has been declared to be due and immediately payable under this Indenture, any moneys remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund for payment of Bond Service Charges.

Section 4.09 *Mortgage Loan Prepayment Fund.* On the Conversion Date, the Trustee shall deposit into the Mortgage Loan Prepayment Fund the proceeds of the Citi Purchase Price and other funds of the Borrower such that the amount in the Mortgage Loan Prepayment Fund equals the Mortgage Loan Prepayment Amount, which amount shall be used on the Conversion Date to prepay the Mortgage Loan in full.

Section 4.10 *Expense Fund.* The Trustee shall deposit into the Expense Fund amounts received from the Borrower for the purpose of paying the Trustee’s Fee, the Issuer Fee, and any other fees and expenses required to be paid by or on behalf of the Borrower under the Loan Agreement. The Trustee shall pay such amounts to the proper persons on the dates and in the amounts due when evidenced by a written invoice and written instruction of the Borrower or the Issuer to pay such amount. Amounts on deposit in the Expense Fund shall be withdrawn or maintained, as appropriate, by the Trustee to pay (i) to the Issuer, the Issuer Fee, (ii) to the Trustee, the Trustee’s Fee, (iii) upon receipt, to the Trustee, any amounts due to the Trustee which have not been paid, other than amounts paid in accordance with clause (ii) hereof, and (iv) upon receipt, to,

or at the written direction of, the Issuer, the Issuer Fee due and unpaid, other than amounts paid in accordance with clause (i) above.

In addition, any additional fees and expenses of Bond Counsel shall be timely funded by additional deposits by the Borrower into the Expense Fund of moneys not derived from the proceeds of the Bonds, and the Trustee shall use such amounts to pay such additional fees and expenses of Bond Counsel, as directed by the Borrower in writing.

In the event that the amounts on deposit in the Expense Fund are not equal to the amounts payable from the Expense Fund as provided in the preceding paragraphs on any date on which such amounts are due and payable, the Trustee shall give notice to the Borrower of such deficiency and of the amount of such deficiency and request payment within two (2) Business Days to the Trustee of the amount of such deficiency.

Written notice of any insufficiency, which results in the Issuer not receiving the Issuer Fee on the applicable due date, shall be provided by the Trustee to the Issuer (with a copy to the Borrower) not later than 10 days after the respective due date.

Upon payment by the Borrower to the Trustee of such deficiency, the amounts for which such deficiency was requested shall be paid by the Trustee.

Notwithstanding anything herein to the contrary, the Trustee, on behalf of the Issuer, shall prepare and submit a written invoice to the Borrower for payment of the Issuer Fee not later than 10 days prior to the due date for payment of the Issuer Fee, and shall remit moneys received from the Borrower to the Issuer for payment of such fee. Failure of the Trustee to prepare or submit such notice shall not excuse the Borrower from making the required payments when due.

ARTICLE V CUSTODY AND APPLICATION OF BOND PROCEEDS

Section 5.01 *Custody and Application of Project Fund and Bond Fund.* On the Closing Date, the proceeds received upon the issuance and sale of the Bonds which remain after the deposit of the Initial Deposit into the Negative Arbitrage Account of the Bond Fund pursuant to Section 4.02 hereof shall be deposited into the Project Fund and Bond Fund (if accrued interest) and invested by the Trustee as set forth in Section 6.01 hereof.

Section 5.02 *Procedure for Making Disbursements from Project Fund* . Upon the delivery to the Trustee of (i) a signed Requisition in substantially the form attached as **Appendix B** hereto, (ii) Eligible Funds in an amount equal to the amount of Bond proceeds being requested for disbursement pursuant to such Requisition, as provided in Section 4.08 hereof, and (iii) certification by a Borrower Representative that the Costs of the Project intended to be paid with such Bond proceeds are qualified costs pursuant to Section 142 of the Code, the Trustee shall, on such date, deposit such Eligible Funds into the Collateral Fund and disburse from the Project Fund Bond proceeds, in the amount set forth in the applicable Requisition, solely to pay Costs of the Project. To the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee shall not sell or otherwise terminate such Eligible Investments prior to their stated maturity date and instead the Trustee is hereby instructed to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on

deposit in the Project Fund to pay Costs of the Project: (a) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the request for disbursement, to the Collateral Fund, and (b) transfer to the Project Fund a like amount of Eligible Funds on deposit in the Collateral Fund to be disbursed in accordance with this Section.

The Trustee shall not disburse money from the Project Fund, other than to pay interest and principal on the Bonds as otherwise permitted hereunder, unless and until Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited into the Collateral Fund in accordance with Section 4.08 hereof; provided, however, that [upon the written request of the Borrower], the Trustee may transfer funds from the Project Fund to the Collateral Fund if the Trustee first receives of an opinion of Bond Counsel substantially to the effect that such transfer will not, in and of itself, adversely affect any exclusion of interest on the Bonds from gross income for purposes of federal income taxation. In accordance with Section 3.03 of the Loan Agreement, and prior to making any disbursement from the Project Fund (except to make necessary interest and principal payments on the Bonds as otherwise permitted hereunder), the Trustee shall determine that the aggregate account balance in (a) the Collateral Fund and (b) the Project Fund (less the requested disbursement amount) is at least equal to the then-Outstanding principal amount of the Bonds.

Money in the Project Fund shall be disbursed in accordance with the provisions of Section 3.03 of the Loan Agreement and this Section 5.02. To the extent moneys are not otherwise provided to the Trustee to make the necessary interest and principal payments on each Interest Payment Date, including moneys deposited into the Bond Fund or the Collateral Fund, the Trustee shall, without further written direction, transfer from the Project Fund to the Bond Fund sufficient Eligible Funds to make such necessary interest and principal payments on each Interest Payment Date.

Notwithstanding anything contained in this Indenture or any of the Borrower Documents to the contrary: with respect to Eligible Funds funded by the Mortgage Lender for deposit into the Collateral Fund, the Trustee shall be irrevocably and unconditionally obligated to disburse an equal amount of funds from the Project Fund to either the Mortgage Lender, the Borrower or the Title Company pursuant to a Requisition as directed by the Mortgage Lender. Such disbursements shall be made pursuant to a Requisition and shall not be made more frequently than once per month, unless approved by the Issuer, in its sole discretion.

Subject to the Trustee's obligation to return the Eligible Funds to the Mortgage Lender as set forth in this Section 5.02, the Trustee and the Issuer shall not, in any event, be responsible or liable to any person (other than the Borrower, but only in the case of the Trustee, and only in the event of a failure by the Trustee to make disbursements following request for disbursements in accordance with the Documents, when such failure is within the Trustee's sole control, and after receipt of written notice of such failure and a 3-day opportunity to cure such failure) for the disbursement of, or failure to disburse, moneys from the Project Fund or any part thereof, and no contractor, subcontractor or material or equipment supplier or their respective successors and assigns shall have any right or claim against the Trustee or the Issuer under this Indenture.

Notwithstanding anything contained in this Indenture or any of the Borrower Documents to the contrary, if for any reason the Trustee is not able to disburse a corresponding amount of Bond proceeds from the Project Fund to or at the direction of the Mortgage Lender, immediately

following receipt of Eligible Funds from the Mortgage Lender, for deposit into the Collateral Fund, the Trustee shall promptly wire transfer such funds back to the Mortgage Lender, and not deposit same into the Collateral Fund.

[Notwithstanding anything in this Indenture, the Loan Agreement or any of the other Documents to the contrary, (i) moneys held in the Subordinate Loan Account of the Project Fund are not held for the benefit of the Owners and are not part of the Trust Estate, and (ii) moneys disbursed by the Trustee from the Subordinate Loan Account of the Project Fund shall be used only for the purposes set forth in the Subordinate Loan Documents.]

Section 5.03 *Trustee May Rely on Requisitions and Certifications.* In making any disbursement from the Project Fund, the Trustee may rely on any requests and confirmations delivered to it pursuant to Section 5.02 hereof, and the Trustee shall be relieved of all liability with respect to making such disbursements in accordance with such requests and confirmations. In making any disbursements from the Costs of Issuance Fund, the Trustee may rely on any requests and confirmations delivered to it pursuant to Section 4.07 hereof, and the Trustee shall be relieved of all liability with respect to making such disbursements in accordance with such requests and confirmations.

Section 5.04 *Completion of Project.* The completion of the Project and the payment of all costs and expenses incident thereto shall be evidenced for the Project by the filing with the Trustee of (a) the Completion Certificate required by the provisions of Section 3.05 of the Loan Agreement and (b) a certificate signed by the Borrower Representative stating that all obligations and costs in connection with the Project and payable out of the Project Fund have been paid and discharged except for amounts retained by the Trustee for the payment of Costs of the Project not then due and payable or then in dispute as provided in the Loan Agreement; *provided, however*, that no amounts necessary to pay principal and interest on the Bonds at maturity shall be held by the Trustee in the Project Fund beyond the Maturity Date, and the Project Fund shall be closed. Additionally, the Borrower has agreed pursuant to Section 3.06 of the Loan Agreement that in the event that there are insufficient moneys available in the Project Fund to pay the Costs of the Project, the Borrower will complete the Project and pay the portion of the Costs of the Project in excess of the moneys available therefor in the Project Fund.

Section 5.05 *Disposition of Moneys in Project Fund After Completion of Project.* Subject to the proviso in Section 5.04 hereof, as soon as practicable after the date of the certificate referred to in clause (b) of Section 5.04 hereof, any balance remaining in the Project Fund (other than the amounts retained by the Trustee referred to in Section 5.04 hereof and amounts held in the Subordinate Loan Account of the Project Fund) shall be deposited into the Bond Fund and used to pay principal of the Bonds when due. To the extent any moneys from any payments made by the Borrower pursuant to the Loan Agreement remain in the Project Fund or Bond Fund after there are no Bonds Outstanding and payment in full, or provision for payment, of the final Rebate Amount and any remaining Trustee Fees, such moneys may be paid directly to the Borrower to the extent such funds are not proceeds of the Bonds or otherwise restricted funds. If such remaining funds are proceeds of the Bonds or otherwise restricted, such funds shall be deposited by the Trustee into the Bond Fund.

Notwithstanding the provisions of this Section or any other provision herein set forth, none of the moneys in the Project Fund will be disbursed for or be used to pay any cost, or to reimburse the Issuer or the Borrower for any cost, which is not permitted by the Act, the Code, the Loan Agreement or this Indenture.

ARTICLE VI

INVESTMENT OF FUNDS AND ACCOUNTS

Section 6.01 *Investment of Bond Fund, Project Fund, and Collateral Fund.* Money in all funds or accounts including the Bond Fund, Project Fund, and Collateral Fund shall be invested and reinvested by the Trustee, and at all times held in Eligible Investments at the written direction of the Borrower as approved by the Issuer. In the absence of written direction of the Borrower, any moneys held under this Indenture shall be invested in (i) the [NAME OF MONEY MARKET FUND AVAILABLE TO TRUSTEE], or if such fund is unavailable, (ii) investments described in paragraph (b) of the definition of Eligible Investments.

At no time shall the Borrower direct that (a) any funds constituting gross proceeds of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code or (b) any funds be held other than in Eligible Investments.

Investments of money in the Bond Fund and the Collateral Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide money to pay any amounts due on the Bonds as they become due on each Interest Payment Date or at stated maturity or on a Mandatory Tender Date. In addition, investment of money in the Project Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts as may be necessary to make anticipated payments from the Project Fund. Any investment in the Bond Fund, the Project Fund or the Collateral Fund that are not classified as Eligible Investments shall be invested in Governmental Obligations.

The Trustee shall sell or redeem investments credited to the Bond Fund to produce sufficient money applicable hereunder to and at times required for the purposes of paying any amounts due on the Bonds, and shall do so without necessity for any order on behalf of the Issuer or the Borrower and without restriction by reason of any order. An investment made from money credited to an applicable fund or account shall constitute part of that respective fund or account. All investment earnings from amounts on deposit in the Project Fund and the Collateral Fund shall be credited to and become part of the Bond Fund. All gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Project Fund and the Collateral Fund shall be credited to and become part of the Bond Fund. Following the Closing Date, at the direction of the Borrower, the Trustee is permitted to purchase, sell or exchange Eligible Investments upon receipt of a Cash Flow Projection.

Notwithstanding anything herein to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Service Charges shall be held uninvested and (ii) Bond proceeds and the Initial Deposit to the Negative Arbitrage Account, if any, shall be held uninvested until the Trustee has purchased, sold or exchanged Eligible Investments.

Any investments may be purchased from or sold to the Trustee, or any bank, trust company or savings and loan association which is an affiliate or subsidiary of the Trustee; *provided* that all such investments must be Eligible Investments.

The Trustee shall not be liable for losses on investments made in compliance with the provisions of this Indenture.

If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity at a price below par in connection with a mandatory tender prior to the Initial Mandatory Tender Date, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any.

Although each of the Issuer and the Borrower recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, each of the Issuer and the Borrower hereby agrees that confirmations of Eligible Investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month. The Trustee may conclusively rely upon the Borrower's and Issuer's written instructions as to both the suitability and legality of the directed investments.

Section 6.02 *Investment of Rebate Fund.* Any moneys held as part of the Rebate Fund, and not immediately required for the purposes of the Rebate Fund, shall be invested or reinvested by the Trustee, at the written direction of the Borrower Representative, in Governmental Obligations or in any money market or short term investment fund investing in or consisting solely of and secured by Governmental Obligations, including any such fund maintained by the Trustee or an affiliate thereof having maturities consonant with the need for funds as estimated by the Borrower. All investment earnings, gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Rebate Fund shall be retained therein.

Section 6.03 *Accounting for Termination of Investments; No Arbitrage.* In the event the moneys in the Project Fund or the Bond Fund are invested in any investment which fails to satisfy the requirements of Section 6.01, the Trustee shall, at the written direction of the Borrower, terminate any such investment, and the proceeds of such termination, shall be credited to the Project Fund or the Bond Fund, respectively.

If the Issuer is of the opinion, upon receipt of advice of Bond Counsel, that it is necessary to restrict or limit the yield on the investment of any moneys, securities or other obligations paid to or held by the Trustee hereunder in order to comply with the provisions of the Documents intended to prevent any Bonds from being considered "arbitrage bonds" within the meaning of Section 148 of the Code, an authorized officer of the Issuer may give written notice to the Trustee and the Borrower to such effect (together with appropriate written instructions), in which event the Trustee will take such action as is set forth in such written instructions to restrict or limit the yield on such investment so as to comply with Section 148 of the Code. The Trustee may conclusively rely on the direction of the Issuer in taking such action.

Section 6.04 *Trustee's Own Bond or Investment Department.* The Trustee may make any and all investments permitted under Section 6.01 and Section 6.02 through its own bond or investment department or that of any affiliate.

Section 6.05 *Moneys to be Held in Trust.* All moneys required to be deposited with or paid to the Trustee for account of the Bond Fund or the Project Fund under any provision of this Indenture shall be held by the Trustee in trust, and shall, while held by the Trustee, constitute part of the Trust Estate and be subject to the lien and claim created by this Indenture.

The Trustee, acting in its capacity as Trustee and not as sponsor, advisor or manager in connection with any investments hereunder, shall not be liable for any loss arising from investments made in accordance with this Indenture, or for any loss resulting from the redemption or sale of any such investments as authorized by this Section.

ARTICLE VII GENERAL COVENANTS

Section 7.01 *Payment of Bonds.* Each and every covenant made in this Indenture, including all covenants made in the several sections of this Article, is predicated upon the condition that any obligation for the payment of money incurred by the Issuer shall be payable solely (a) from Revenues, which are specifically assigned to secure the payment of the Bonds in the manner and to the extent specified in this Indenture, (b) from the moneys held in the funds and accounts created under this Indenture, except for amounts held in the Costs of Issuance Fund (but only to the extent such moneys are not proceeds of the Bonds), the Expense Fund and the Rebate Fund, and (c) from any other moneys held pursuant to the Trust Estate. Nothing in the Bonds or in this Indenture shall be construed as pledging any other funds or assets of the Issuer.

The Issuer covenants that it will promptly pay, as provided herein, the principal of and interest on the Bonds from the Trust Estate at the place, on the date and in the manner provided herein and in the Bonds.

The Revenues are to be remitted by the Borrower directly to the Trustee for the account of the Issuer and constitute a part of the Trust Estate and are subject to the lien and claim created by this Indenture. Such amounts, in addition to the amounts held in the Project Fund, are to be sufficient in amount at all times to pay the principal of and interest on the Bonds. The entire amount of Revenues (exclusive of the Reserved Rights of the Issuer) are assigned to secure the payment of the principal of and interest on the Bonds.

Section 7.02 *Performance of Covenants.* The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings pertaining thereto, subject, however to the limitations set forth in Section 2.09. The Issuer covenants that it is duly authorized under the laws of the State to issue the Bonds, to enter into this Indenture and the Loan Agreement and to assign the Revenues, and that, upon issuance, authentication, and delivery, the Bonds are and will be valid and enforceable special limited obligations of the Issuer according to the import thereof.

Section 7.03 *Maintenance of Existence; Compliance with Laws.* The Issuer will use all reasonable efforts to (i) maintain its corporate existence or to assure the assumption of its obligations under this Indenture by any public body succeeding to its powers under the Act, and (ii) comply with all valid material acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to this Indenture and the Loan Agreement.

Section 7.04 *Enforcement of Borrower's Obligations.* So long as any of the Bonds are Outstanding, the Issuer will cooperate with the Trustee in enforcing the obligations of the Borrower to pay, or cause to be paid, all the payments and other costs and charges payable pursuant to the Loan Agreement. Nothing contained in this Section or in any other section of this Indenture shall be deemed to modify the provisions of the Act and Section 2.09 hereof or require that the Issuer expend any of its own funds or assets to enforce the obligations of the Borrower under the Documents.

Section 7.05 *Further Assurances, Instruments and Actions.* The Issuer will from time to time, execute and deliver such further instruments, conveyances, assignments and transfers and take such further actions as may be reasonable and as may be required to better assure, convey, grant, assign or confirm the Trust Estate and all other rights, revenues or funds pledged, assigned or intended to be so pledged or assigned hereunder for the benefit of the owners of the Bonds; *provided, however*, that no such instruments or actions shall pledge the credit or taxing power of the State, the Issuer or any other political subdivision of the State, or create or give rise to any monetary obligation or liability of the Issuer.

Section 7.06 *Priority of Pledge.* The Issuer covenants and agrees that it will not create any lien or claim upon the Revenues other than the liens and claims hereby created. Except for the assignment to the Trustee, the Issuer will not sell, lease or otherwise dispose of or encumber any of the Revenues, and will cooperate in causing to be discharged or satisfied any lien or charge on any part of the Trust Estate.

Section 7.07 *Books and Documents Open to Inspection.* The Issuer covenants and agrees that all books and documents in its possession relating to the Bonds, the Project, and the moneys, revenues and receipts derived from the Project, if any, that shall at any time be in its possession, shall, within a reasonable time of a request by the Trustee, the Rating Agency, the Investor Limited Partner or the Borrower, be open to inspection during the Issuer's regular business hours by such accountants or other agents as the Trustee or the Borrower or the Investor Limited Partner may from time to time designate.

Section 7.08 *Borrower to Indemnify and Hold Issuer and Trustee Harmless from Liability.* The Borrower has agreed to indemnify and hold the Issuer and the Trustee harmless from and against liability arising out of claims as defined and as provided in Sections 6.02 and 7.04 of the Loan Agreement.

Section 7.09 *Tax-Exempt Status of Bonds.* The Issuer and the Trustee each agrees that it will not (a) take any action, (b) fail to take any action, or (c) make any use of the Project or the proceeds of the Bonds, which it knows would cause the interest on any of the Bonds to be or become includible in the gross income of the owners thereof for federal income tax purposes

(except for minimum or preference tax purposes or other indirect taxation). In connection with the foregoing, the Issuer and the Trustee may rely upon the advice of Bond Counsel.

ARTICLE VIII DISCHARGE

Section 8.01 *Discharge of Lien.* If and when the Bonds secured hereby shall become due and payable in accordance with their terms as provided in this Indenture, or otherwise, and the whole amount of the principal and the interest so due and payable upon all of the Bonds, together with all other amounts payable hereunder by the Issuer and all fees and expenses of the Trustee and the Issuer, shall be paid, or provision shall have been made for the payment of the same, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, upon written request of the Issuer and subject to the provisions of Section 5.05 hereof, the Trustee shall turn over to the Borrower, so long as there shall have occurred no Event of Default which is uncured and continuing, any surplus in the Bond Fund and all balances remaining in any other fund created under this Indenture and shall assign and transfer to the Issuer all other property then held by the Trustee under this Indenture and shall execute such documents as may be reasonably required by the Issuer.

If and when the Trustee shall hold sufficient moneys hereunder, as verified to the Trustee in writing by an independent public accounting firm of national reputation or other firm similarly experienced in performing such computations, to provide for payment of the whole amount of the principal and interest due and payable and thereafter to become due and payable upon all the Bonds, together with all other amounts (exclusive of amounts in the Rebate Fund or the Expense Fund) payable or which may thereafter become payable hereunder by the Issuer, notwithstanding that all the Bonds have not yet become due and payable and that consequently the right, title and interest of the Trustee in and to the Trust Estate shall not have ceased, terminated and become void pursuant to the foregoing provisions of this Section 8.01, the Trustee, on demand of the Issuer but subject to the provisions of Section 5.05 hereof, shall turn over to the Borrower, so long as there shall have occurred no Event of Default which is uncured and continuing, or to such person, body or authority as may be entitled to receive the same, any surplus in the Bond Fund in excess of the amount sufficient to pay the whole amount of the principal and interest due and payable and thereafter to become due and payable upon all Bonds together with all other amounts payable or which may thereafter become payable hereunder by the Issuer.

All Outstanding Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed above if (a) there shall have been deposited with the Trustee (as verified to the Trustee in writing by an independent public accounting firm of national reputation or other firm similarly experienced in performing such computations) either (i) moneys in an amount which shall be sufficient, or (ii) Governmental Obligations which are not subject to redemption prior to maturity, the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the principal and interest due and to become due on such Bonds on the maturity date thereof, and (b) the Issuer shall have given the Trustee, in form satisfactory to it irrevocable instructions to give, as soon as practicable, a notice to the Holders of such Bonds and the Rating Agency that the deposit required by subclause (a) above has been made

with the Trustee and that such Bonds are deemed to have been paid in accordance with this Section and stating such maturity upon which moneys are to be available for the payment of the principal of and interest on such Bonds.

Neither the securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on such Bonds; *provided* that any cash received from such principal or interest payments on such securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested, as directed by the Borrower, in Governmental Obligations (including any short-term investment fund rated Aaa or MIG 1 by the Rating Agency and secured by and investing solely in Governmental Obligations) maturing at times and in amounts sufficient to pay when due the principal and interest to become due on such Bonds on and prior to such maturity dates thereof, as the case may be, and interest earned from such reinvestment shall be paid over to the Borrower, as received by the Trustee, free and clear of any trust, lien or pledge.

The release of the obligations of the Issuer under this Section 8.01 shall be without prejudice to the right of the Trustee provided in Section 10.04 hereof to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees, incurred on behalf of the Trustee in connection with the trust hereby created and the performance of its powers and duties hereunder, and shall not affect the obligations of the Borrower to make the payments required by the Loan Agreement or the Note.

ARTICLE IX DEFAULTS AND REMEDIES

Section 9.01 *Events of Default and Acceleration.* If any of the following events occur, it is hereby defined as and declared to be and constitute an “Event of Default”:

- (a) any interest on any Bond is not paid on the date on which the same becomes due; or
- (b) any principal of any Bond is not paid on the date on which the same becomes due, whether at the stated maturity thereof, by acceleration or otherwise; or
- (c) an Event of Default occurs under the Loan Agreement; or
- (d) the Issuer fails to duly and promptly perform, comply with, or observe any covenant, condition, agreement or provision (other than as specified in (a) or (b) of this Section 9.01) contained in the Bonds or in this Indenture on the part of the Issuer to be performed, and such failure shall continue for a period of ninety (90) days after written notice specifying such failure and requiring the same to be remedied shall have been given to the Issuer, and the Borrower and the Investor Limited Partner by the Trustee, which notice may be given by the Trustee in its discretion and shall be given at the written request of the Holders of not less than 100% in principal amount of the Bonds then Outstanding; *provided, however*, that if such default be such that it is correctable but cannot be corrected within ninety (90) days, it shall not be an Event of Default if the Issuer, the Borrower or

the Investor Limited Partner is taking appropriate corrective action to cure such failure and if such failure will not impair the security for the Loan or the Bonds.

If any Loan payment required under the Loan Agreement to avoid a default under (a) or (b) of this Section shall not have been received at the close of business on the last Business Day preceding the day on which payment must be made to avoid a default under such (a) or (b), the Trustee shall use its best efforts to give telephonic notice of such default to the Borrower and the Investor Limited Partner, which telephonic notice shall be confirmed by written notice to the Borrower. If any other default shall occur under the provisions of this Section, the Trustee shall, within five (5) days after having actual knowledge of such default, use its best efforts to give written notice of such default to the Issuer, the Borrower, the Investor Limited Partner and the Holders of the Bonds. A default or an Event of Default specified in (a) through (d) above shall occur even though the Trustee fails to give the notice required by this paragraph, the giving of such notice being intended solely to aid in the enforcement of the rights of Bondholders and not in limitation of such rights.

If an Event of Default specified in (a) or (b) of this Section 9.01 shall occur and be continuing, the Trustee shall declare the principal of all Bonds then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Investor Limited Partner and the Borrower, and upon such declaration such principal, together with interest accrued thereon, shall become immediately due and payable at the place of payment provided therein, anything in this Indenture or in the Bonds to the contrary notwithstanding.

If an Event of Default specified in (c) or (d) of this Section 9.01 shall occur and be continuing, the Trustee, upon written request of the Holders of a majority in principal amount of the Bonds then Outstanding shall declare the principal of all Bonds then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Investor Limited Partner and the Borrower, and upon such declaration such principal, together with interest accrued thereon, shall become immediately due and payable at the place of payment provided therein, anything in this Indenture or in the Bonds to the contrary notwithstanding.

The Investor Limited Partner shall be entitled to cure any Event of Default hereunder within the time frame provided to the Borrower. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner 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 9.02 *Trustee to Enforce Rights of Issuer.* Only in accordance with the provisions of this Indenture, the Trustee, as the assignee of all the right, title and interest of the Issuer in and to each of the documents constituting a part of the Trust Estate (except the Reserved Rights of the Issuer), may enforce the rights granted to the Issuer pursuant to such documents. In the enforcement of any rights or remedies under such documents, no provision of such documents shall require, and none shall be construed to require, that the Trustee post a bond or establish any surety of any kind as a condition precedent to exercising any such rights or remedies.

Section 9.03 *Remedies in Addition to Acceleration.* Upon the occurrence of, and during the continuance of, any Event of Default, then and in every such case the Trustee in its discretion

may, and upon the written request of the Holders of not less than 51% in principal amount of the Bonds then Outstanding and receipt of satisfactory indemnity shall (in addition to its right or duty to accelerate as provided in Section 9.01):

- (a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Bondholders, and require the Issuer or the Borrower to carry out any agreements with or for the benefit of the Bondholders and to perform its or their duties under the Act and the Documents;
- (b) bring suit upon the Bonds; or
- (c) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders.

Section 9.04 *Termination of Proceedings.* In case any proceeding taken by the Trustee on account of any default or Event of Default shall have been discontinued or abandoned for any reason, the default or Event of Default has been cured, or shall have been determined adversely to the Trustee, then and in every such case, the Issuer, the Trustee, the Bondholders, and the Borrower shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

Section 9.05 *Right of Bondholders to Direct Proceedings.* No Holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust hereunder, or any other remedy hereunder or on the Bonds, unless such Holder previously shall have given to the Trustee written notice of an Event of Default as hereinabove provided and unless also the Holders of not less than 51% in principal amount of the Bonds then outstanding shall have made written request of the Trustee to do so, after the right to exercise such powers or rights of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted, or to institute such action, suit or proceeding in its or their name; nor unless there also shall have been offered to the Trustee security and satisfactory indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall not have complied with such request within a reasonable time; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the trusts of this Indenture or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds hereby secured shall have any right in any manner whatever by its or their action to affect, disturb or prejudice the security of this Indenture, or to enforce any right hereunder or under the Bonds, except in the manner herein provided and for the equal benefit of all Holders of Outstanding Bonds. For purposes of the foregoing sentence, the Trustee shall be deemed to have failed to act within a reasonable time if it fails to take action within sixty (60) days after receipt of notice and compliance with the foregoing terms and conditions, whereupon, the Holders of 51% aggregate principal amount of the Bonds may take such action in the place of the Trustee. Nothing contained in this Indenture shall, however, affect or impair the right of any Holder of Bonds to enforce the payment of the principal of and interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest, on each of the Bonds issued hereunder to the respective Holders of the Bonds at the time, place, from the source and in the manner herein and in such Bonds expressed.

Section 9.06 *Remedies Vested in Trustee.* All rights of action under this Indenture or under any of the Bonds secured hereby which are enforceable by the Trustee may be enforced by it without the possession of any of the Bonds, or the production thereof at the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the equal and ratable benefit of the Holders of the Bonds, subject to the provisions of this Indenture.

Section 9.07 *Remedies Non-Exclusive and Cumulative.* No remedy herein conferred upon or reserved to the Trustee or to the Holders of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 9.08 *Delays or Omissions by Trustee.* No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or any acquiescence therein; and every power and remedy given by this Article IX to the Trustee and to the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

Section 9.09 *Application of Moneys.* All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article IX shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the accrued fees, expenses and advances incurred or made by the Trustee, and then to the accrued fees and expenses or other amounts due and owing to the Issuer, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund during the continuance of an Event of Default (other than moneys for the payment of Bonds which have matured or otherwise become payable prior to such Event of Default or for the payment of interest due prior to such Event of Default, which moneys shall continue to be held for such payments) shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

First - To the payment to the persons entitled thereto of all installments of interest then due on the Bonds, in the direct order of the maturity of the installments of such interest and, if the amounts available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege;

Second - To the payment to the persons entitled thereto of the unpaid principal, on any of the Bonds, which shall have become due (other than Bonds which have matured or otherwise become payable prior to such Event of Default and moneys for the payment of which are held in the Bond Fund or otherwise held by the Trustee), and if the amount available shall not be sufficient to pay in full the amount of principal, then to the payment ratably, according to the amount of

principal due on such date, to the persons entitled thereto, without any discrimination or privilege;

Third - To the payment to the persons entitled thereto of all other of the Issuer's Obligations and the Borrower's Obligations, and, if the amount available shall not be sufficient to pay such Obligations in full, then to the payment ratably, according to the amounts then due, to the persons entitled thereto without discrimination or privilege; and

Fourth - The remainder, if any, shall be paid over to the Borrower, its successors or assigns, or whomever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

(b) If the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal of and interest then due and unpaid upon the Bonds, 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, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest to the persons entitled thereto without any discrimination or privilege. Any remaining funds shall be applied in accordance with the paragraphs designated "*Third*" and "*Fourth*" of subsection (a) above.

Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts or principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 9.10 *Severability of Remedies.* It is the purpose and intention of this Article to provide rights and remedies to the Trustee and Bondholders which may be lawfully granted under the provisions of the Act, but should any right or remedy herein granted be held to be unlawful, the Trustee and the Bondholders shall be entitled, as above set forth, to every other right and remedy provided in this Indenture and by law.

ARTICLE X THE TRUSTEE AND REMARKETING AGENT

Section 10.01 *Acceptance of Trusts.* The Trustee hereby accepts the trusts hereby created and agrees to perform and execute such trusts as an ordinary prudent trustee under a corporate indenture, but only upon the additional terms set forth in this Article, to all of which the Issuer agrees and the respective Holders of the Bonds agree upon and by their acceptance of delivery of any of the Bonds. The Trustee, prior to the occurrence of an event of default and after the curing

of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations should be read into this Indenture against the Trustee.

Section 10.02 *Trustee Not Responsible for Recitals, Statements and Representations.*

Except as otherwise expressly provided herein, any representations or warranties by the Issuer in this Indenture or in the Bonds contained shall be taken and construed as made by and on the part of the Issuer, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

Except for information, if any, provided by the Trustee concerning the Trustee, the Trustee shall have no responsibility for any information in any Official Statement or other disclosure material distributed with respect to the Bonds, and the Trustee shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

Section 10.03 *Action by Trustee Through and In Reliance Upon Others.* The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, receivers or employees. The Trustee shall be entitled to advice of counsel concerning all matters of trust and its duties hereunder, and the written advice or opinion of such counsel shall be full and complete authorization and protection for any action taken or omitted by it in good faith and in accordance with such advice or opinion. The Trustee may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may be reasonably employed in connection with the trusts hereof, such compensation to be paid as described under Section 10.04 hereof. The Trustee shall not be answerable for the exercise of any discretion or power under this Indenture or for anything whatever in connection with the trust, except only for negligence or willful misconduct with respect to its responsibilities hereunder.

Except for fraud and willful misconduct, no personal recourse may be taken, directly or indirectly, against any officer, director, employee or agent of the Trustee with respect to the obligations of the Trustee under this Indenture or any certificate or other writing delivered in connection therewith. The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties and functions under this Indenture shall extend to the Trustee's officers, directors, agents and employees.

The Trustee's immunities and protections from liability and its right to payment of compensation and indemnification in connection with performance of its duties and functions under this Indenture shall survive the Trustee's resignation or removal and the final payment of the Bonds.

Section 10.04 *Fees and Expenses of Trustee.* The Trustee shall be entitled to payment and/or reimbursement of such fees as the Trustee, the Issuer and the Borrower shall agree upon, or in the absence of such agreement, to payment and/or reimbursement of reasonable fees, for its services rendered hereunder, and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. Any amounts payable to the Trustee pursuant to this Section 10.04 shall be payable upon demand.

Section 10.05 *Trustee's Obligations to Take or Have Notice of Default.* The Trustee shall not be required to take notice, or to be deemed to have notice, of any default under this

Indenture other than a default under Section 9.01(a) or Section 9.01(b) hereof, unless the Trustee is specifically notified in writing of such default by the Issuer or by the Holders of not less than 25% in principal amount of the Bonds then Outstanding. The Trustee may, however, at any time, in its discretion, require of the Issuer information and advice as to the performance of any of the covenants, conditions and agreements contained herein.

Section 10.06 *Duties of Trustee.*

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise its rights and powers and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default,

- (1) The Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and
- (2) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine those certificates and opinions to determine whether they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that

- (i) This paragraph does not limit the effect of paragraph (b) of this Section,
- (ii) The Trustee shall not be liable for any error of judgment made in good faith by the Trustee, unless it is proved that the Trustee was grossly negligent in ascertaining the pertinent facts,
- (iii) The Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it in accordance with this Indenture, and
- (iv) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(d) The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity satisfactory to it against any loss, liability or expense, but the Trustee shall not require indemnity as a condition to making any payments on the Bonds, or declaring the principal of and interest on the Bonds to be due immediately hereunder.

(e) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Indenture shall extend

to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the defeasance or discharge of this Indenture and final payment of the Bonds.

(f) Except as otherwise provided in this Article, the Trustee shall be under no obligation to take any action in respect of any default or otherwise, or toward the execution or enforcement of any of the trusts hereby created, or to institute, appear in or defend any suit or other proceeding in connection therewith, unless requested in writing to do so by the Holders of not less than 51% in principal amount of the Bonds then Outstanding, and if in its opinion such action may tend to involve it in expense or liability, unless furnished, from time to time as often as it may require, with security and satisfactory indemnity. The foregoing provisions are intended only for the protection of the Trustee, and shall not affect any discretion or power given by any provision of this Indenture to the Trustee to take action in respect of any default without such notice or request from the Bondholders, or without such security or indemnity.

(g) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a) through (f) of this Section.

Section 10.07 Trustee May Make Advances to Effect Performance. If the Issuer shall fail to perform any of the covenants or agreements contained in this Indenture other than the covenants or agreements in respect of the payment of the principal of and interest on the Bonds, the Trustee may, in its absolute discretion and without notice to the Bondholders, at any time and from time to time, make advances to effect performance of the same on behalf of the Issuer, but the Trustee shall be under no obligation to do so; and any and all moneys paid or advanced by the Trustee for any such purposes shall be a claim in favor of the Trustee upon the Trust Estate prior to the claim of the Bonds; but no such advance shall operate to relieve the Issuer from any default hereunder.

Section 10.08 Trustee May Rely Upon Instruments. The Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any indenture, notice, telegram, request, consent, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board, body or person or to have been prepared and furnished pursuant to any of the provisions of this Indenture or the Documents, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements, and shall be protected and shall incur no liability in acting or proceeding in good faith in reliance thereon. The Trustee shall not be bound to recognize any person as a Holder of any Bond or to take any action at his request unless such Bond shall be deposited with the Trustee or satisfactory evidence of the ownership of such Bond shall be furnished to the Trustee.

Section 10.09 Trustee May Own and Deal in Bonds and Deal With Issuer and Borrower. The Trustee may in good faith buy, sell, own, hold and deal in any of the Bonds issued hereunder and secured by this Indenture, and may join in any action which any Bondholder may be entitled to take with like effect as if the Trustee were not a party to this Indenture. The Trustee, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Issuer or the Borrower or any related entity, and may act as depository, trustee, or agent for

any committee or body of Holders of the Bonds secured hereby or other obligations of the Issuer as freely as if it were not Trustee hereunder.

Section 10.10 *Financial Liability of the Trustee.* No provision of this Indenture will require the Trustee to expend or risk its own funds or otherwise incur or risk any financial liability in the performance of any of its duties under this Indenture, or in the exercise of any of its rights or powers if it will have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

Except as may otherwise be provided in this Indenture, the Trustee will have the right to demand, in respect to the authentication of any Bonds or the release of any property, any showings, certificates, opinions (including Opinions of Counsel), appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof or of the Loan Agreement required as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Issuer or the Borrower to the authentication of any Bonds, or the release of any property.

Section 10.11 *Trustee May Construe Ambiguous or Inconsistent Provisions.* The Trustee may construe any of the provisions of the Indenture insofar as the same may appear to be ambiguous or inconsistent with any other provisions hereof, and any construction of any such provisions hereof by the Trustee in good faith shall be binding upon the Bondholders.

Section 10.12 *Resignation of Trustee.* The Trustee may at any time resign and be discharged of the duties and obligations created by this Indenture by giving not less than 60 days written notice to the Issuer (with a copy to the Borrower and the Investor Limited Partner) specifying the date when such resignation shall take effect and such resignation shall take effect upon the day specified in such notice unless previously a successor shall have been appointed, in which event such resignation shall take effect immediately on the appointment of such successor, *provided* that such resignation shall not take effect unless and until a successor shall have been appointed.

Section 10.13 *Removal of Trustee.* The Trustee shall be removed by the Issuer, upon thirty (30) days written notice, if at any time so requested by an instrument or concurrent instruments in writing, filed with the Trustee and the Issuer, and signed by the Holders of a majority in principal amount of the Bonds then Outstanding or their attorney-in-fact duly authorized, excluding any Bonds held by or for the account of the Issuer. The Issuer may also remove the Trustee at any time, except during the existence of any Event of Default as defined in Section 9.01 hereof, for cause or breach of trust or for acting or proceeding in violation of, or failing to act or proceed in accordance with any provision of this Indenture with respect to the duties and obligations of the Trustee by filing with the Trustee an instrument signed by an authorized officer of the Issuer. A copy of each such instrument providing for any such removal shall be delivered by the Issuer to any Bondholder who shall have filed its name and address with the Issuer and, if requested, to the Borrower and the Investor Limited Partner; *provided* that such removal shall not take effect unless and until a successor shall have been appointed.

Section 10.14 *Appointment of Successor Trustee.* In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged as bankrupt

or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, the Issuer covenants and agrees that it will thereupon appoint a successor Trustee.

If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provision of this Section within 45 days after the Trustee shall have given to the Issuer written notice, as provided in Section 10.12 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, the Trustee or the Holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, prescribe and appoint a successor Trustee.

Any successor Trustee appointed under the provision of this Section 10.14 in succession to the Trustee shall be a bank or trust company or national banking association with trust powers, having a combined capital, surplus and undivided profits of at least \$50,000,000 if there be such a bank or trust company or national bank association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Indenture.

Section 10.15 *Appointment of Successor Trustee by Court.* In case at any time the Trustee shall resign and no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article prior to the date specified in the notice of resignation as the date when such resignation shall take effect, the retiring Trustee may forthwith apply to a court of competent jurisdiction for the appointment of a successor Trustee. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article within six months after a vacancy shall have occurred in the office of Trustee, the Holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Trustee. A successor Trustee under Sections 10.14 and 10.15 shall notify the Borrower and the Investor Limited Partner, in writing, after being so appointed.

Section 10.16 *Acceptance of Trust by Successor Trustee.* Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer and the Rating Agency an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without further act, deed or conveyance, shall become duly vested with all the estates, property, rights, powers, trust, duties and obligations of its predecessor in the trust hereunder, with like effect as if originally named Trustee herein. Upon request of such Trustee, the Trustee ceasing to act and the Issuer shall execute and deliver an instrument transferring to such successor Trustee all the estates, property, rights, powers and trusts hereunder of the Trustee so ceasing to act, and the Trustee so ceasing to act shall pay over to the successor Trustee all moneys and other assets at the time held by it hereunder.

Section 10.17 *Merger or Consolidation of Trustee With Another Corporation.* Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, shall be the successor Trustee under this Indenture without

the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

Section 10.18 *Action of Trustee During Existence of an Event of Default.* Notwithstanding any other provisions of this Article, the Trustee shall, during the existence of an Event of Default known to the Trustee, exercise such of the rights and powers vested in it by the Indenture and use the same degree of skill and care in their exercise as a prudent person would use and exercise under the circumstances.

Section 10.19 *Notice of an Event of Default.* Notwithstanding anything herein to the contrary, upon the occurrence of an Event of Default known to the Trustee, the Trustee shall within 30 days give written notice thereof to the Issuer, the Borrower, the Investor Limited Partner, the Rating Agency and to each Bondholder at its last address appearing upon the registration books of the Issuer kept by the Trustee unless such Event of Default shall have been cured before the giving of such notice.

Section 10.20 *Trustee May Intervene.* In any judicial proceeding to which the Issuer is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Holders of the Bonds, the Trustee may intervene on behalf of the Holders of the Bonds and shall, upon receipt of satisfactory indemnity do so if requested in writing by the Holders of not less than 51% in principal amount of Bonds then outstanding, if such intervention is permitted by the court having jurisdiction in the premises.

Section 10.21 *Unclaimed Moneys.* Anything in this Indenture to the contrary notwithstanding, any moneys held by the Trustee in trust for the payment and discharge of any Bonds which remain unclaimed for a period up to six (6) months, prior to the date when such moneys would escheat under applicable law and after the date when such Bonds have become due and payable either at their stated maturity dates, if such moneys were held by the Trustee at such date, or for a period up to six (6) months prior to the date when such moneys would escheat under applicable law if deposited with the Trustee after such date when all Bonds became due and payable, shall be paid by the Trustee to the Issuer as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged. Thereafter, any person having a claim against any such moneys shall look solely to the Issuer for payment of the same.

Section 10.22 *Appointment of Co-Trustee.* It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as a trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Loan Agreement, and in particular in case of the enforcement thereof on default, or in the case the Trustee 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 granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate or co-trustee. The following provisions of this Section are adopted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate,

title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

Approval in writing from the Issuer shall be required prior to the appointment of the separate or co-trustee by the Trustee. All such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer at the expense of the Borrower. In case any separate or co-trustee 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 separate or co-trustee, so far as permitted by law and so approved by the Issuer, shall vest in and be exercised by the Trustee until the appointment of a successor to such separate or co-trustee. The Trustee shall notify the Borrower and the Investor Limited Partner, in writing, of any co-trustee appointed under this Section.

Section 10.23 *The Remarketing Agent.*

The Remarketing Agent identified in Section 1.01 hereof shall serve as the Remarketing Agent for the Bonds. The Remarketing Agent shall designate to the Trustee its Designated Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower (and, if requested, the Investor Limited Partner) and the Trustee. In addition, the Remarketing Agent will agree particularly to:

- (a) keep such records relating to its computations of interest rates for the Bonds as shall be consistent with prudent industry practice and to make such records available for inspection by the Issuer, the Trustee, the Investor Limited Partner and the Borrower at all reasonable times; and
- (b) perform all of its functions and duties under this Indenture.

The Remarketing Agent shall be entitled to advice of legal counsel on any matter relating to the Remarketing Agent's obligations hereunder and shall be entitled to act upon the opinion of such counsel in the exercise of reasonable care in fulfilling such obligations.

The Remarketing Agent shall be entitled to appoint additional co-Remarketing Agents to assist in the performance of the Remarketing Agent's obligations under this Indenture. Approval in writing from the Issuer shall be required prior to the appointment of any such co-Remarketing Agents by the Remarketing Agent. All such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer at the expense of the Borrower. Additionally, any such co-Remarketing Agent, shall have a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, shall be in conformity with all standards and requirements of the Municipal Securities Rulemaking Board and the Securities and Exchange Commission, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent shall take responsibility for any co-Remarketing Agent it appoints pursuant to this Section 10.23.

Section 10.24 *Qualification of Remarketing Agent.*

The Remarketing Agent shall be a member in good standing of the Financial Industry Regulatory Authority and shall be authorized by law to perform all the duties imposed upon it by this Indenture. Subject to the terms of the Remarketing Agreement, the Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' notice of such resignation to the Issuer, the Borrower, the Investor Limited Partner, the General Partner and the Trustee. The Remarketing Agent may be removed, with prior notice to the Issuer, at any time by the Borrower, with at least 30 days' notice of such removal to the Remarketing Agent.

Upon any resignation or removal of the Remarketing Agent, the departing Remarketing Agent shall pay over, assign and deliver any money and Bonds held by it in such capacity to its successor.

The Trustee, within 30 days of the resignation or removal of the Remarketing Agent or the appointment of a successor Remarketing Agent, shall give notice thereof by registered or certified mail to the Rating Agency (if the Bonds are then rated) and to the Holders of the Bonds.

Section 10.25 *Notices to Rating Agency and Remarketing Notice Parties.* The Trustee shall notify the Rating Agency and the Remarketing Notice Parties of (a) the occurrence of an Event of Default of which the Trustee has actual notice, (b) the occurrence of any monetary or other material default under the Loan of which the Trustee has actual notice, (c) any change in the identity of the Trustee, (d) any amendments, modifications, supplements or changes to this Indenture, the Loan Agreement, the Note or the Bonds, including any extension of principal or modification of interest or redemption premium due on any of the Bonds, in each case only in the event the Trustee has actual notice, (e) any change or proposed change in the structure or identity of the Borrower of which the Trustee has actual knowledge, (f) any change or notification of proposed change of the Mandatory Tender Date or Remarketing Date, (g) any partial prepayment of the Loan or the giving of notice of the call for redemption of any Bonds, (h) any change in the investment of funds subject to the lien of this Indenture, (i) any defeasance or acceleration of the Bonds hereunder, (j) any change in the Remarketing Agent or the Mortgage Lender of which the Trustee has actual knowledge, or (k) any sale of Eligible Investments below par, as shown in a Cash Flow Projection delivered to the Rating Agency prior to the sale date; provided that the Trustee shall incur no liability for failure to give any such notice.

Section 10.26 *Financing Statements.* Pursuant to Section 5.05 of the Loan Agreement, the Borrower shall perfect, permit Mortgage Lender to perfect, or shall otherwise cause to be perfected any security interest created hereunder by the filing of financing statements which fully comply with [lender to provide:] the [Applicable State Law], in the [filing location – state or local]. [trustee to confirm] [Notwithstanding the foregoing, the Trustee shall file all necessary continuation statements with respect to any such original financing statements of which a legible copy showing the date and place of filing, is delivered to the Trustee, at the expense of the Borrower within the time prescribed by the [Applicable State Law].] Notwithstanding anything to the contrary herein or in any other document, the Issuer shall have no responsibility for the preparation, filing or monitoring of any financing statements, continuation statements, termination statements or other filings under State U.C.C. provisions or other applicable law.

Section 10.27 *Trustee Delivery of Information to Borrower and Investor Limited Partner.* The Trustee shall furnish to the Borrower and the Investor Limited Partner all

information reasonably requested by the Borrower or the Investor Limited Partner with respect to the Bonds and the investment of Funds and Accounts maintained by the Trustee hereunder.

Section 10.28 *Trustee Delivery of Information to Rating Agency.* Upon written request by the Borrower or the Rating Agency, the Trustee shall furnish to the Borrower and the Rating Agency all information reasonably requested by the Borrower or the Rating Agency with respect to the Bonds and the investment of Funds and Accounts maintained by the Trustee hereunder.

ARTICLE XI MODIFICATION OF INDENTURE AND OTHER DOCUMENTS

Section 11.01 *Limitation on Amendments to this Indenture.* This Indenture shall not be modified or amended in any respect except as provided in accordance with and subject to the provisions of this Article.

Section 11.02 *Amendments to Indenture and Loan Agreement Not Requiring Consent of Bondholders.*

(a) The Issuer and the Trustee may, from time to time and at any time, without the consent of Bondholders, enter into agreements supplemental to this Indenture and the Loan Agreement as follows:

- (i) to specify and determine any matters and things relative to Bonds which shall not materially adversely affect the interest of the Bondholders;
- (ii) to cure any formal defect, omission or ambiguity in this Indenture or the Loan Agreement if such action does not materially adversely affect the rights of the Bondholders;
- (iii) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with this Indenture as heretofore in effect;
- (iv) to add to the covenants and agreements of the Issuer in this Indenture or the Loan Agreement other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with this Indenture or the Loan Agreement as theretofore in effect;
- (v) to add to the limitations and restrictions in this Indenture or the Loan Agreement, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Indenture or the Loan Agreement as theretofore in effect;
- (vi) to confirm, as further assurance, any pledge under and the subjection to any claim, lien or pledge created, or to be created by, this Indenture, of the Revenues or of any other moneys, securities or funds; or

- (vii) to modify, amend or supplement this Indenture or the Loan Agreement in any respect which, in the judgment of the Trustee, is not materially adverse to the interests of the owners of the Bonds.

(b) Before the Issuer shall enter into any agreement supplemental to this Indenture pursuant to this Section, there shall have been filed with the Trustee an opinion of Bond Counsel stating that (1) such supplemental indenture is authorized or permitted by this Indenture and complies with its terms, and that upon adoption it will be valid and binding upon the Issuer in accordance with its terms and (2) the effectiveness of the supplemental indenture will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

(c) The Trustee shall send written notice to the Borrower, the Investor Limited Partner and Rating Agency of any amendment to this Indenture or the Loan Agreement and, if requested, copies of any such amendments.

Section 11.03 Amendments to Indenture Requiring Consent of Bondholders.

(a) Subject to the terms and provisions contained in this Section and not otherwise, the Holders of not less than 66 2/3% in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, to consent to and approve the execution and delivery by the Issuer and the Trustee of any agreement supplemental to this Indenture as shall be deemed necessary or desirable by the Issuer and the Trustee for the purposes of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this Indenture; *provided, however*, that, unless approved in writing by the Holders of all of the Bonds then Outstanding, nothing herein contained shall permit, or be construed as permitting, (i) a change in the terms of maturity of the principal of or the interest on any Outstanding Bond, or a reduction in the principal amount of any Outstanding Bond or the rate of interest thereon, or (ii) the creation of a claim or lien upon, or a pledge or assignment of, the Trust Estate ranking prior to or on a parity with the claim, lien, assignment or pledge created by this Indenture, or the release of the Trust Estate or any part thereof (except to the extent permitted pursuant to the Documents), or (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (iv) a reduction in the aggregate principal amount of the Bonds required for any action or consent by Bondholders set forth in this Indenture, including (without limitation) that required for consent to such supplemental indentures. This Section shall not limit or otherwise affect the ability of the Issuer to enter into agreements supplemental to this Indenture without the consent of the Bondholders pursuant to Section 11.02 hereof.

(b) If at any time the Issuer and the Trustee shall determine to enter into any supplemental indenture for any of the purposes of this Section, the Trustee shall cause written notice of the proposed supplemental indenture to be given to all Holders of the Bonds; *provided, however*, that failure to give such notice or any defect therein, shall not affect the validity of any proceedings pursuant hereto. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that a copy thereof is on file at the Trust Office for inspection by all Bondholders.

(c) Within one hundred twenty (120) days after the date of giving such notice, the Issuer and the Trustee may enter into such supplemental indenture in substantially the form

described in such notice only if there shall have first been filed with the Issuer (i) the written consents of Holders of not less than 66 2/3% in aggregate principal amount of the Bonds then outstanding (or 100% if required hereunder) and (ii) an Opinion of Counsel stating that (1) such supplemental indenture is authorized or permitted by this Indenture and complies with its terms, and that upon adoption it will be valid and binding upon the Issuer in accordance with its terms and (2) the effectiveness of the supplemental indenture will not adversely affect the exclusion of interest on the Bonds from gross income for federal income taxes.

(d) If the Holders of not less than the percentage of Bonds required by this Section shall have consented to and approved the supplemental indenture as herein provided, no Holder of any Bond shall have any right to object to such supplemental indenture, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety thereof, or to enjoin or restrain the Issuer or the Trustee from entering into the same or from taking any action pursuant to the provisions thereof.

(e) Upon the effectiveness of any supplemental indenture entered into pursuant to the provisions of this Section, this Indenture shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Issuer, the Trustee and all Holders of Bonds then outstanding shall thereafter be determined, exercised and enforced under this Indenture subject in all respects to such modifications and amendments.

(f) The Trustee shall send written notice to the Rating Agency of any amendment to this Indenture.

Section 11.04 *Supplemental Indentures Part of Indenture.* Any supplemental indenture entered into in accordance with the provisions of this Article shall thereafter form a part of this Indenture and all the terms and conditions contained in any such supplemental indenture as to any provision authorized to be contained therein shall be and shall be deemed to be a part of the terms and conditions of this Indenture for any and all such purposes.

Section 11.05 *Required Consent.* Notwithstanding anything herein to the contrary, the Trustee shall not be required to enter into or consent to any supplemental indenture or any amendment of any other Document that would materially adversely affect the rights, obligations, powers, privileges, indemnities, immunities or other security provided the Trustee herein or therein, except to the extent necessary, as set forth in an opinion of Bond Counsel, to preserve the exclusion of interest on the Bonds from gross income for federal income tax purposes. Further, notwithstanding anything herein to the contrary, as long as no default has occurred and is continuing under any of the Documents, any supplemental indenture under this Article shall not become effective unless and until the Borrower shall have consented in writing to such supplemental indenture, and to any related revisions of the Loan Agreement, the Tax Regulatory Agreement or any of the other Documents to be affected.

Section 11.06 *Amendments to Documents Requiring Consent of Bondholders.* Except as provided in Section 11.02 of this Indenture, the Issuer and the Trustee shall not consent to any amendment, change or modification of the Documents without the giving of written notice and the written approval or consent of the Holders of the Bonds at the time Outstanding, given and

procured as provided in Section 11.03 hereof; *provided, however*, no such separate approval or consent shall be required in connection with the issuance of refunding bonds if any required consent of the required number of Holders to the issuance thereof shall have been previously obtained. If at any time the Issuer and the Borrower shall request in writing the consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall cause notice of such proposed amendment, change, or modification to be given in the same manner as provided by Section 11.03 hereof with respect to supplemental indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the Trust Office for inspection by all Bondholders.

Section 11.07 *Conversion Date.* On the Conversion Date and upon the execution and delivery of the Funding Loan Agreement, the Governmental Lender Note and the Borrower Loan Agreement, this Indenture, the Loan Agreement and the Bonds shall be deemed amended, restated and superseded in full by the terms thereof. The requirements of Sections 11.03 through 11.06 hereof shall not apply to such amendment and restatement.

ARTICLE XII MISCELLANEOUS

Section 12.01 *Issuer's Successors.* In the event of the dissolution of the Issuer, all the covenants, stipulations, promises and agreements in this Indenture contained by or on behalf of, or for the benefit of, the Issuer, shall bind or inure to the benefit of the successors of the Issuer from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the Issuer shall be transferred.

Section 12.02 *Indenture for Benefit of Issuer, Trustee and Bondholders.* Except as herein otherwise specifically provided, nothing in this Indenture expressed or implied is intended or shall be construed to confer upon any person, other than the Issuer, the Trustee and the Holders of the Bonds, any right, remedy or claim under or by reason of this Indenture, this Indenture being intended to be for the sole and exclusive benefit of the Issuer and the Trustee and the Holders of the Bonds; *provided* that this Indenture shall also be for the benefit of the Borrower and the Investor Limited Partner, and the Borrower and the Investor Limited Partner shall be deemed to be third-party beneficiaries of and in connection with those matters in which the terms of this Indenture fairly construed are indicative that they are for the benefit of the Borrower or the Investor Limited Partner.

Section 12.03 *Severability.* In case any one or more of the provisions of this Indenture or of the Bonds for any reason, is held to be illegal or invalid such illegality or invalidity shall not affect any other provisions of this Indenture or the Bonds, and this Indenture and the Bonds shall be construed and enforced to the end that the transactions contemplated hereby be effected and the obligations contemplated hereby be enforced as if such illegal or invalid provisions had not been contained therein.

Section 12.04 *Officials of Issuer Not Liable.* No personal recourse may be taken, directly or indirectly, against any past, present or future officer, director, employee or agent of the Issuer with respect to the obligations of the Issuer under this Indenture or any certificate or other writing delivered in connection therewith. The Issuer's immunities and protections from liability and its

right to indemnification in connection with the performance of its duties and functions under this Indenture shall extend to the Issuer's past, present and future officers, directors, employees and agents.

Section 12.05 *Governing Law.* The laws of the State shall govern the construction and interpretation of this Indenture and of all Bonds issued hereunder.

Section 12.06 *Notices; Publication of Notice.*

(a) All notices, advice, certifications or other communications hereunder between the Issuer and the Trustee shall be sufficiently given and shall be deemed given when delivered by hand or overnight courier, or mailed by certified or registered mail, postage prepaid, return receipt requested, or transmitted by electronic means (including, without limitation, facsimile or electronic mail transmission) addressed to the appropriate Notice Address set forth below. The Issuer or the Trustee may, by notice given hereunder, designate any further or different address(es) to which subsequent notices, advice, certifications or other communications shall be sent. Notices to persons other than the Issuer or the Trustee (such as, for example, notices to Owners of Bonds) shall be governed by the other applicable provisions of this Indenture.

As to the Issuer:

Housing Authority of the City of San Diego
1122 Broadway, Suite 300
San Diego, California 92101
Attention: Executive Director
Phone: (619) 578-7575
Facsimile: (619) 578-7356

As to the Trustee:

U.S. Bank Trust Company, National Association
633 W. 5th Street, 24th Floor
Los Angeles, CA 90071
Attn: Global Corporate Trust
Phone: (213) 615-6079

With copies to:

[_____]
[_____]
[_____]
[_____]

As to the Borrower:

Bernardo Family Housing, L.P.
[_____]

[_____]
[_____]

With copies to:

[_____]
[_____]
[_____]
[_____]

As to the Mortgage Lender:

Bank of America, N.A.
Dallas Infomart
1950 N. Stemmons Fwy, Suite 5049
Dallas, TX 75207
Mailcode: TX2-160-05-33
Attention: Construction Servicing (Real Estate)
Loan Administration Manager

With copy to:
Buchalter, a Professional Corporation
1000 Wilshire Blvd., Suite 1500
Los Angeles, CA 90017
Attention: Michael A. Williamson, Esq.
Re: Skyline (B0965-0723)

As to the Underwriter and Remarketing Agent:

Lument Securities, LLC
10 West Broad Street, 8th Floor
Columbus, OH 43215
Attn: Nicholas A. Hamilton

With copies to:

Tiber Hudson LLC
1800 M Street, N.W., Suite 350 South
Washington, DC 20036
Attention: Kent Neumann, Esq.
Telephone: (202) 973-0107
Telecopier: (202) 296-6990
Email: kent@tiberhudson.com

As to the Rating Agency:

Moody's Investors Service, Inc.

7 World Trade Center
250 Greenwich Street, 16th Floor
New York, NY 10007
Attention: Public Finance Department — Housing Group
Email: Housing@moody.com

As to the Investor Limited Partner:

Bank of America, N.A.
100 Federal St.
Mail Code: MA5-100-004-11
Boston, MA 02110
Attention: Asset Management

With copy to:
Buchalter, a Professional Corporation
1000 Wilshire Blvd., Suite 1500
Los Angeles, CA 90017
Attention: Michael A. Williamson, Esq.
Re: Skyline (B0965-0723)

As to Citi:

Citibank, N.A.
388 Greenwich Street, Trading 4th Floor
New York, New York 10013
Attention: Transaction Management Group
Telephone: (561) 347-3231
Facsimile: (212) 723-8209
Deal ID No. [_____]

(b) Whenever the Issuer or the Trustee is required or permitted to give or publish notice of any event or occurrence under this Indenture, such notice shall be given or published in such manner and by such means as the Issuer or the Trustee, as the case may be, shall determine to be appropriate. Such publication may be by (but is not limited to) any of the following means: (1) publication in one or more newspapers or trade journals selected by the Issuer or the Trustee, as the case may be; (2) publication by or through one or more financial information reporting services; (3) delivery to one or more “nationally recognized municipal securities information repositories” (as such term is defined in Securities and Exchange Commission Rule 15c2-12) or any successor repository or entity fulfilling a substantially similar or like role; or (4) by mailing a copy of such notice by first class mail, postage prepaid, to the person entitled to receive the notice at such person’s address as shown on the records of the Issuer or the Trustee.

Section 12.07 Trustee as Paying Agent and Bond Registrar. The Trustee is hereby designated and agrees to act as paying agent and Bond registrar for and in respect to the Bonds.

Section 12.08 *Execution of Instruments by Bondholders and Proof of Ownership of Bonds.* Any request, direction, consent or other instrument in writing required or permitted by this Indenture to be signed or executed by Bondholders may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed by an instrument in writing. Proof of the execution of any such instrument and of the ownership of the Bonds shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments within such jurisdiction, to the effect that the person signing such instrument acknowledged before him the execution thereof, or by an affidavit of a witness to such execution.

(b) The ownership of Bonds shall be conclusively proved by the registration books kept under the provisions of Section 2.08 of this Indenture.

Nothing contained in this Article shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which to it may seem sufficient. Any request or consent of the Holder of any Bond shall bind every future Holder of the same Bond in respect of anything done by the Trustee pursuant to such request or consent.

Section 12.09 *Mortgage Loan Documents Independent.*

(a) Enforcement of the covenants in this Indenture will not result in, and neither the Issuer nor the Trustee has or shall be entitled to assert, any claim against the Borrower, the Project, the Mortgage Loan proceeds, any reserves or deposits required by the Mortgage Lender in connection with the Mortgage Loan transaction, or the rents or deposits or other income of the Project.

(b) Failure of the Issuer or the Borrower to comply with any of the covenants set forth in this Indenture or any of the Borrower Documents will not serve as a basis for default on the Mortgage Loan, the underlying mortgage, or any of the other Mortgage Loan Documents.

(c) Notwithstanding anything in this Indenture, the Loan Agreement, the Note or the Bond Purchase Agreement to the contrary, (i) the Mortgaged Property (as defined in the Mortgage Loan Security Instrument) shall not include any portion of the Trust Estate and the Mortgage Lender shall not have any claim to or lien upon the Trust Estate under this Indenture and funds held by the Trustee under this Indenture and pledged to secure the repayment of the Bonds, except for Eligible Funds that may be returned to the party that deposited said funds with the Trustee as may be required under Section 5.02 hereof; and (ii) the Trust Estate shall not include any portion of the Mortgaged Property (as defined in the Mortgage Loan Security Instrument).

Section 12.10 *Counterparts.* This Indenture may be simultaneously executed in several counterparts, each of which shall be an original, but all of which shall constitute but one and the same instrument.

Section 12.11 *U.S.A. Patriot Act Requirements of the Trustee.* 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 Trustee may request documentation to verify such Person's formation and existence as a legal entity and the identity of the owners or controlling persons thereof. The Trustee may also request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent such Person or other relevant documentation.

Section 12.12 *Electronic Transmissions.*

(a) The transactions described in this Indenture may be conducted and the related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

(b) [The Trustee shall have the right to accept and act upon directions or instructions given pursuant to this Indenture and delivered using Electronic Means (defined below); *provided, however,* that Borrower, the Issuer or such other party giving such direction or instruction, as the case may be, shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such directions or instructions (each an “Authorized Officer”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. For purposes of this subsection (b), “Electronic Means” shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Trustee as available for use in connection with its services hereunder. If the Borrower, the Issuer or such other party giving such direction or instruction elects to give the Trustee directions or instructions using Electronic Means and the Trustee in its discretion elects to act upon such directions or instructions, the Trustee’s understanding of such directions or instructions shall be deemed controlling. The Borrower, the Issuer and any other party giving such direction or instruction understand and agree that the Trustee cannot determine the identity of the actual sender of such directions or instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Borrower, the Issuer or such other party giving such instruction shall each be responsible for ensuring that only Authorized Officers transmit such directions or instructions to the Trustee and that only Authorized Officers transmit such directions or instructions to the Trustee and that all Authorized Officers treat applicable user and authorization codes, passwords and/or authentication keys as confidential and with extreme care. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such directions or instructions notwithstanding such directions or instructions conflict or are inconsistent with a subsequent written direction or written instruction. The Borrower agrees: (i) to assume all risks arising out of the use of Electronic Means to submit directions or instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized directions or instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Trustee and that there may be more secure methods of transmitting directions or instructions; (iii) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.]

[Signature Pages Follow]

IN WITNESS WHEREOF, the Issuer has caused this Indenture to be signed in its name and behalf by its Authorized Issuer Representative, and the Trustee has caused this Indenture to be signed in its name by one of its duly authorized officers, all as of the day and year first above written.

**HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO**

By _____
Name:
Title:

[Signature page – Trust Indenture – SkyLINE]

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Trustee**

By _____
Authorized Officer

[Signature page – Trust Indenture – SkyLINE]

CONSENT AND AGREEMENT OF BORROWER

For and in consideration of the issuance of the Bonds by the Issuer, the Borrower consents to and approves the Indenture in all respects. In addition, the Borrower agrees that whenever the Indenture by its terms imposes any duty or obligation on 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 Indenture, and the Borrower agrees to carry out and perform its duties and obligations thereunder.

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood, President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood, Executive Director

[Signature page – Trust Indenture – SkyLINE]

**APPENDIX A
FORM OF 2023 SERIES B BONDS**

No. R-1

\$_____

**HOUSING AUTHORITY OF THE CITY OF SAN DIEGO
MULTIFAMILY HOUSING REVENUE BONDS
(SKYLINE) 2023 SERIES B**

THE BONDS AND THE INTEREST THEREON ARE A LIMITED OBLIGATION OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE. NONE OF THE ISSUER, THE CITY OF SAN DIEGO, THE STATE OF CALIFORNIA, NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH HEREIN) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH HEREIN AND IN THE BONDS, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS 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 ISSUER HAS NO TAXING POWER.

DATED DATE	INITIAL INTEREST RATE	INITIAL MANDATORY TENDER DATE	MATURITY DATE	CUSIP NUMBER
October __, 2023	____%	_____ 1, 20__	_____ 1, 20__	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: [_____] DOLLARS (\$_____)

FOR VALUE RECEIVED, the HOUSING AUTHORITY OF THE CITY OF SAN DIEGO (the "Issuer"), a public instrumentality and a political subdivision of the State of California (the "Issuer"), hereby promises to pay (but only out of the Trust Estate pledged therefor) to the registered owner identified above, or its successor or registered assignee or legal representative, unless previously called for redemption, the principal amount set forth above, on the Maturity Date identified above, in lawful money of the United States of America which on the date of payment is legal tender for the payment of public and private debts, upon the presentation and surrender of this Bond at the corporate trust office of U.S. Bank Trust Company, National Association, as trustee, or its successor in trust (the "Trustee"), and to pay interest thereon (but only out of the

Revenues) to the registered owner hereof from the Dated Date identified above to but not including [_____] 1, 20__] (the “Initial Mandatory Tender Date”), at the Initial Interest Rate per annum identified above and thereafter at the Remarketing Rate (as defined in the Trust Indenture) (subject to adjustment or change as provided in the Trust Indenture), payable at the times and in the manner hereinafter set forth. Principal hereof shall be payable, upon the request of any registered Holder of Bonds on the applicable Record Date having an aggregate principal amount of \$1,000,000 or more, by wire transfer of immediately available funds from the Trustee to the bank and account number specified by such holder to the Trustee in writing. All interest hereon shall be paid by check or draft mailed by the Trustee to the registered Owner hereof at his or her address as it appears on the registration books of the Issuer, or, upon the request of any registered Holder of Bonds having an aggregate principal amount of \$1,000,000 or more, by wire transfer of immediately available funds from the Trustee to the bank and account number provided by such registered Owner to the Trustee in writing, such interest being payable semi-annually on each [_____] 1 and [_____] 1, commencing [_____] 1, 2024], until the principal amount of the Bonds is paid or duly provided for in lawful money of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. Capitalized terms used herein have the same meanings as set forth in the Trust Indenture, dated as of October 1, 2023, by and between the Issuer and the Trustee (the “Trust Indenture”).

This Bond is one of an issue of the \$[42,476,918] Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B (the “Bonds”), of like date and tenor, except as to number and denomination, issued under and pursuant to the Constitution and laws of the State of California (the “State”) and the provisions of Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code, as amended (the “Act”), for the purpose of making a loan to Bernardo Family Housing, L.P., a California limited partnership (the “Borrower”), to finance or refinance the costs of the acquisition, construction and development of a 100-unit (including one manager’s unit) multifamily rental housing development located in the City of San Diego (the “Project”). The proceeds of the Bonds are being loaned to the Borrower by the Issuer under a Loan Agreement dated as of October 1, 2023, by and between the Borrower and the Issuer (the “Loan Agreement”) and evidenced by a Promissory Note dated October [___], 2023, from the Borrower in favor of the Issuer (the “Note”).

The Bonds are issued under the Trust Indenture, and to the extent provided therein, are, together with all other Bonds that may be issued thereunder, equally and ratably secured and entitled to the protection given by the Trust Indenture. Pursuant to the Trust Indenture, the Issuer has assigned to the Trustee (among other things) the Revenues. Pursuant to the Note and the Loan Agreement, payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Borrower to the Trustee for the account of the Issuer. The obligations of the Borrower under the Note and the Loan Agreement are secured by the proceeds of the Bonds deposited into the Project Fund (other than funds on deposit in the Subordinate Loan Account of the Project Fund) and Eligible Funds deposited into the Collateral Fund created pursuant to Section 4.01 of the Trust Indenture.

Reference is made to the Trust Indenture, the Note, and the Loan Agreement and to all amendments and supplements thereto for a description of the property pledged and assigned and the provisions, among others, with respect to the nature and extent of the security, the rights, duties and other obligations of the Issuer and the Trustee, the terms on which the Bonds are issued and

secured, the rights of the Holders of the Bonds and provisions for defeasance of such rights. The terms and conditions set forth herein concerning payment and other rights and remedies of the Owners of the Bonds are descriptive only and are subject in all cases to the terms and conditions as set forth in the Trust Indenture.

The Bonds are issuable in the form of registered Bonds without coupons in denominations of \$5,000 each or any integral multiple of \$5,000 in excess thereof (the “Authorized Denominations”).

This Bond is negotiable and is transferable, as provided in the Trust Indenture, only upon the books of the Issuer kept at the office of the Trustee, by the registered owner hereof in person or by his duly authorized attorney, and may be exchanged for new Bonds of the same aggregate principal amount of Authorized Denominations, maturity and interest rate, in registered form, but only upon presentation and surrender of this Bond, all in the manner and subject to the limitations and conditions provided in the Trust Indenture. The Issuer and the Trustee may deem and treat the person in whose name this Bond is registered as the absolute Owner hereof for all purposes; and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

The Bonds are subject to mandatory tender in whole on each Mandatory Tender Date. Holders will not have the right to elect to retain their Bonds. Upon presentation and surrender of the Bonds by the Holder on the date fixed for tender, the Holder shall be paid the principal amount of the Bonds to be tendered, plus accrued interest on such Bonds to the Mandatory Tender Date.

The Holder of this Bond shall have no right to enforce the provisions of the Trust Indenture, or to institute action to enforce the covenants therein, or to take any action with respect to any default under the Trust Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Trust Indenture. The Trustee shall treat the registered Owner of this Bond as the person exclusively entitled to payment of principal and interest, and the exercise of all rights and powers of the owner of this Bond.

All acts, conditions and things required by the statutes of the State of California, the Act and the Trust Indenture to exist, to have happened and to have been performed precedent to and in the issuance of this Bond, do exist, have happened and have been performed.

In any case where the date of maturity of or Interest Payment Date for this Bond shall not be a Business Day, the payment of interest or principal 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 the date of maturity or Interest Payment Date, as applicable.

This Bond shall not be entitled to any benefit under the Trust Indenture, or be valid or become obligatory for any purpose, until the Trustee shall have executed the Certificate of Authentication appearing hereon.

[Signature Page Follows]

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed on its behalf by the facsimile signature of its [Executive Director] and attested to by the facsimile signature of its Deputy Secretary, all as of the Issue Date set forth above.

HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO, as Issuer

By _____
[_____]

Attest:

By: _____
Deputy Secretary

FORM OF CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the Trust Indenture referred to in this Bond.

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION**

By: _____
Authorized Officer

Date of Authentication: _____, 2023

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto

(Please Print or Type Name and Address of Assignee)

Social Security or Taxpayer Identification Number:_____

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints

Attorney to transfer the said bond on the books of the within-named Issuer maintained by the Trustee for the registration thereof, with full power of substitution in the premises.

Notice: The signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed.

Signature guaranteed by:

[Bank, Trust Company or Firm]

Authorized Signature

(Signature(s) must be guaranteed by a broker or other financial institution which is a participant in the Securities Transfer Agent's Medallion Program (STAMP, SEMP, MSP)).

APPENDIX B-1

FORM OF REQUISITION

STATEMENT NO. _____ REQUESTING DISBURSEMENT OF FUNDS FROM
PROJECT FUND PURSUANT TO SECTION 3.03 OF THE LOAN
AGREEMENT

Pursuant to Section 3.03 of the Loan Agreement dated as of October 1, 2023 (the “*Loan Agreement*”) between the Housing Authority of the City of San Diego (the “*Issuer*”) and Bernardo Family Housing, L.P., a California limited partnership (the “*Borrower*”), the undersigned Authorized Borrower Representative hereby requests and authorizes U.S. Bank Trust Company, National Association, as trustee (the “*Trustee*”), as depositary of the [Subordinate Loan Account of the] Project Fund created by the Trust Indenture dated as of October 1, 2023 (the “*Indenture*”), between the Issuer and the Trustee, to pay [to the Borrower] [to [Mortgage Lender Name], as Mortgage Lender] [or to the Person(s) listed on the Disbursement Schedule hereto] out of the money deposited in [the Subordinate Loan Account of] the Project Fund the aggregate sum of \$_____ to pay the costs of the items listed in the Disbursement Schedule. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Indenture and in the Tax Exemption Agreement.

In connection with the foregoing request and authorization, the undersigned hereby certifies that:

- (a) Each item for which disbursement is requested hereunder is properly payable out of [the Subordinate Loan Account of] the Project Fund in accordance with the terms and conditions of the [Subordinate Loan Documents] [Loan Agreement] and none of those items has formed the basis for any disbursement heretofore made from said [Subordinate Loan Account of the] Project Fund.
- (b) Each such item is or was incurred in connection with the acquisition, construction, installation, equipment or improvement of the Project.
- (c) The Borrower has received, or will concurrently with payment receive and deliver to the Trustee, appropriate waivers of any mechanics’ or other liens with respect to each item for which disbursement is requested hereunder.
- (d) After taking into account the proposed disbursement,
 - (i) no more than 5% of the Net Proceeds of the Bonds will have been used for costs that are not Qualified Project Costs;
 - (ii) less than 25% of the Net Proceeds of the Bonds will have been used for the cost of acquiring land; and

(iii) not more than 2% of the Net Proceeds of the Bonds will have been used for Costs of Issuance.

(e) There is no current or existing default or event of default pursuant to the terms of the Loan Agreement, the Tax Regulatory Agreement or the Tax Exemption Agreement and no event exists which by notice or passage of time or both would constitute an event of default under any of the foregoing documents. [With respect to amounts disbursed from the Subordinate Loan Account of the Project Fund, there is no current or existing default or event of default pursuant to the terms of the Subordinate Loan Documents and no event exists which by notice or passage of time or both would constitute an event of default under any of the foregoing documents.]

(f) There are no liens on the Project except Permitted Encumbrances and those permitted or provided for by the [Subordinate Loan Documents] [Loan Agreement].

(g) This statement and all exhibits hereto, including the Disbursement Schedule, shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warranty, protection and authority to the Trustee for its actions taken pursuant hereto.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

This statement constitutes the approval of the Borrower of each disbursement hereby requested and authorized.

This ____ day of _____, 20__.

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood, President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood, Executive Director

Approved:

U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION

By: _____
Authorized Officer

DISBURSEMENT SCHEDULE

TO STATEMENT NO. _____ REQUESTING AND AUTHORIZING DISBURSEMENT OF FUNDS FROM
[SUBORDINATE LOAN ACCOUNT OF THE] PROJECT FUND PURSUANT TO SECTION 3.03 OF THE LOAN
AGREEMENT

APPENDIX B-2

FORM OF REQUISITION

STATEMENT NO. _____ REQUESTING DISBURSEMENT OF FUNDS FROM
COSTS OF ISSUANCE FUND PURSUANT TO SECTION 4.07 OF THE
INDENTURE

Pursuant to Section 4.07 of the Trust Indenture dated as of October 1, 2023 (the “*Indenture*”) between the Housing Authority of the City of San Diego (the “*Issuer*”) and U.S. Bank Trust Company, National Association, as trustee (the “*Trustee*”), the undersigned Authorized Borrower Representative hereby requests and authorizes the Trustee, as depositary of the Costs of Issuance Fund created by the Indenture, to pay [to Bernardo Family Housing, L.P., a California limited partnership (the “*Borrower*”)] [to the Person(s) listed on the Disbursement Schedule hereto] out of the money deposited in the Costs of Issuance Fund the aggregate sum of \$_____ to pay the costs of the items listed in the Disbursement Schedule. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Indenture.

In connection with the foregoing request and authorization, the undersigned hereby certifies that:

(a) Each item for which disbursement is requested hereunder is properly payable out of the Costs of Issuance Fund in accordance with the terms and conditions of the Indenture and none of those items has formed the basis for any disbursement heretofore made from said Costs of Issuance Fund.

(b) After taking into account the proposed disbursement, not more than 2% of the Net Proceeds of the Bonds will have been used for Costs of Issuance.

(c) There is no current or existing default or event of default pursuant to the terms of the Indenture, Loan Agreement, the Tax Regulatory Agreement [or the Tax Certificate] and no event exists which by notice or passage of time or both would constitute an event of default under any of the foregoing documents.

(d) This statement and all exhibits hereto, including the Disbursement Schedule, shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warranty, protection and authority to the Trustee for its actions taken pursuant hereto.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

This statement constitutes the approval of the Borrower of each disbursement hereby requested and authorized.

This ____ day of _____, 20__.

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood, President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood, Executive Director

Approved:

U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION

By: _____
Authorized Officer

DISBURSEMENT SCHEDULE

TO STATEMENT NO. _____ REQUESTING AND AUTHORIZING DISBURSEMENT OF FUNDS FROM
COSTS OF ISSUANCE FUND PURSUANT TO SECTION 4.07 OF THE TRUST INDENTURE

APPENDIX C
FUNDING LOAN AGREEMENT

FUNDING LOAN AGREEMENT

among

**CITIBANK, N.A.,
as Funding Lender**

and

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

and

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

dated as of _____, 202_ [Conversion Date]

relating to:

**\$(PERM LOAN AMT)
Housing Authority of the City of San Diego
Multifamily Housing Revenue Note
(SkyLINE) 2023 Series B**

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EXHIBIT A	FORM OF GOVERNMENTAL LENDER NOTE
EXHIBIT B	FORM OF REQUIRED TRANSFEREE REPRESENTATIONS

FUNDING LOAN AGREEMENT

This Funding Loan Agreement, dated as of _____, 202_ [Conversion Date] (this “Funding Loan Agreement”), is entered into by CITIBANK, N.A. (together with any successor hereunder, the “Funding Lender”), the HOUSING AUTHORITY OF THE CITY OF SAN DIEGO (together with its successors and assigns, the “Governmental Lender”), a public body corporate and politic, organized and existing under the laws of the State of California (the “State”), and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America, as fiscal agent (together with its successors and assigns, the “Fiscal Agent”).

RECITALS:

WHEREAS, in accordance with the Housing Authorities Law, Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code (the “Act”), the Governmental Lender is empowered to issue bonds to finance the acquisition, construction, rehabilitation and development of multifamily rental housing for persons of low and moderate income; and

WHEREAS, on _____, 2023 (the “Delivery Date”) pursuant to and in accordance with the Act and a Trust Indenture dated as of October 1, 2023 (the “Indenture”) between the Governmental Lender and the Fiscal Agent, the Governmental Lender issued and sold its \$[42,476,918] Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B (the “Bonds”), and used the proceeds thereof to make a loan to Bernardo Family Housing, L.P., a California limited partnership (the “Borrower”), upon the terms and conditions of a promissory note dated [the Delivery Date] from the Borrower to the Governmental Lender in the original principal amount of \$[42,476,918] and the Loan Agreement dated as of the same date as the Indenture between the Governmental Lender and the Borrower (the “Loan Agreement”), for purposes of funding a portion of the costs of acquiring, constructing and equipping a 100-unit (including one manager’s unit) multifamily rental housing development located in the City of San Diego, California, to be known as SkyLINE (formerly known as Rancho Bernardo Transit Village) (the “Project”); and

WHEREAS, in connection with the issuance of the Bonds, the Funding Lender entered into a Forward Commitment Agreement with the Borrower and Bank of America, N.A. (the “Construction Lender”) dated as of _____ 1, 2023 (the “Citi Forward Commitment”), whereby the Funding Lender committed, subject to the satisfaction on or before the Termination Date (as defined in the Citi Forward Commitment) of the Conditions to Conversion set forth in the Citi Forward Commitment, to facilitate the permanent financing of the Project by making the Funding Loan (defined below) pursuant to the provisions of this Funding Loan Agreement; and

WHEREAS, as of the date hereof, the Funding Lender has determined that the Conditions to Conversion have been satisfied and, as a result, (i) the Bonds are subject to mandatory tender in accordance with the Indenture, (ii) the purchase price of the Bonds is being paid with amounts on deposit under the Indenture, (iii) a portion of the principal amount of the Bonds is being cancelled or redeemed such that the principal amount outstanding equals the Permanent Period Amount (as defined in the Citi Forward Commitment), (iv) the Bonds are being removed from the Book-Entry System and being converted to a physical Governmental Lender Note (as described below) which

is being purchased by the Funding Lender, (v) this Funding Loan Agreement and the Borrower Loan Agreement dated as of the Conversion Date (the “Borrower Loan Agreement”) by and between the Governmental Lender and the Borrower are being delivered by the respective parties and becoming effective and superseding the Indenture and the Loan Agreement, and (vi) the taxable mortgage loan provided by the Construction Lender is being paid in full in accordance with the Indenture; and

WHEREAS, pursuant to this Funding Loan Agreement, the Funding Lender will (i) advance funds (the “Funding Loan”) to or for the account of the Governmental Lender, and (ii) apply the proceeds of the Funding Loan to make a loan (the “Borrower Loan”) to the Borrower; and

WHEREAS, pursuant to the Borrower Loan Agreement, the Borrower agrees to make loan payments to the Governmental Lender in an amount which, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related thereto when due; and

WHEREAS, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender its Borrower Note (as defined herein) and the obligations of the Borrower under the Borrower Note will be secured by a lien on and security interest in the Project (as defined herein) pursuant to a [Multifamily Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California)], of even date herewith (the “Security Instrument”), made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan; and

WHEREAS, the Governmental Lender has executed and delivered to the Funding Lender its Governmental Lender Note (as defined herein), evidencing its obligation to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, all things necessary to make this Funding Loan Agreement the valid, binding and legal limited obligation of the Governmental Lender, have been done and performed and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Lender Note, subject to the terms hereof, have in all respects been duly authorized.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1 Definitions. For all purposes of this Funding Loan Agreement, except as otherwise expressly provided or unless the context otherwise clearly requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Borrower Loan Agreement.

(b) The terms “herein,” “hereof” and “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. The terms “agree” and “agreements” contained herein are intended to include and mean “covenant” and “covenants.”

(c) All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

(d) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with the Approved Accounting Method. All references herein to “Approved Accounting Method” refer to such principles as they exist at the date of application thereof.

(e) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(f) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(g) References to the Governmental Lender Note as “tax-exempt” or to the “tax-exempt status” of the Governmental Lender Note are to the exclusion of interest on the Governmental Lender Note (other than any portion of the Governmental Lender Note held by a “substantial user” of the Project or a “related person” within the meaning of Section 147 of the Code) from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

(h) The following terms have the meanings set forth below:

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

“Additional Borrower Payments” shall have the meaning given such term in the Borrower Loan Agreement.

“Affiliate” means, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

“Approved Transferee” means (a) a “qualified institutional buyer” (“QIB”) as defined in Rule 144A promulgated under the Securities Act that is a financial institution or commercial bank having capital and surplus of \$5,000,000,000 or more, (b) an affiliate of the Funding Lender, or (c) a trust or custodial arrangement established by the Funding Lender or one of its Affiliates the beneficial interests in which will be owned only by QIBs.

“Authorized Governmental Lender Representative” means the Chairman, the Vice Chairman or the Executive Director of the Governmental Lender, the Senior Vice President of Real Estate of the Commission, the Vice President of Real Estate Finance and Program Development of the Commission or the Chief Operating Officer of the Commission, or any person or persons designated to act on behalf of the Governmental Lender by a certificate filed with the Borrower, Funding Lender and Servicer, if any, containing the specimen signatures of such person or persons and signed on behalf of the Governmental Lender by its Chairman, Vice Chairman or Executive Director of the Governmental Lender or the Senior Vice President of Real Estate of the Commission, the Vice President of Real Estate Finance and Program Development of the Commission or the Chief Operating Officer of the Commission.

“Borrower” means Bernardo Family Housing, L.P., a California limited partnership.

“Borrower Loan” shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the aggregate principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

“Borrower Loan Agreement” shall mean the Borrower Loan Agreement, of even date herewith, between the Governmental Lender and the Borrower, as supplemented, amended or replaced from time to time in accordance with its terms.

“Borrower Loan Agreement Default” shall mean any event of default set forth in Section 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall “exist” if a Borrower Loan Agreement Default shall have occurred and be continuing beyond any applicable cure period.

“Borrower Loan Amount” shall mean \$[PERM LOAN AMT], the maximum principal amount of the Borrower Loan under the Borrower Loan Agreement.

“Borrower Loan Documents” shall have the meaning given such term in the Borrower Loan Agreement.

“Borrower Note” shall mean the “Borrower Note” as defined in the Borrower Loan Agreement.

“Business Day” shall mean any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in New York, New York or California are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Citi Forward Commitment” shall have the meaning given to such term in the recitals to this Funding Loan Agreement.

“Closing Costs” has the meaning given to the term Costs of Funding in the Borrower Loan Agreement.

“Code” means the Internal Revenue Code of 1986 as in effect on the date of execution and delivery of the Governmental Lender Note or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Delivery Date, together with applicable proposed,

temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Commission” shall mean the San Diego Housing Commission, a public agency.

“Control” shall mean, with respect to any Person, either (a) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

“Conversion” has the meaning given to such term in the Borrower Loan Agreement.

“Conversion Date” shall mean _____, 202_, the date that the Funding Loan proceeds are funded hereunder.

“Default” shall mean the occurrence of an event, which, under any Funding Loan Document, would, but for the giving of notice or passage of time, or both, be an event of default under the applicable Funding Loan Document or a Borrower Loan Agreement Default.

“Equity Investor” shall mean Bank of America, N.A., a national banking association, in its capacity as investor limited partner in the Borrower, its permitted successors and assigns.

“Event of Default” shall have the meaning ascribed thereto in Section 9.1 hereof.

“Expense Fund” shall mean the fund of that name established under Section 7.3(c) hereof.

“Fair Market Value” shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (a) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (b) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (c) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (d) any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment. To the extent required by the Regulations, the term “investment” will include a hedge.

“Fiscal Agent” shall mean U.S. Bank Trust Company, National Association, which entity is appointed pursuant to Section 11.1 to serve as Fiscal Agent under this Funding Loan Agreement, and any successor thereto pursuant to Section 11.10.

“Fiscal Agent’s Fees” shall mean the annual administration fees of the Fiscal Agent, for the ordinary services of the Fiscal Agent rendered under this Funding Loan Agreement during each twelve-month period and shall be equal to [____]% of: (i) prior to the Conversion Date, the maximum principal amount of the Governmental Lender Note issuable hereunder and (ii) following the Conversion Date, the outstanding principal amount of the Governmental Lender Note, with a minimum annual amount of \$[____], payable annually in arrears on each _____ 1, commencing _____, 202__.

“Funding Lender” shall mean Citibank N.A., a national banking association, and any successor under this Funding Loan Agreement and the Borrower Loan Documents.

“Funding Loan Agreement” shall mean this Funding Loan Agreement, by and among the Funding Lender, the Governmental Lender and the Fiscal Agent, as it may from time to time be supplemented, modified or amended by one or more agreements or other instruments supplemental hereto entered into pursuant to the applicable provisions hereof.

“Funding Loan Documents” shall mean (a) this Funding Loan Agreement, (b) the Borrower Loan Agreement, (c) the Regulatory Agreement, (d) the Tax Certificate, (e) the Borrower Loan Documents, (f) all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and (g) all amendments, modifications, renewals and substitutions of any of the foregoing.

“Funding Loan Payment Fund” shall mean the fund of that name established by Section 7.3(a) hereof.

“Governmental Authority” has the meaning given to such term in the Borrower Loan Agreement.

“Governmental Lender” shall mean the Housing Authority of the City of San Diego.

“Governmental Lender Note” shall mean that certain Housing Authority of the City of San Diego Multifamily Housing Revenue Note (SkyLINE) 2023 Series B, dated the Conversion Date in the original maximum principal amount of \$[PERM LOAN AMT] made by the Governmental Lender and payable to the Funding Lender, as it may be amended, supplemented, or replaced from time to time.

“Highest Rating Category” shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the highest rating category given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax-exempt municipal debt established by S&P is “A1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG1” (for fixed rate) or “VMIG1” (for variable rate) for three months or less and “Aaa” for greater than three months. If at any time (a) both S&P and Moody’s rate a Permitted Investment and (b) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below

the Highest Rating Category of that rating agency, then the Permitted Investment will be deemed to be rated below the Highest Rating Category. For example, a Permitted Investment rated “AAA” by S&P and “A1” by Moody’s is not rated in the Highest Rating Category.

“Loan Covenant Agreement” shall mean the Loan Covenant Agreement between the Borrower and the Funding Lender, dated the date hereof.

“Maturity Date” shall mean _____ 1, 20__.

“Maximum Rate” shall mean the lesser of (a) 12% per annum, and (b) the maximum interest rate that may be paid on the Funding Loan under State law.

“Minimum Beneficial Ownership Amount” shall mean an amount no less than \$100,000.

“Moody’s” shall mean Moody’s Investors Service, Inc., or its successor.

“Noteowner” or “owner of the Governmental Lender Note” means the owner of the Governmental Lender Note as shown on the registration books maintained by the Fiscal Agent pursuant to Section 2.4(e).

“Ongoing Governmental Lender Fee” shall mean the ongoing portion of the Authority Fee (as that term is defined in the Regulatory Agreement).

“Opinion of Counsel” shall mean a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

“Permitted Investments” shall mean, to the extent authorized by law for investment of any moneys held under this Funding Loan Agreement, but only to the extent that the same are acquired at Fair Market Value:

(a) Direct obligations of the United States of America including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America (“Government Obligations”).

(b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United States of America or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.

(c) Demand deposits or time deposits with certificates of deposit issued by the Fiscal Agent or its affiliates or any bank organized under the laws of the United States of America or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000 and maturing in less than 365 days; provided that the Fiscal Agent or such other institution has been rated at least “VMIG-1”/“A-1+” by Moody’s/S&P which deposits or certificates are fully insured by the Federal Deposit

Insurance Corporation or collateralized pursuant to the requirements of the Office of the Comptroller of the Currency.

(d) Bonds (including tax-exempt bonds), bills, notes or other obligations of or secured by Fannie Mae, Freddie Mac, the Federal Home Loan Bank or the Federal Farm Credit Bank.

(e) Money market funds rated AAA by S&P which are registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, as amended, which may be administered by the Fiscal Agent or its affiliates.

(f) Collateralized Investment Agreements or Repurchase Agreements with financial institutions rated in the “A” category or higher without regard to qualifiers, by at least one Rating Agency. The agreement must be continually collateralized with obligations specified in paragraphs (a), (b) and/or (d) above, eligible for wire through the Federal Reserve Bank System or the DTC/PTC as applicable, and at a level of at least 103% of the amount on deposit and valued no less than daily. The collateral must be held by a third party custodian and be free and clear of all liens and claims of third parties. Securities must be valued daily, marked-to-market at current market price plus accrued interest. If the market value of the securities is found to be below the required level, the provider must restore the market value of the securities to the required level within one (1) business day. Permitted collateral must be delivered to and held in a segregated account by the Fiscal Agent or a custodian (the “Collateral Agent”), and the Collateral Agent cannot be the provider. The collateral must be delivered to the Collateral Agent before/simultaneous with payment (perfection by possession of certificated securities). Acceptable collateral must be free and clear of all liens and claims of third parties and shall be registered in the name of the Collateral Agent for the benefit of the Governmental Lender and Fiscal Agent. The agreement shall state that the Collateral Agent has a valid and perfected first priority security interest in the securities, any substituted securities and all proceeds thereof.

(g) Any other investment authorized by the laws of the State, if such investment is approved in advance in writing by the Funding Lender in its sole discretion.

Permitted Investments shall not include any of the following:

(1) Except for any investment described in the next sentence, any investment or any agreement with a maturity profile greater than the date(s) on which funds representing the corpus of the investment may be needed under the Funding Loan Documents. This exception (1) shall not apply to Permitted Investments listed in paragraph (g).

Any obligation bearing interest at an inverse floating rate.

Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index.

“Person” shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

“Pledged Revenues” shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, prepayment premium, if any, and interest on the Funding Loan and the Governmental Lender Note, consisting of the following: (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) derived from or in connection with the Project and the Funding Loan Documents, including all Borrower Loan Payments due under the Borrower Loan Agreement and the Borrower Note, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon.

“Prepayment Premium” shall mean (i) any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any prepayment premium as set forth in the Borrower Note) and (ii) any premium payable on the Governmental Lender Note pursuant to this Funding Loan Agreement.

“Project” shall have the meaning given to that term in the Borrower Loan Agreement.

“Qualified Project Costs” shall have the meaning given to that term in the Borrower Loan Agreement.

“Rebate Fund” shall mean the fund of that name established by Section 7.3(d) hereof.

“Regulations” shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

“Regulatory Agreement” shall mean that certain Regulatory Agreement and Declaration of Restrictive Covenants, dated as of the date hereof, among the Governmental Lender, the Fiscal Agent and the Borrower, as hereafter amended or modified.

“Required Transferee Representations” shall mean the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.

“Resolution” shall mean resolution number [____-____] of the Governmental Lender authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party.

“Responsible Officer” means, when used with respect to the Fiscal Agent, the president, any vice president, any assistant vice president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any senior associate, any associate or any other officer of the Fiscal Agent within the corporate trust office designated for the Fiscal Agent in Section 12.1 hereof (or any successor corporate trust office, the “Corporate Trust Office”) customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred at the Corporate Trust Office because of such person’s knowledge of and familiarity with the particular subject and having direct responsibility for the administration of this Funding Loan Agreement.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security” shall have the meaning assigned to it in Section 4.1.

“Security Instrument” shall mean the [Multifamily Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California)] (as amended, restated and/or supplemented from time to time) of even date herewith, made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan.

“Servicer” shall mean any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and on the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

“Servicing Agreement” shall mean any servicing agreement entered into between the Funding Lender and a Servicer with respect to the servicing of the Funding Loan and/or the Borrower Loan.

“S&P” shall mean S&P Global Ratings, a business unit of Standard & Poor’s Ratings Services, and its successors.

“State” shall mean the State of California.

“Tax Certificate” shall mean the Tax Certificate and Agreement, dated the Delivery Date, executed and delivered by the Governmental Lender and the Borrower, as it may be amended from time to time.

“Tax Counsel” shall mean (a) Orrick, Herrington & Sutcliffe LLP, or (b) any other attorney or firm of attorneys designated by the Governmental Lender and approved by the Funding Lender having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

“Tax Counsel Approving Opinion” shall mean an opinion of Tax Counsel substantially to the effect that the Governmental Lender Note constitutes a valid and binding obligation of the Governmental Lender and that, under existing statutes, regulations published rulings and judicial decisions, the interest on the Governmental Lender Note is excludable from gross income of the

owner thereof for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“Tax Counsel No Adverse Effect Opinion” shall mean an opinion of Tax Counsel substantially to the effect that the taking of the action specified therein will not, in and of itself, adversely affect any exclusion of interest on the Governmental Lender Note from gross income of the owner thereof for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“Title Company” shall mean, as of the Delivery Date, [Title Company].

“UCC” shall mean the Uniform Commercial Code as in effect in the State.

“Unassigned Rights” shall mean the Governmental Lender’s rights to (a) reimbursement and payment of its fees, costs and expenses and the Rebate Amount under Sections 2.5 and 5.35 of the Borrower Loan Agreement and Sections 17 of the Regulatory Agreement, (b) access to the Project under Section 5.17 of the Borrower Loan Agreement, (c) indemnification under Section 5.15 of the Borrower Loan Agreement and Section 7 of the Regulatory Agreement, (d) attorneys’ fees under Sections 5.11, 5.14 and 10.15 of the Borrower Loan Agreement and Section 7 of the Regulatory Agreement, (e) receive notices, reports and other statements and its rights to consent to certain matters, including but not limited to its right to consent to amendments to this Funding Loan Agreement, the Borrower Loan Agreement and the Regulatory Agreement, and otherwise as provided in this Funding Loan Agreement and the Borrower Loan Agreement, (f) seek performance by the Borrower of its obligations under the Regulatory Agreement, and (g) seek performance of, and enforce, various tax covenants as described in Section 2.2(b)(i) of the Borrower Loan Agreement, including but not limited to those in Sections 5.34 and 5.35 of the Borrower Loan Agreement.

“Written Certificate,” “Written Certification,” “Written Consent,” “Written Direction,” “Written Notice,” “Written Order,” “Written Registration,” “Written Request,” and “Written Requisition” shall mean a written certificate, direction, notice, order or requisition signed by an Authorized Borrower Representative, an Authorized Governmental Lender Representative or an authorized representative of the Funding Lender and delivered to the Funding Lender, the Servicer, the Fiscal Agent or such other Person as required under the Funding Loan Documents.

“Yield” shall mean yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

Section 1.2 Effect of Headings and Table of Contents. The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.3 Reserved.

Section 1.4 Designation of Time for Performance. Except as otherwise expressly provided herein, any reference in this Funding Loan Agreement to the time of day shall mean the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

Section 1.5 Interpretation. The parties hereto acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

ARTICLE II

TERMS; GOVERNMENTAL LENDER NOTE

Section 2.1 Terms.

(a) Principal Amount. The total principal amount of the Funding Loan is hereby expressly limited to the \$[PERM LOAN AMT].

(b) Reserved.

(c) Origination Date; Maturity. The Funding Loan shall be originated on the Conversion Date. The Funding Lender shall deposit the proceeds of the Funding Loan with the Title Company for disbursement as provided in [a closing memorandum provided by the Funding Lender][title escrow instructions provided on behalf of the Funding Lender]. The Governmental Lender Note shall mature on the Maturity Date at which time the entire principal amount of the Governmental Lender Note, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

(d) Principal. The outstanding principal amount of the Governmental Lender Note and of the Funding Loan as of any given date shall be the original principal amount of the Funding Loan less any payments of principal of the Governmental Lender Note received upon payment of principal amounts under the Borrower Note, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of the Governmental Lender Note and interest thereon shall be payable on the basis specified in this paragraph (d) and in paragraphs (e) and (f) of this Section 2.1.

The Fiscal Agent shall keep a record of all principal repayments made under the Governmental Lender Note and shall upon written request provide the Governmental Lender with a statement of the outstanding principal balance of the Governmental Lender Note and the Funding Loan.

(e) Interest. Interest shall be paid on the outstanding principal amount of the Governmental Lender Note at the rate or rates set forth in the Borrower Note and otherwise as set forth in the Borrower Loan Agreement.

(f) Corresponding Payments. The payment or prepayment of principal, interest and premium, if any, due on the Funding Loan and the Governmental Lender Note shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the Borrower Note. Any payment or prepayment made by the Borrower of principal, interest, premium, if any, due

on the Borrower Note shall be deemed to be like payments or prepayments of principal, interest and Premium, if any, due on the Funding Loan and the Governmental Lender Note.

(g) Usury. The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Note and all agreements made in the Governmental Lender Note, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. In no event shall the interest on the Governmental Lender Note exceed the Maximum Rate. This paragraph shall control every other provision of the Governmental Lender Note, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

Section 2.2 Form of Governmental Lender Note. As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Governmental Lender Note. The Governmental Lender Note shall be substantially in the form set forth in Exhibit A attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement.

Section 2.3 Execution and Delivery of Governmental Lender Note. The Governmental Lender Note shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of the Authorized Governmental Lender Representative, and attested by the manual or facsimile signature of its Secretary or Deputy Secretary of Housing Authority of the City of San Diego. The manual or facsimile signatures of individuals who were the proper officers of the Governmental Lender at the time of execution shall bind the Governmental Lender, notwithstanding that such individuals or any of them shall have ceased to hold such offices prior

to the execution and delivery of the Governmental Lender Note or shall not have held such offices at the date of the Governmental Lender Note.

Following execution by the Governmental Lender, the Governmental Lender Note shall not be valid or obligatory for any purpose or be entitled to any security or benefit under this Funding Loan Agreement unless and until a certificate of authentication on the Governmental Lender Note substantially in the form contained on Exhibit A attached hereto shall have been duly executed by the Fiscal Agent. The certificate of authentication appearing on the Governmental Lender Note shall be deemed to have been duly executed by the Fiscal Agent if manually signed by an authorized officer or employee of the Fiscal Agent. Such authentication certificate of the Fiscal Agent shall be conclusive evidence that the Governmental Lender Note so registered or authenticated has been duly executed, registered, or authenticated and delivered.

Section 2.4 Required Transferee Representations; Participations; Sale and Assignment.

(a) The Funding Lender shall deliver to the Governmental Lender and the Fiscal Agent the Required Transferee Representations in substantially the form attached hereto as Exhibit B on the Conversion Date.

(b) The Funding Lender shall have the right to sell (i) the Governmental Lender Note and the Funding Loan or (ii) any portion of or a participation interest in the Governmental Lender Note and the Funding Loan, to the extent permitted by Section 2.4(c) below, provided that there shall be no more than five (5) Approved Transferees owning or holding beneficial interests in the Governmental Lender Notes at any one time, and each Approved Transferee shall execute and deliver Required Transferee Representations to the Funding Lender, the Governmental Lender and the Fiscal Agent.

(c) Notwithstanding the other provisions of this Section 2.4, no beneficial ownership interest in the Governmental Lender Note and Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount.

(d) No service charge shall be made for any sale or assignment of any portion of the Governmental Lender Note, but the Governmental Lender may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such sale or assignment. Such sums shall be paid in every instance by the purchaser or assignee of the Funding Loan or portion thereof.

(e) The Governmental Lender Note, or any interest therein, shall be in fully registered form transferable to subsequent owners only on the registration books which shall be maintained by the Fiscal Agent for such purpose and which shall be open to inspection by the Governmental Lender and the Funding Lender. The Governmental Lender Note shall not be transferred through the services of the Depository Trust Company or any other third party registrar.

The Fiscal Agent acknowledges that the Funding Lender is the initial registered owner of the Governmental Lender Note and shall remain the sole registered owner of the Governmental Lender Note except as provided herein. The Funding Lender shall provide

written notice to the Fiscal Agent of any transfer by the Funding Lender of the Governmental Lender Note or any interest of the Funding Lender in the Governmental Lender Note.

(f) The parties agree that no rating shall be sought from a rating agency with respect to the Funding Loan or the Governmental Lender Note.

ARTICLE III

PREPAYMENT

Section 3.1 Prepayment of the Governmental Lender Note from Prepayment under the Borrower Note. The Governmental Lender Note is subject to voluntary and mandatory prepayment as follows:

(a) The Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds received by the Fiscal Agent from the Borrower under the Borrower Loan Agreement to the extent and in the manner and on any date that the Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the Borrower Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Prepayment Premium payable under the Borrower Note, plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment.

Except as specifically permitted in the Borrower Note, the Borrower shall not have the right to voluntarily prepay all or any portion of the Borrower Note, thereby causing the Governmental Lender Note to be prepaid, without the prior written consent of Funding Lender, which may be withheld in Funding Lender's sole and absolute discretion.

(b) The Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the Borrower Note at the direction of the Funding Lender in accordance with the terms of the Borrower Note at a prepayment price equal to the outstanding principal balance of the Borrower Note prepaid, plus accrued interest plus any other amounts payable under the Borrower Note or the Borrower Loan Agreement.

Section 3.2 Notice of Prepayment. Notice of prepayment of the Governmental Lender Note shall be deemed given to the extent that notice of prepayment of the Borrower Note is timely and properly given to the Funding Lender (with a copy to the Governmental Lender) in accordance with the terms of the Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of the Governmental Lender Note is required to be given.

Section 3.3 Recycling Transactions. Notwithstanding any provision of this Funding Loan Agreement or the Governmental Lender Note to the contrary, the Governmental Lender shall be permitted to direct Borrower Note prepayments in respect of the Borrower Note 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 Lender Note, so long as the Governmental Lender simultaneously causes other funds to be applied to prepay such portion of the Governmental

Lender 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 Note prepayment, if so directed in a Written Direction of the Governmental Lender provided to the Fiscal Agent prior to any prepayment date, the Fiscal Agent is hereby authorized and directed to receive any such Borrower Note 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, 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

SECURITY

Section 4.1 Security for the Funding Loan. To secure the payment of the Funding Loan and the Governmental Lender Note, to declare the terms and conditions on which the Funding Loan and the Governmental Lender Note is secured, and in consideration of the premises and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender by these presents does grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Funding Lender (except as limited herein), a lien on and security interest in the following described property (excepting, however, in each case, the Unassigned Rights) (said property, rights and privileges being herein collectively called, the “Security”):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan Agreement and the Borrower Note, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

(b) All right, title and interest of the Governmental Lender in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Funding Loan Documents;

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held under this Funding Loan Agreement and any amounts held at any time in the Remaining Funding Loan Proceeds

Account, subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

(d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement may come into the possession or control of the Fiscal Agent, the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Funding Lender and the Fiscal Agent are hereby authorized to receive any and all such property as and for additional security for the Funding Loan and the Governmental Lender Note and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, premium, if any, and interest on the Governmental Lender Note, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Governmental Lender Note by the Governmental Lender. The Security so pledged and then or thereafter received by the Governmental Lender, Fiscal Agent or the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording 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.

Section 4.2 Delivery of Security. To provide security for the payment of the Funding Loan and the Governmental Lender Note, the Governmental Lender has pledged and assigned to secure payment of the Funding Loan and the Governmental Lender Note its right, title and interest in the Security to the Funding Lender. In connection with such pledge, assignment, transfer and conveyance, there shall be delivered to the Funding Lender, at the expense of the Borrower, the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

(a) The Borrower Note endorsed without recourse to the Funding Lender by the Governmental Lender;

(b) The originally executed Borrower Loan Agreement and Regulatory Agreement;

(c) The originally executed Security Instrument and all other Borrower Loan Documents existing at the time of delivery of the Borrower Note and an assignment for security of the Security Instrument from the Governmental Lender to the Funding Lender, in recordable form;

(d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Funding Lender's status as an assignee of the Governmental

Lender's security interest in any personal property forming part of the Project, in form suitable for filing; and

(e) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

There shall be delivered and deposited with the Funding Lender such additional documents, financing statements, and instruments as the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Funding Lender of its lien and security interest in and to the Security, in each case at the expense of the Borrower.

ARTICLE V

LIMITED LIABILITY

Section 5.1 Source of Payment of Funding Loan and Other Obligations. The Funding Loan is a limited obligation of the Governmental Lender, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned hereunder. THE GOVERNMENTAL NOTE IS A LIMITED, SPECIAL OBLIGATION OF THE GOVERNMENTAL LENDER, PAYABLE SOLELY AND ONLY FROM THE PLEDGED REVENUES AND ANY OTHER REVENUES, FUNDS AND ASSETS PLEDGED UNDER THE FUNDING LOAN AGREEMENT. NONE OF THE GOVERNMENTAL LENDER, THE CITY OF SAN DIEGO, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS (OTHER THAN THE GOVERNMENTAL LENDER TO THE LIMITED EXTENT SET FORTH IN THE FUNDING LOAN AGREEMENT) SHALL BE DIRECTLY, INDIRECTLY, CONTINGENTLY OR MORALLY OBLIGATED TO USE ANY OTHER MONEYS OR ASSETS TO PAY ALL OR ANY PORTION OF THE DEBT SERVICE DUE ON THE GOVERNMENTAL NOTE OR TO SATISFY ANY OTHER MONETARY OBLIGATIONS OF THE GOVERNMENTAL LENDER UNDER THE FINANCING DOCUMENTS, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR ITS PAYMENT. THE REPAYMENT OF THE GOVERNMENTAL NOTE IS NOT SECURED BY A PLEDGE OF THE FAITH AND CREDIT OF THE GOVERNMENTAL LENDER, THE CITY OF SAN DIEGO, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS NOR DOES THE BOND CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. THE GOVERNMENTAL LENDER HAS NO TAXING POWER

NO MEMBER, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE GOVERNMENTAL LENDER OR THE CITY OF SAN DIEGO, INCLUDING ANY PERSON EXECUTING THIS FUNDING LOAN AGREEMENT, THE BORROWER LOAN AGREEMENT OR THE GOVERNMENTAL NOTE, SHALL BE LIABLE PERSONALLY ON THE FUNDING LOAN OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE GOVERNMENTAL NOTE. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE FUNDING LOAN, OR FOR ANY CLAIM BASED ON THE GOVERNMENTAL NOTE, OR OTHERWISE IN RESPECT OF THE GOVERNMENTAL NOTE, OR BASED ON OR IN RESPECT OF THE FUNDING LOAN AGREEMENT, AGAINST ANY MEMBER, OFFICER, EMPLOYEE OR AGENT, AS

SUCH, OF THE GOVERNMENTAL LENDER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE GOVERNMENTAL NOTE AND AS PART OF THE CONSIDERATION FOR THE EXECUTION AND DELIVERY OF THE GOVERNMENTAL LENDER, EXPRESSLY WAIVED AND RELEASED.

Section 5.2 Exempt from Individual Liability. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future member of the Board of Commissioners, officer, director, employee or agent of the Governmental Lender in his individual capacity, and none of the members of the Board of Commissioners, the officers, directors, employees or agents of the Governmental Lender executing the Governmental Lender Note or this Funding Loan Agreement shall be liable personally on the Governmental Lender Note or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note or the execution of this Funding Loan Agreement or any of the Funding Loan Documents.

ARTICLE VI

CLOSING CONDITIONS; APPLICATION OF FUNDS

Section 6.1 Conditions Precedent to Closing. Closing of the Funding Loan on the Conversion Date shall be conditioned upon satisfaction or waiver by the Funding Lender in its sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, including but not limited to the following:

- (a) Receipt by the Funding Lender of the original Governmental Lender Note, authenticated by the Fiscal Agent;
- (b) Receipt by the Funding Lender of the original executed Borrower Note, endorsed without recourse to the Funding Lender by the Governmental Lender;
- (c) Receipt by the Funding Lender of executed counterpart copies of this Funding Loan Agreement, the Borrower Loan Agreement, the Loan Covenant Agreement, the Regulatory Agreement, the Tax Certificate and the Security Instrument;
- (d) Receipt by the Funding Lender of a certified copy of the Resolution;
- (e) Executed Required Transferee Representations from the Funding Lender;
- (f) Delivery into escrow of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;
- (g) [RESERVED];
- (h) [RESERVED];

(i) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender to the effect that the Borrower Loan Documents to be executed as of the Conversion Date are valid and binding obligations of the Borrower that are enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender;

(j) Receipt by the Funding Lender of any other documents or opinions that the Funding Lender or Tax Counsel may require; and

(k) Confirmation by Funding Lender that all Conditions to Conversion described in the Forward Commitment Agreement have been satisfied or waived by Funding Lender in its sole and absolute discretion.

Upon making the initial advance of the Funding Loan, the Funding Lender shall have deemed satisfied or waived each of the conditions to the closing of the Funding Loan set forth above.

ARTICLE VII

FUNDS AND ACCOUNTS

Section 7.1 Authorization to Create Funds and Accounts. Except as provided in Section 7.3 hereof, no funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender, the Fiscal Agent (as directed in writing by the Funding Lender) and the Servicer, if any, and any designee of the Funding Lender or the Servicer, are authorized to establish and create from time to time such other funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

Section 7.2 Investment of Funds. Amounts held in any funds or accounts created under this Funding Loan Agreement shall be invested by the Fiscal Agent, the Funding Lender, the Servicer or the designee of the Funding Lender or Servicer, as applicable, in Permitted Investments at the Written Direction of the Borrower, which direction shall take into account the restrictions of Section 8.7 hereof and of the Tax Certificate (compliance with which the Fiscal Agent shall have no duty to confirm). The Borrower's instruction shall be sufficient evidence that the investment constitutes a Permitted Investment (including as to the legality thereof). In the absence of any such instruction, monies shall be held uninvested. Permitted Investments purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account. All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in such fund or account. For purposes of acquiring any investments hereunder, the Fiscal Agent may commingle funds held by it hereunder, except as provided in Section 7.8(h) hereof with respect to the Rebate Fund. The Fiscal Agent shall incur no liability for losses arising from any investments made pursuant to this Section.

The Fiscal Agent shall furnish the Borrower and Funding Lender periodic cash transaction statements that include detail for all investment transactions effected by the Fiscal Agent or brokers selected by the Borrower. Upon the Borrower's or Funding Lender's election, such statements will be delivered via the Fiscal Agent's online service, and upon electing such service, paper statements will be provided only upon request. The Borrower waives the right to receive brokerage confirmations of security transactions effected by the Fiscal Agent as they occur, to the extent permitted by law. The Borrower further understands that trade confirmations for securities transactions effected by the Fiscal Agent will be available upon request and at no additional cost, and other trade confirmations may be obtained from the applicable broker.

Section 7.3 Establishment of Funds. There are established with the Fiscal Agent the following funds and accounts:

- (a) The Funding Loan Payment Fund;
- (b) The Expense Fund; and
- (c) The Rebate Fund (to be established by the Fiscal Agent once the Fiscal Agent is required to deposit or transfer, as applicable, amounts to the Rebate Fund in accordance with Section 7.8(a)).

All money required to be deposited with or paid to the Fiscal Agent for the account of any of the funds or accounts created by this Funding Loan Agreement shall be held by the Fiscal Agent for the benefit of the Funding Lender, and except for money held in the Expense Fund or the Rebate Fund, shall, while held by the Fiscal Agent, constitute part of the Pledged Revenues and be subject to the lien hereof.

Section 7.4 Funding Loan Payment Fund. The Governmental Lender and the Borrower shall have no interest in the Funding Loan Payment Fund or the moneys therein, which shall always be maintained by the Fiscal Agent completely separate and segregated from all other moneys held hereunder and from any other moneys of the Governmental Lender and the Borrower.

The Fiscal Agent shall deposit into the Funding Loan Payment Fund any amounts received from or on behalf of the Borrower as payments of principal of or premium and interest on the Borrower Loan and any other amounts received by the Fiscal Agent that are subject to the lien and pledge of this Funding Loan Agreement, including any Pledged Revenues not required to be deposited to the Expense Fund or not otherwise specifically directed in writing to be deposited into other funds created by this Funding Loan Agreement.

The Fiscal Agent shall apply all amounts on deposit in the Funding Loan Payment Fund in the following order of priority:

First, to pay or provide for the payment of the interest then due on the Funding Loan to the Funding Lender or any transferee of the Funding Lender with respect to the Funding Loan;

Second, to pay or provide for the payment or the prepayment (together with any Prepayment Premium payable in connection with such prepayment) of principal on the

Funding Loan to the Funding Lender or any transferee of the Funding Lender with respect to the Funding Loan, provided moneys have been transferred or deposited into the Funding Loan Payment Fund for such purpose; and

Third, to pay or provide for the payment of the Funding Loan on the Maturity Date to the Funding Lender or any transferee of the Funding Lender with respect to the Funding Loan.

Section 7.5 Expense Fund. The Fiscal Agent shall deposit into the Expense Fund the amounts required by the Regulatory Agreement or the Borrower Loan Agreement to be paid by the Borrower to the Governmental Lender or the Fiscal Agent on behalf of the Borrower. Amounts on deposit in the Expense Fund shall be used to pay the fees and expenses of the Governmental Lender and the Fiscal Agent, as and when the same become due. In that regard, moneys in the Expense Fund shall be withdrawn or maintained, as appropriate, by the Fiscal Agent to pay (i) the Ongoing Governmental Lender Fee to the Governmental Lender as and when due, (ii) the Fiscal Agent's Fees to the Fiscal Agent when due, (iii) upon receipt, to the Fiscal Agent, any amounts due to the Fiscal Agent which have not been paid, other than amounts paid in accordance with clause (ii) hereof, and (iv) upon receipt, to, or at the Written Direction of, the Governmental Lender, any amounts owing the Governmental Lender by the Borrower and then due and unpaid, other than amounts paid in accordance with clause (i) hereof.

In the event that the amounts on deposit in the Expense Fund are not equal to the amounts payable from the Expense 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 of such deficiency and of the amount of such deficiency and request payment within two Business Days to the Fiscal Agent of the amount of such deficiency.

Written notice of any insufficiency, which would result in the Governmental Lender not receiving the Ongoing Governmental Lender Fee on the applicable due date, shall be provided by the Fiscal Agent to the Governmental Lender (with a copy to the Borrower and the Funding Lender) within 10 days of the respective due date.

Upon payment by the Borrower to the Fiscal Agent of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent.

Notwithstanding anything herein to the contrary, the Fiscal Agent, on behalf of the Governmental Lender, shall prepare and submit a written invoice to the Borrower for payment of the Ongoing Governmental Lender Fee not later than 30 days prior to the due date for payment of such Ongoing Governmental Lender Fee, and shall remit moneys received by the Borrower to the Governmental Lender for payment of such fee.

Section 7.6 Reserved

Section 7.7 Reserved.

Section 7.8 Rebate Fund.

(a) The Fiscal Agent shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

(b) Within 15 days after each receipt or transfer of funds to the Rebate Fund, the Fiscal Agent shall withdraw from the Rebate Fund and pay to the United States of America the entire balance of the Rebate Fund.

(c) All payments to the United States of America pursuant to this Section shall be made by the Fiscal Agent for the account and in the name of the Governmental Lender and shall be paid through the United States Mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal Revenue Service forms (such completed and signed forms to be provided to the Fiscal Agent by the Borrower or the Rebate Analyst).

(d) The Fiscal Agent shall preserve all statements, forms and explanations received from the Borrower and delivered to the Fiscal Agent and all records of transactions in the Rebate Fund until six years after the retirement of the Governmental Lender Note.

(e) The Fiscal Agent may conclusively rely on the instructions of the Borrower (based upon the report of the Rebate Analyst) with regard to any actions to be taken by it pursuant to this Section and shall have no liability for any consequences of any failure of the Borrower or the Rebate Analyst to perform its duties or obligations or to supply accurate or sufficient instructions. Except as specifically provided in subsection (b) above, the Fiscal Agent shall have no duty or responsibility with respect to the Rebate Fund or the Borrower's duties and responsibilities with respect thereto except to follow the Borrower's specific written instruction related thereto.

(f) If at any time during the term of this Funding Loan Agreement the Governmental Lender, the Fiscal Agent or the Borrower desires to take any action that would otherwise be prohibited by the terms of this Section, such person shall be permitted to take such action if it shall first obtain and provide to the other persons named herein, a Tax Counsel No Adverse Effect Opinion and an Opinion of Tax Counsel that such action shall be in compliance with the laws of the State and the terms of this Funding Loan Agreement.

(g) Moneys and securities held by the Fiscal Agent in the Rebate Fund shall not be deemed funds of the Governmental Lender and are not pledged or otherwise subject to any security interest in favor of the Noteowners to secure the Governmental Lender Note or any other obligations.

(h) Moneys in the Rebate Fund may be separately invested and reinvested by the Fiscal Agent, at the request of and as directed in writing by the Borrower (taking into

account the Code, compliance with which the Fiscal Agent has no duty to monitor), in Permitted Investments. The Fiscal Agent shall sell and reduce to cash a sufficient amount of such Permitted Investments, as directed in writing by the Borrower, whenever the cash balance in the Rebate Fund is insufficient for its purposes.

(i) Notwithstanding anything to the contrary in this Funding Loan Agreement, no payment shall be made by the Fiscal Agent to the United States if the Borrower shall furnish to the Governmental Lender and the Fiscal Agent an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Note. In such event the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Fiscal Agent with respect to such withdrawal.

(j) The Fiscal Agent shall keep and make available to the Governmental Lender and the Borrower records concerning the investments of all funds held by the Fiscal Agent pursuant to this Funding Loan Agreement including date bought and sold, price and commission paid, and bids taken, if any, and shall keep all such records until six years after the date on which the Governmental Lender Note is no longer Outstanding (or until such later time as required by the Fiscal Agent's policies and procedures) in order to enable the Borrower to make the computations required under Section 148(f) of the Code.

(k) Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this Section 7.8 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 a Tax Counsel No Adverse Effect Opinion, a copy of which shall be provided to the Fiscal Agent and the Governmental Lender. In the event of any conflict between the requirements of this Section 7.8 and those of the Tax Certificate, the Tax Certificate shall control.

Section 7.9 Investments.

(a) Amounts on deposit in the Funding Loan Payment Fund, Expense Fund, Rebate Fund and Closing Costs Fund shall be invested in Permitted Investments directed in writing by the Borrower. Investment Income earned on amounts on deposit in each account of the Funding Loan Payment Fund, Expense Fund, Rebate Fund and Closing Costs Fund shall be retained in and credited to and become a part of the amounts on deposit in that account of the Funding Loan Payment Fund, Expense Fund, Rebate Fund and Closing Costs Fund.

(b) The Fiscal Agent may make any and all investments permitted under this Funding Loan Agreement through its own trust or banking department or any affiliate and may pay said department reasonable, customary fees for placing such investments. The Fiscal Agent and its affiliates may act as principal, agent, sponsor, advisor or depository with respect to Permitted Investments under this Funding Loan Agreement. The Fiscal

Agent shall not be liable for any losses from investments made by the Fiscal Agent in accordance with this Funding Loan Agreement.

(c) The Governmental Lender, the Funding Lender and the Borrower (by its execution of the Borrower Loan Agreement) acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Governmental Lender or the Funding Lender the right to receive brokerage confirmations of security transactions as they occur, the Governmental Lender and the Funding Lender will not receive such confirmations to the extent permitted by law. The Fiscal Agent shall furnish the Borrower, the Funding Lender and the Governmental Lender (to the extent requested by such parties) periodic cash transaction statements which shall include detail for all investment transactions, if any, made by the Fiscal Agent hereunder.

ARTICLE VIII

REPRESENTATIONS AND COVENANTS

Section 8.1 General Representations. The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Governmental Lender is a public body corporate and politic, organized and existing under the laws of the State, has the power and authority to (i) enter into the Funding Loan Documents to which it is a party and the transactions contemplated thereby, (ii) incur the limited obligation represented by the Governmental Lender Note and the Funding Loan, and apply the proceeds of such obligation or loan to finance the Project, and (iii) carry out its other obligations under this Funding Loan Agreement and the Governmental Lender Note, and by proper action has duly authorized the Governmental Lender's execution and delivery of, and its performance under, the Funding Loan Documents to which it is a party.

(b) The Governmental Lender is not in default under or in violation of, and the execution and delivery of the Funding Loan Documents to which it is a party and its compliance with the terms and conditions thereof will not conflict or constitute a default under or a violation of, (i) the Act, (ii) to its knowledge, any other existing laws, rules, regulations, judgments, decrees and orders applicable to it, or (iii) to its knowledge, the provisions of any agreements and instruments to which the Governmental Lender is a party, a default under or violation of which would prevent it from entering into this Funding Loan Agreement, executing and delivering the Governmental Lender Note, financing the Project, executing and delivering the other Funding Loan Documents to which it is a party or consummating the transactions on its part contemplated thereby, and, to its knowledge, no event has occurred and is continuing under the provisions of any such agreement or instrument or otherwise that with the lapse of time or the giving of notice, or both, would constitute such a default or violation (it being understood, however, that the Governmental Lender is making no representations as to the necessity of registering the Governmental Lender Note or the Borrower Note pursuant to any securities laws or complying with any other requirements of securities laws).

(c) To the best knowledge of the Governmental Lender, no litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending with respect to which the Governmental Lender has been served with process or, to the knowledge of the Governmental Lender, is threatened against the Governmental Lender with respect to (i) the organization and existence of the Governmental Lender, (ii) its authority to execute or deliver the Funding Loan Documents to which it is a party, (iii) the validity or enforceability of any such Funding Loan Documents or the transactions contemplated thereby, (iv) the title of any officer of the Governmental Lender who executed such Funding Loan Documents or (v) any authority or proceedings relating to the execution and delivery of such Funding Loan Documents on behalf of the Governmental Lender, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

(d) The revenues and receipts to be derived from the Borrower Loan Agreement, the Borrower Note and this Funding Loan Agreement have not been pledged previously by the Governmental Lender to secure any of its notes or bonds other than the Funding Loan as evidenced by the Governmental Lender Note.

THE GOVERNMENTAL LENDER MAKES NO REPRESENTATION, COVENANT OR AGREEMENT AS TO THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR THE PROJECT AND DOES NOT REPRESENT OR WARRANT AS TO ANY STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE FUNDING LOAN OR THE BORROWER LOAN, OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF.

Section 8.2 No Encumbrance on Security. The Governmental Lender will not knowingly create or knowingly permit the creation of any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on a parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.

Section 8.3 Repayment of Funding Loan. Subject to the provisions of Articles III and V hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, the Funding Loan, as evidenced by the Governmental Lender Note, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Note and this Funding Loan Agreement.

Section 8.4 Servicer. The Funding Lender may appoint a Servicer to service and administer the Funding Loan and/or the Borrower Loan on behalf of the Funding Lender, including without limitation the fulfillment of rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement.

Section 8.5 Borrower Loan Agreement Performance.

(a) The Funding Lender and the Servicer, if any, on behalf of the Governmental Lender, may (but shall not be required or obligated to) perform and observe any agreement

or covenant of the Governmental Lender under the Borrower Loan Agreement subject to the terms and provisions contained therein, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

(b) The Governmental Lender will promptly notify the Borrower, the Servicer and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received written notice or otherwise has knowledge of such event.

Section 8.6 Maintenance of Records; Inspection of Records.

(a) The Fiscal Agent shall keep and maintain adequate records pertaining to any funds and accounts established hereunder, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Governmental Lender Note and interests therein. The Fiscal Agent shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and premium paid on the Funding Loan, subject to the inspection of the Funding Lender and the Governmental Lender and their representatives at all reasonable times and upon reasonable prior notice.

(b) The Governmental Lender and the Funding Lender will at any and all times, upon the reasonable request of the Servicer, if any, the Borrower, the Fiscal Agent, the Governmental Lender or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender or the Funding Lender, as appropriate, relating to the Project and the Funding Loan, if any, and (at their own expense) to make copies thereof.

Section 8.7 Tax Covenants. The Governmental Lender covenants to and for the benefit of the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, it will:

(a) Require the Borrower to execute the Regulatory Agreement as a condition of funding the Borrower Loan;

(b) Not take or cause to be taken any action or actions, or fail to take any action or actions, which would cause the interest payable on the Governmental Lender Note to be includable in gross income of the Noteowner for federal income tax purposes;

(c) Whenever and so often as requested in writing by Funding Lender, the Governmental Lender (at the sole cost and expense of the Borrower), shall 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 Governmental Lender Note will be excluded from the gross income of the Noteowner, for federal income tax purposes, pursuant to Section 103 of the Code, except in the event where any owner of the Governmental Lender Note or a portion thereof is a "substantial user" of the facilities financed with the Funding Loan or a "related person" within the meaning of Section 147(a) of the Code;

(d) Not take any action nor, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, knowingly permit or suffer any action to be taken if the result of the same would be to cause the Governmental Lender Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations;

(e) Require the Borrower to agree, solely by causing the Borrower to execute and deliver the Borrower Loan Agreement, not to commit any act and not to make any use of the proceeds of the Governmental Lender Note, or any other moneys which may be deemed to be proceeds of the Funding Loan pursuant to the Code, which would cause the Governmental Lender Note to be an “arbitrage bond” within the meaning of Sections 103(b) and 148 the Code, and to comply with the requirements of the Code throughout the term of the Governmental Lender Note; and

(f) Require the Borrower, solely by causing the Borrower to execute and deliver the Borrower Loan Agreement, to take all steps necessary to compute and pay any rebatable arbitrage in accordance with Section 148(f) of the Code.

In furtherance of the covenants in this Section 8.7, the Governmental Lender and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate (it being understood that the obligations of the Fiscal Agent with respect to the Tax Certificate are to follow the written directions of the Governmental Lender or Borrower, and that the Fiscal Agent shall not be responsible for monitoring the compliance of the Governmental Lender or Borrower therewith), which are 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. In the event of any conflict between this Funding Loan Agreement and the Tax Certificate, the requirements of the Tax Certificate shall control.

For purposes of this Section 8.7 the Governmental Lender’s compliance shall be based solely on matters within the Governmental Lender’s knowledge and control and no acts, omissions or directions of the Borrower, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

In complying with the foregoing covenants, the Governmental Lender may rely from time to time on a Tax Counsel No Adverse Effect Opinion or other appropriate opinion of Tax Counsel.

Section 8.8 Performance by the Borrower. Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower, on behalf of the Governmental Lender, may (but is under no obligation to) perform any such agreement or covenant if no Borrower Loan Agreement Default or Potential Default under (and as such term is defined in) the Borrower Loan Agreement exists.

ARTICLE IX

DEFAULT; REMEDIES

Section 9.1 Events of Default. Any one or more of the following shall constitute an event of default (an “Event of Default”) under this Funding Loan Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative authority or Governmental Authority):

(a) A default in the payment of any interest on the Governmental Lender Note when such interest becomes due and payable;

(b) A default in the payment of principal of, or premium on, the Governmental Lender Note when such principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for mandatory prepayment or otherwise;

(c) Subject to Section 8.8 hereof, default in the performance or breach of any material covenant or warranty of the Governmental Lender in this Funding Loan Agreement (other than a covenant or warranty or default in the performance or breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given written notice, as provided in Section 12.1 hereof, to the Governmental Lender and the Borrower by the Funding Lender or the Servicer, specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” under this Funding Loan Agreement; provided that, so long as the Governmental Lender, or the Borrower on its behalf, has commenced to cure such failure to observe or perform within the thirty (30) day cure period, the subject matter of the default is not capable of cure within said thirty (30) day period and the Governmental Lender, or the Borrower on its behalf, is diligently pursuing such cure to the Funding Lender’s satisfaction, with the Funding Lender’s Written Direction or Written Consent, then the Governmental Lender, or the Borrower on its behalf, shall have an additional period of time as reasonably necessary (not to exceed 30 days unless extended in writing by the Funding Lender) within which to cure such default;

(d) A default in the payment of any Additional Borrower Payments (taking into account any applicable grace periods therein); or

(e) Any other “Default” or “Event of Default” under any of the other Funding Loan Documents (taking into account any applicable grace periods therein).

Section 9.2 Acceleration of Maturity; Rescission and Annulment.

(a) Subject to the provisions of Section 9.9 hereof, upon the occurrence of an Event of Default under Section 9.1 hereof, then and in every such case, the Funding Lender may declare the principal of the Funding Loan and the Governmental Lender Note and the interest accrued to be immediately due and payable, by notice to the Governmental Lender, Borrower and the Equity Investor, and upon any such declaration, all principal of and

Prepayment Premium, if any, and interest on the Funding Loan and the Governmental Lender Note shall become immediately due and payable.

(b) At any time after a declaration of acceleration has been made pursuant to subsection (a) of this Section, the Funding Lender may by Written Notice to the Governmental Lender rescind and annul such declaration and its consequences if:

(i) there has been deposited with the Funding Lender a sum sufficient to pay (1) all overdue installments of interest on the Funding Loan, (2) the principal of and Prepayment Premium on the Funding Loan that has become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Funding Loan, (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in the Funding Loan, and (4) all sums paid or advanced by the Funding Lender and the reasonable compensation, expenses, disbursements and advances of the Funding Lender, its agents and counsel (but only to the extent not duplicative with subclauses (1) and (3) above); and

(ii) all Events of Default, other than the non-payment of the principal of the Funding Loan that has become due solely by such declaration of acceleration, have been cured or have been waived in writing as provided in Section 9.9 hereof.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

(c) Notwithstanding the occurrence and continuation of an Event of Default, it is understood that the Funding Lender shall pursue no remedies against the Borrower, any of the Borrower's partners or the Project if no Borrower Loan Agreement Default has occurred and is continuing. An Event of Default hereunder shall not in and of itself constitute a Borrower Loan Agreement Default.

Section 9.3 Additional Remedies; Funding Lender Enforcement.

(a) Upon the occurrence of an Event of Default, the Funding Lender may, subject to the provisions of this Section 9.3 and Section 9.9 hereof, proceed to protect and enforce its rights by mandamus or other suit, action or proceeding at law or in equity. No remedy conferred by this Funding Loan Agreement upon or remedy reserved to the Funding Lender is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Funding Lender hereunder or now or hereafter existing at law or in equity or by statute.

(b) Upon the occurrence and continuation of any Event of Default, the Funding Lender may proceed forthwith to protect and enforce its rights and this Funding Loan Agreement by such suits, actions or proceedings as the Funding Lender, in its sole discretion, shall deem expedient. Funding Lender shall have upon the occurrence and continuation of any Event of Default all rights, powers, and remedies with respect to the Security as are available under the Uniform Commercial Code applicable thereto or as are available under any other applicable law at the time in effect and, without limiting the

generality of the foregoing, the Funding Lender may proceed at law or in equity or otherwise, to the extent permitted by applicable law:

- (i) to take possession of the Security or any part thereof, with or without legal process, and to hold, service, administer and enforce any rights thereunder or thereto, and otherwise exercise all rights of ownership thereof, including (but not limited to) the sale of all or part of the Security;

- (ii) to become mortgagee of record for the Borrower Loan including, without limitation, completing the assignment of the Security Instrument by the Governmental Lender to the Funding Lender as anticipated by this Funding Loan Agreement, and recording the same in the real estate records of the jurisdiction in which the Project is located, without further act or consent of the Governmental Lender, and to service and administer the same for its own account;

- (iii) to service and administer the Funding Loan as agent and on behalf of the Governmental Lender or otherwise, and, if applicable, to take such actions necessary to enforce the Borrower Loan Documents and the Funding Loan Documents on its own behalf, and to take such alternative courses of action, as it may deem appropriate; or

- (iv) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents, or the Borrower Loan Documents, or in and of the execution of any power herein granted, or for foreclosure hereunder, or for enforcement of any other appropriate legal or equitable remedy or otherwise as the Funding Lender may elect.

- (c) Whether or not an Event of Default has occurred, the Funding Lender, in its sole discretion, shall have the sole right to waive or forbear from enforcing any term, condition, covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Note or any other Borrower Loan Documents or Funding Loan Documents applicable to the Borrower, or any breach thereof, other than a covenant that would adversely impact the tax-exempt status of the interest on the Governmental Lender Note, and provided that the Governmental Lender may seek specific performance by the Borrower to enforce the Unassigned Rights.

- (d) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of 60 days (or such longer period set forth in the Borrower Loan Agreement) after the Borrower, the Equity Investor and the Funding Lender receive Written Notice stating that a default under the Regulatory Agreement has occurred and specifying the nature of the default, the Funding Lender shall have the right to seek specific performance of the provisions of the Regulatory Agreement or to exercise its other rights or remedies thereunder.

(e) If the Borrower defaults in the performance of its obligations under the Borrower Loan Agreement (subject to applicable notice and cure periods) to make rebate payments, to comply with any applicable continuing disclosure requirements, or to make payments owed pursuant to Sections 2.5, 5.14 or 5.15 of the Borrower Loan Agreement for fees, expenses or indemnification, the Funding Lender shall have the right to exercise all its rights and remedies thereunder (subject to the last paragraph of Section 9.14 hereof).

Section 9.4 Application of Money Collected. Any money collected by the Funding Lender pursuant to this Article and any other sums then held by the Funding Lender as part of the Security, shall be applied in the following order, at the date or dates fixed by the Funding Lender:

(a) First: To the payment of any and all amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Funding Loan, including, without limitation, any amounts due to the Governmental Lender, the Funding Lender, the Servicer, the Fiscal Agent and the Rebate Analyst;

(b) Second: To the payment of the whole amount of the Funding Loan, as evidenced by the Governmental Lender Note, then due and unpaid in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Funding Loan) on overdue principal of, and Prepayment Premium and overdue installments of interest on the Funding Loan; provided, however, that partial interests in any portion of the Funding Loan shall be paid in such order of priority as may be prescribed by Written Direction of the Funding Lender in its sole and absolute discretion; and

(c) Third: The payment of the remainder, if any, to the Borrower or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

If and to the extent this Section 9.4 conflicts with the provisions of the Servicing Agreement, the provisions of the Servicing Agreement shall control. Capitalized terms used in this Section 9.4 but not otherwise defined in this Funding Loan Agreement shall have the meanings given such terms in the Servicing Agreement.

Section 9.5 Remedies Vested in Funding Lender. All rights of action and claims under this Funding Loan Agreement or the Governmental Lender Note may be prosecuted and enforced by the Funding Lender without the possession of the Governmental Lender Note or the production thereof in any proceeding relating thereto.

Section 9.6 Restoration of Positions. If Funding Lender shall have instituted any proceeding to enforce any right or remedy under this Funding Loan Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Funding Lender, then and in every such case the Governmental Lender and the Funding Lender shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Governmental Lender and the Funding Lender shall continue as though no such proceeding had been instituted.

Section 9.7 Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Funding Lender is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 9.8 Delay or Omission Not Waiver. No delay or omission of the Funding Lender to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Funding Lender may be exercised from time to time, and as often as may be deemed expedient, by Funding Lender. No waiver of any default or Event of Default pursuant to Section 9.9 hereof shall extend to or shall affect any subsequent default or Event of Default hereunder or shall impair any rights or remedies consequent thereon.

Section 9.9 Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Funding Lender, the Funding Lender may, subject to Section 9.6 hereof, by Written Notice to the Governmental Lender and the Borrower, waive any past default hereunder or under the Borrower Loan Agreement and its consequences except for default in obligations due the Governmental Lender pursuant to or under the Unassigned Rights. Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Funding Loan Agreement and the Borrower Loan Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 9.10 Remedies Under Borrower Loan Agreement or Borrower Note. As set forth in this Section 9.10 but subject to Section 9.9 hereof, the Funding Lender shall have the right, in its own name or on behalf of the Governmental Lender, to declare any default and exercise any remedies under the Borrower Loan Agreement or the Borrower Note, whether or not the Governmental Lender Note has been accelerated or declared due and payable by reason of an Event of Default.

Section 9.11 Waiver of Appraisalment and Other Laws.

(a) To the extent permitted by law, the Governmental Lender will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisalment, valuation, stay, extension or redemption law now or hereafter 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 under it, so far as it or they now or hereafter may lawfully do so, hereby waives the benefit of all such laws. The Governmental Lender, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Security marshaled upon any enforcement hereof.

(b) If any law now in effect prohibiting the waiver referred to in clause (a) shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to

constitute any part of the contract herein contained or to preclude the application of this Section 9.11.

Section 9.12 Suits to Protect the Security. The Funding Lender shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Security by any acts that may be unlawful or in violation of this Funding Loan Agreement and to protect its interests in the Security and in the rents, issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any Governmental Authority enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Funding Lender.

Section 9.13 Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Funding Loan Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law.

Section 9.14 Assumption of Obligations. In the event that the Funding Lender or its 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 the Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement and any other Funding Loan Documents to which the Borrower is a party. 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.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default hereunder, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents.

ARTICLE X

AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT AND OTHER DOCUMENTS

Section 10.1 Amendment of Funding Loan Agreement. Any of the terms of this Funding Loan Agreement and the Governmental Lender Note may be amended or waived only by an instrument signed by the Funding Lender and the Governmental Lender, provided, however, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower or Fiscal Agent shall be made without the consent of the Borrower or Fiscal Agent, as applicable, and, provided further, that if the Borrower is in default under any Funding Loan Document, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this

Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Funding Lender.

Section 10.2 Amendments Require Funding Lender Consent. The Governmental Lender shall not consent to any amendment, change or modification of the Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document without the prior Written Consent of the Funding Lender.

Section 10.3 Consents and Opinions. No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and (ii) the Funding Lender shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel substantially to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

ARTICLE XI

THE FISCAL AGENT

Section 11.1 Appointment of Fiscal Agent; Acceptance. The Governmental Lender hereby appoints Fiscal Agent as fiscal agent hereunder. The Fiscal Agent shall signify its acceptance of the duties and obligations imposed upon it by this Funding Loan Agreement by executing this Funding Loan Agreement.

Section 11.2 Certain Duties and Responsibilities of Fiscal Agent.

(a) The Fiscal Agent undertakes to perform such duties and only such duties as are specifically set forth in this Funding Loan Agreement, and no implied covenants or obligations shall be read into this Funding Loan Agreement against the Fiscal Agent.

(b) If an event of default exists hereunder or under any Borrower Loan Document, the Fiscal Agent shall exercise such of the rights and powers vested in it by this Funding Loan Agreement, and exercise any rights or duties or remedies solely at the written direction of the Funding Lender.

(c) No provision of this Funding Loan Agreement shall be construed to relieve the Fiscal Agent from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, in each case, as finally adjudicated by a court of law, except that:

(i) This subsection shall not be construed to limit the effect of subsection (a) of this Section;

(ii) The Fiscal Agent shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts;

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

(iv) No provision of this Funding Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any 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 assured to it in its sole discretion; and

(v) Subject to its rights to indemnification pursuant to Section 11.4 hereof, the Fiscal Agent is directed to enter into the Borrower Loan Documents to which it is a party solely in its capacity as Fiscal Agent.

(d) Whether or not therein expressly so provided, every provision of this Funding Loan Agreement and the other Funding Loan Documents 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.

(e) The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and conforming to the requirements of this Funding Loan Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Funding Loan Agreement on their face.

(f) The permissive rights of the Fiscal Agent to do things enumerated in this Funding Loan Agreement shall not be construed as a duty.

(g) The rights of the Fiscal Agent and limitations of liability enumerated herein and in Section 11.4 shall extend to actions taken or omitted in its role as assignee of the Governmental Lender under the Borrower Loan Agreement and the other Funding Loan Documents.

Section 11.3 Notice of Defaults. Upon the occurrence of any default hereunder or under any Borrower Loan Document and provided that a Responsible Officer of the Fiscal Agent has actual knowledge or has received Written Notice of the existence of such default, promptly, and in any event within 15 days, the Fiscal Agent shall transmit to the Governmental Lender, the Borrower, the Equity Investor, the Servicer, if any, and the Funding Lender, in the manner and at the addresses for notices set forth in Section 12.1 hereof, notice of such default hereunder known

to the Fiscal Agent pursuant to Section 11.4(g) hereof, unless such default shall have been cured or waived.

Section 11.4 Certain Rights of Fiscal Agent. Except as otherwise provided in Section 11.1 hereof:

(a) The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) Any request or direction of the Governmental Lender mentioned herein shall be sufficiently evidenced by a certificate or order executed by an Authorized Governmental Lender Representative;

(c) Whenever in the administration of this Funding Loan Agreement or any Borrower Loan Document the Fiscal Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Fiscal Agent (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Written Certificate of the Governmental Lender, the Funding Lender, the Servicer or the Borrower, as appropriate;

(d) The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Funding Loan Agreement or any Borrower Loan Document at the request or direction of the Funding Lender, pursuant to this Funding Loan Agreement, unless the Funding Lender shall have offered to the Fiscal Agent in writing security or indemnity reasonably satisfactory to the Fiscal Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction, except costs, expenses and liabilities which are adjudicated to have resulted from its own negligence or willful misconduct, provided, that nothing contained in this subparagraph (d) shall be construed to require such security or indemnity for the performance by the Fiscal Agent of its obligations under Article VII hereof;

(e) The Fiscal Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document but the Fiscal Agent, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Fiscal Agent shall determine to make such further inquiry or investigation, it shall be entitled to examine the books and records of the Governmental Lender, if any, and of the Borrower, in either case personally or by agent or attorney after reasonable notice and during normal business hours;

(f) The Fiscal Agent may execute any of its powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and pay reasonable compensation thereto and the Fiscal Agent shall not be responsible for any misconduct or

negligence on the part of any agent or attorney appointed with due care by it hereunder. The Fiscal Agent may act upon the advice of counsel of its choice concerning all matters hereof and the Fiscal Agent shall not be responsible for any loss or damage resulting from any action or inaction taken in good faith reliance upon said advice;

(g) The Fiscal Agent shall not be required to take notice or be deemed to have notice of any default hereunder or under any Borrower Loan Document except for failure by the Borrower to make payments of principal, interest, premium, if any, or Ongoing Governmental Lender Fee when due, unless a Responsible Officer of the Fiscal Agent shall be specifically notified by a Written Direction of such default by the Governmental Lender, the Servicer or the Funding Lender, and all notices or other instruments required by this Funding Loan Agreement or under any Borrower Loan Document to be delivered to the Fiscal Agent, must, in order to be effective, be delivered in writing to a Responsible Officer of the Fiscal Agent at the Office of the Fiscal Agent, and in the absence of such Written Notice so delivered the Fiscal Agent may conclusively assume there is no default as aforesaid.

Section 11.5 Not Responsible for Recitals. The recitals contained herein and in the Governmental Lender Note shall be taken as the statements of the Governmental Lender, and the Fiscal Agent assumes no responsibility for their correctness. The Fiscal Agent makes no representations as to the value or condition of the Pledged Revenues, the Security or any part thereof, or as to the title of the Governmental Lender thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Funding Loan Agreement or of the Funding Loan.

The Fiscal Agent 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 funding of the Funding Loan.

The Fiscal Agent shall not be required to monitor the financial condition of the Borrower or the physical condition of the Project. The Fiscal Agent shall be under no obligation to analyze, review or make any credit decisions with respect to any financial statements, reports, notices, certificates or documents received hereunder but shall hold such financial statements reports, notices, certificates and documents solely for the benefit of, and review by, the Funding Lender and such other parties to whom the Fiscal Agent may provide such information pursuant to this Funding Loan Agreement.

The Fiscal Agent makes no representations as to and shall have no responsibility for the sufficiency of the insurance required under any of the Borrower Loan Documents.

Section 11.6 May Hold Funding Loan. The Fiscal Agent in its individual or any other capacity may become the owner or pledgee of the Funding Loan and may otherwise deal with the Governmental Lender, the Funding Lender and the Borrower with the same rights it would have if it were not Fiscal Agent.

Section 11.7 Moneys Held Hereunder. Moneys held by the Fiscal Agent hereunder need not be segregated from other funds except to the extent required by law. The Fiscal Agent shall

be under no liability for interest on any moneys received by it hereunder except as otherwise provided herein.

Section 11.8 Compensation and Reimbursement. Under the Borrower Loan Agreement, the Borrower has agreed to, except as otherwise expressly provided herein, pay the Fiscal Agent its fees and reimburse the Fiscal Agent as provided in this Funding Loan Agreement or the Borrower Loan Agreement, upon its request for all reasonable expenses, disbursements and advances incurred or made by the Fiscal Agent in accordance with any provision of this Funding Loan Agreement (including the reasonable fees, expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Fiscal Agent's negligence or willful misconduct, both as finally adjudicated by a court of law.

When the Fiscal Agent incurs expenses or renders service in connection with any bankruptcy or insolvency proceeding, such expenses (including the fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors rights generally.

(a) The Governmental Lender has no obligation to pay the Fiscal Agent for services rendered.

(b) As security for the performance of the obligations of the Borrower under this Section and for the payment of such compensation, expenses, reimbursements and indemnity, the Fiscal Agent shall have the right to use and apply any moneys held by it as Pledged Revenues.

(c) The Fiscal Agent's rights to compensation and reimbursement shall survive its resignation or removal, the payment of the Funding Loan or the Borrower Loan or the release of this Funding Loan Agreement.

Section 11.9 Fiscal Agent Required; Eligibility. Any successor Fiscal Agent shall at all times be a trust company, a state banking corporation or a national banking association with the authority to accept trusts in the State approved in writing by the Governmental Lender and either (a) have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, (b) be a wholly owned subsidiary of a bank holding company, or a wholly owned subsidiary of a company that is a wholly owned subsidiary of a bank holding company, having a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition and have at least \$500,000,000 of trust assets under management, or (c) be otherwise acceptable to the Funding Lender in its sole and absolute discretion.

Section 11.10 Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Fiscal Agent hereunder and no appointment of a successor Fiscal Agent pursuant to this Article shall become effective until the written acceptance by the successor Fiscal Agent of such appointment.

(b) The Fiscal Agent may resign at any time by giving 60 days' Written Notice thereof to the Governmental Lender, the Borrower, the Servicer, if any, and the Funding Lender.

(c) The Fiscal Agent may be removed at any time with 30 days' notice by (i) the Governmental Lender, (ii) the Borrower (unless the Borrower is in default under any of the Borrower Loan Documents), subject to applicable notice and cure periods, with the Written Consent of the Funding Lender and the Governmental Lender, or (iii) the Funding Lender with the Written Consent of the Governmental Lender and Written Notice delivered to the Fiscal Agent and the Borrower.

(d) If the Fiscal Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the Office of the Fiscal Agent for any cause, the Governmental Lender shall promptly appoint a successor Fiscal Agent, with the consent of the Funding Lender, which consent shall not be unreasonably withheld. In case all or substantially all of the Pledged Revenues and Security shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee may similarly appoint a successor to fill such vacancy until a new Fiscal Agent shall be so appointed by the Governmental Lender. If, within 60 days after such resignation, removal or incapability or the occurrence of such vacancy, the Governmental Lender has failed to so appoint a successor Fiscal Agent, then a successor Fiscal Agent shall be appointed by the Funding Lender (from any of the institutions approved by the Governmental Lender to serve as a fiscal agent or trustee) with Written Notice thereof delivered to the Governmental Lender, the Borrower, the Servicer, if any, and the retiring Fiscal Agent, and the successor Fiscal Agent so appointed shall, forthwith upon its acceptance of such appointment, become the successor Fiscal Agent and supersede the successor Fiscal Agent appointed by such receiver or Fiscal Agent. If no successor Fiscal Agent shall have been appointed by the Governmental Lender or the Funding Lender and accepted appointment within 60 days after such resignation, removal or incapability or the occurrence of such vacancy, the Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(e) The retiring Fiscal Agent shall cause Written Notice of each resignation and each removal of the Fiscal Agent and each appointment of a successor Fiscal Agent to be provided to the Funding Lender. Each notice shall include the name of the successor Fiscal Agent and the address of the office of the successor Fiscal Agent.

Section 11.11 Acceptance of Appointment by Successor.

(a) Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to the Governmental Lender and to the retiring Fiscal Agent an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Fiscal Agent shall become effective and such successor Fiscal Agent, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers and duties of the retiring Fiscal Agent; notwithstanding the foregoing, on request of the Governmental Lender or the successor Fiscal Agent, such retiring Fiscal Agent shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Fiscal Agent all the estates, properties, rights, powers and trusts of the

retiring Fiscal Agent, and shall duly assign, transfer and deliver to such successor Fiscal Agent all property and money held by such retiring Fiscal Agent hereunder. Upon request of any such successor Fiscal Agent, the Governmental Lender shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Fiscal Agent all such estates, properties, rights and powers.

(b) No successor Fiscal Agent shall accept its appointment unless at the time of such acceptance such successor Fiscal Agent shall be qualified and eligible under this Article, to the extent operative.

Section 11.12 Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Fiscal Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Fiscal Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Fiscal Agent, shall be the successor of the Fiscal Agent hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. Notwithstanding the foregoing, any such successor Fiscal Agent shall cause Written Notice of such succession to be delivered to the Funding Lender within 30 days of such succession.

Section 11.13 Appointment of Co-Fiscal Agent. It is recognized that in case of litigation under this Funding Loan Agreement, the Borrower Loan Agreement, any other Borrower Loan Document or the Regulatory Agreement, and in particular in case of the enforcement of any of them 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 granted to the Fiscal Agent or hold title to the properties, as herein provided, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Fiscal Agent appoint an additional individual or institution as a separate or co-fiscal agent. The following provisions of this Section are adopted to these ends.

The Fiscal Agent is hereby authorized to appoint an additional individual or institution as a separate or co-fiscal agent hereunder, upon Written Notice to the Governmental Lender, the Funding Lender and the Borrower, and with the consent of the Governmental Lender and the Funding Lender, but without the necessity of further authorization or consent, in which event each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Funding Loan Agreement, any Borrower Loan Document, the Regulatory Agreement or the Borrower Loan Agreement to be exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be exercisable by and vest in such separate or co-fiscal agent but only to the extent necessary to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-fiscal agent shall run to and be enforceable by either of them.

Should any instrument in writing from the Governmental Lender be required by the separate fiscal agent or co-fiscal agent appointed by the Fiscal Agent for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, duties and obligations, any and all such instruments in writing shall, on request of the Fiscal Agent, be executed, acknowledged and delivered by the Governmental Lender. In case any separate fiscal agent or co-

fiscal agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, duties and obligations of such separate fiscal agent or co-fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a successor to such separate fiscal agent or co fiscal agent.

Section 11.14 Loan Servicing. The Governmental Lender and the Fiscal Agent acknowledge that the Funding Lender shall have the right to appoint a Servicer to service and administer the Funding Loan and the Borrower Loan as set forth in a Servicing Agreement. The Governmental Lender and the Fiscal Agent shall not be responsible for monitoring the performance of any Servicer or for any acts or omissions of such Servicer. The Funding Lender may, in its sole discretion, terminate or replace the Servicer.

Section 11.15 No Recourse Against Officers or Employees of Fiscal Agent. No recourse with respect to any claim related to any obligation, duty or agreement contained in this Funding Loan Agreement or any other Funding Loan Document shall be had against any officer or employee, as such, of the Fiscal Agent, it being expressly understood that the obligations, duties and agreements of the Fiscal Agent contained in this Funding Loan Agreement and the other Funding Loan Documents are solely corporate in nature.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Notices. All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by first class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, hand delivery, to the party to be notified addressed as follows:

If to the Fiscal Agent:	U.S. Bank Trust Company, National Association 633 W. 5 th Street, 24 th Floor Los Angeles, CA 90071 Attention: Global Corporate Trust Telephone: (213) 615-6079 Email: nabeel.badawi@usbank.com
If to 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 Email:
If to the Borrower:	Bernardo Family Housing, L.P. Attention: Telephone:

And a copy to:

If to the Equity Investor:

Bank of America, N.A.
100 Federal St.
Mail Code: MA5-100-004-11
Boston, MA 02110
Attention: Asset Management

With a copy to:

Buchalter, a Professional
Corporation
1000 Wilshire Blvd., Suite 1500
Los Angeles, CA 90017
Attention: Michael A.
Williamson, Esq.
Re: Skyline (B0965-0723)

If to the Funding Lender:

Citibank, N.A.
388 Greenwich Street, 6th Floor Trading
New York, New York 10013
Attention: Transaction and Asset
Management Group
Re: [SkyLINE]
Deal ID #[_____]
Facsimile: (212) 723-8209

And to:

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Re: [SkyLINE]
Deal ID #[_____]
Facsimile: (805) 557-0924

And to:

Citibank, N.A.
c/o Berkadia Commercial Servicing Department
323 Norristown Road, Suite 300
Ambler, Pennsylvania 19002
Attention: Client Relations Manager
Re: [SkyLINE]
Deal ID #[_____]
Facsimile: (215) 328-0305

And a copy of any notices of default
sent to:

Citibank, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office

Re: [SkyLINE]
Deal ID #[_____]
Facsimile: (646) 291-5754

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three Business Days after the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; provided, however, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day. Any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement by providing written notice of such change of address to all of the parties by written notice as provided herein.

Section 12.2 Term of Funding Loan Agreement. This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for; except that on and after payment in full of the Governmental Lender Note, this Funding Loan Agreement shall be terminated, without further action by the parties hereto.

Section 12.3 Successors and Assigns. All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not.

Section 12.4 Legal Holidays. In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period from and after such date and prior to the date of payment.

Section 12.5 Governing Law. This Funding Loan Agreement shall be governed by and shall be enforceable in accordance with the laws of the State applicable to contracts made and performed in the State.

Section 12.6 Severability. If any provision of this Funding Loan Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Governmental Lender Note or in this Funding Loan Agreement shall for any reason be held to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law.

Section 12.7 Execution in Several Counterparts. This Funding Loan Agreement may be contemporaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 12.8 Nonrecourse Obligation of the Borrower. Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement are without recourse to the Borrower or to the Borrower's partners or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

Section 12.9 Waiver of Trial by Jury. IF AND TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF THE GOVERNMENTAL LENDER AND THE FUNDING LENDER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS FUNDING LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

IF FOR ANY REASON THIS WAIVER IS DETERMINED TO BE UNENFORCEABLE, ALL DISPUTES WILL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROCEDURES SET FORTH IN THE SECURITY INSTRUMENT.

Section 12.10 Electronic Transactions. The transactions described in this Funding Loan Agreement may be conducted and the related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 12.11 Reserved.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Funding Lender, the Fiscal Agent and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

FUNDING LENDER:

CITIBANK, N.A.

By: _____

Name:

Title:

[Signature Page to Funding Loan Agreement – SkyLINE]

GOVERNMENTAL LENDER:

HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO

By: _____

Name:

Title:

[Signature Page to Funding Loan Agreement – SkyLINE]

FISCAL AGENT:

U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Fiscal Agent

By: _____

Name:

Title:

[Signature Page to Funding Loan Agreement – SkyLINE]

EXHIBIT A

FORM OF GOVERNMENTAL LENDER NOTE

THIS NOTE MAY BE OWNED ONLY BY A PERMITTED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS FUNDING LOAN AGREEMENT (A) REPRESENTS THAT IT IS A PERMITTED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL LENDER NOTE TO ANOTHER PERMITTED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO MULTIFAMILY HOUSING REVENUE NOTE (SkyLINE) 2023 SERIES B

[\$[PERM LOAN AMT]

[Conversion Date]

FOR VALUE RECEIVED, the undersigned HOUSING AUTHORITY OF THE CITY OF SAN DIEGO (“Obligor”) promises to pay to the order of CITIBANK, N.A. (“Holder”) the maximum principal sum of [PERM LOAN AMOUNT IN WORDS] DOLLARS (\$[PERM LOAN AMT]), on _____ 1, 20__ or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of _____, 202_ [Conversion Date] (the “Funding Loan Agreement”), among Obligor, Holder and U.S. Bank National Association, as fiscal agent (“Fiscal Agent”), an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on this Governmental Lender Note then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of this Governmental Lender Note, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on this Governmental Lender Note in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of this Governmental Lender Note so paid.

Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on this Governmental Lender Note then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

This Governmental Lender Note is a pass-through obligation relating to a construction and permanent loan (the “Borrower Loan”) made by Obligor from proceeds of the Funding Loan to Bernardo Family Housing, L.P., a California limited partnership, as borrower (the “Borrower”), under that certain Borrower Loan Agreement, dated as of _____, 202_ [Conversion Date] (as the same may be modified, amended or supplemented from time to time, the “Borrower Loan Agreement”), between the Obligor and the Borrower, evidenced by the Borrower Note (as defined

in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms of the Borrower Note, payments on which are passed-through under this Governmental Lender Note.

This Governmental Lender Note is a limited obligation of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned under the Funding Loan Agreement. None of the Governmental Lender, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) or any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on this Governmental Lender Note or 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 in the Funding Loan Agreement, and none of the Funding Loan or this Governmental Lender Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan or this Governmental Lender Note 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.

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Funding Loan Agreement or in the Borrower Loan Agreement.

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity and those respecting limitations of liability in Article V of the Funding Loan Agreement.

Notwithstanding any provision of this Governmental Lender Note or the Funding Loan Agreement to the contrary, the Governmental Lender shall be permitted to direct Borrower Note 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 Governmental Lender Note, so long as the Governmental Lender simultaneously causes other funds to be applied to prepay such portion of this Governmental Lender 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.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Governmental Lender Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Governmental Lender Note.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Governmental Lender Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Governmental Lender Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

This Governmental Lender Note (and the Funding Loan that it represents), and any interests herein or therein, are transferable by the registered owner hereof, but only in the manner, subject to the limitations and upon payment of the charges provided in the Funding Loan Agreement. Upon such transfer a new fully registered Governmental Lender Note will be issued to the transferee in exchange herefor. The Obligor, the Funding Lender and the Fiscal Agent may treat the registered owner hereof as the absolute owner hereof for all purposes, and the Obligor and the Funding Lender shall not be affected by any notice to the contrary.

The Obligor hereby certifies that all of the conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Governmental Lender Note do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State (including the Act) and that the amount of this Governmental Lender Note, together with all other indebtedness of the Obligor, does not exceed any limit prescribed by the Constitution or laws of the State.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Governmental Lender Note by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO

By: _____

Name:

Title:

CERTIFICATE OF AUTHENTICATION

This Governmental Lender Note is the Series 2023 Governmental Lender Note described in the within mentioned Funding Loan Agreement.

Date of Authentication: _____

U.S. Bank Trust Company, National
Association, as Fiscal Agent

By: _____
Authorized Signatory

EXHIBIT B

FORM OF REQUIRED TRANSFEREE REPRESENTATIONS

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO MULTIFAMILY HOUSING REVENUE NOTE (SkyLINE) 2023 SERIES B

[_____, 20__]

The undersigned, as holder (the “Holder”) of a loan (the “Funding Loan”) in the maximum principal amount of \$[PERM LOAN AMT] from CITIBANK, N.A. (“Funding Lender”) to HOUSING AUTHORITY OF THE CITY OF SAN DIEGO (“Governmental Lender”) pursuant to a Funding Loan Agreement dated as of _____, 202_ [Conversion Date] (the “Funding Loan Agreement”) among the Funding Lender, the Governmental Lender and U.S. Bank National Association, as fiscal agent (the “Funding Loan”), evidenced by the Housing Authority of the City of San Diego Multifamily Housing Revenue Note (SkyLINE), 20203 Series B (the “Governmental Lender Note”), or an interest therein, hereby represents that:

1. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Project to be able to evaluate the risk and merits of the investment represented by the Funding Loan. We are able to bear the economic risks of such investment.

2. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, the Project, the use of proceeds of the Funding Loan and the Funding Loan and the security therefor so that, as a reasonable investor, the Holder has been able to make its decision to [extend/purchase] the Funding Loan [or an interest therein]. In entering into this transaction, the Holder acknowledges that it has not relied upon any representations or opinions of the Governmental Lender relating to the legal consequences to the Funding Lender or other aspects of its making the Funding Loan and acquiring the Governmental Lender Note, nor has it looked to or expected, the Governmental Lender to undertake or require any credit investigation or due diligence reviews relating to the Borrower, its financial condition or business operations, the Project (including the financing or management thereof), or any other matter pertaining to the merits or risks of the transactions contemplated by the Funding Loan Agreement and the Borrower Loan Agreement, or the adequacy of the funds pledged to the Funding Lender to secure repayment of the Governmental Lender Note.

3. The Holder is an Approved Transferee.

4. The Holder acknowledges that it is purchasing [an interest in] the Funding Loan for investment for its own account and not with a present view toward resale or the distribution thereof, in that it does not now intend to resell or otherwise dispose of all or

any part of its interests in the Funding Loan; provided, however, that the Holder may sell or transfer the Governmental Lender Note and the Funding Loan as provided in Section 2.4 of the Funding Loan Agreement.

5. In the event any placement memorandum to be provided to any subsequent buyer or beneficial owner of such portion of the Funding Loan will disclose information with respect to the Governmental Lender other than its name, location and type of political subdivision and general information with respect to the Funding Loan and Borrower Loan and related documents, the Holder will provide the Governmental Lender with a draft of such placement memorandum and the Governmental Lender shall have the right to approve any description of the Governmental Lender therein (which approval shall not be unreasonably withheld).

6. The Holder understands that the Funding Loan is a limited obligation of the Governmental Lender; payable solely from funds and moneys pledged and assigned under the Funding Loan Agreement, and that the liabilities and obligations of the Governmental Lender with respect to the Funding Loan are expressly limited as set forth in the Funding Loan Agreement and related documents.

7. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

[_____] , as Holder

By: _____

Name: _____

Its: _____

APPENDIX D
BORROWER LOAN AGREEMENT

BORROWER LOAN AGREEMENT
between the

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

and

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership
as Borrower

Dated as of _____, 202_ [Conversion Date]

Relating to:

[\$[PERM LOAN AMT]
Funding Loan originated by CITIBANK, N.A., as Funding Lender

from the proceeds of the

[\$[PERM LOAN AMT]
Housing Authority of the City of San Diego
Multifamily Housing Revenue Note
(SkyLINE) 2023 Series B

The interest of the Governmental Lender in this Borrower Loan Agreement (except for certain rights described herein) has been pledged and assigned to Citibank, N.A., as funding lender (the "Funding Lender"), under that certain Funding Loan Agreement, of even date herewith, by and among the Housing Authority of the City of San Diego (the "Governmental Lender"), U.S. Bank National Association, as fiscal agent, and the Funding Lender, under which the Funding Lender is originating a loan to the Governmental Lender the proceeds of which are to be used to fund the Borrower Loan made under this Borrower Loan Agreement.

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BORROWER LOAN AGREEMENT

This Borrower Loan Agreement, dated as of _____, 202_ [Conversion Date] (this “Borrower Loan Agreement”) is entered into by 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 successors and assigns, the “Governmental Lender”), and BERNARDO FAMILY HOUSING, L.P., a California limited partnership (together with its successors and assigns, the “Borrower”).

RECITALS:

WHEREAS, pursuant to the provisions of Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code, as amended (the “Act”), the Governmental Lender is authorized to issue revenue obligations to provide financing for the acquisition, construction, development and rehabilitation of residential housing for low and moderate income Persons; and

WHEREAS, on _____, 2023 (the “Delivery Date”) pursuant to and in accordance with the Act and a Trust Indenture dated as of October 1, 2023 (the “Indenture”) between the Governmental Lender and the Fiscal Agent, the Governmental Lender issued and sold its \$[42,476,918] Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B (the “Bonds”), and used the proceeds thereof to make a loan to Bernardo Family Housing, L.P., a California limited partnership (the “Borrower”), upon the terms and conditions of a promissory note dated [the Delivery Date] from the Borrower to the Governmental Lender in the original principal amount of \$[42,476,918] and the Loan Agreement dated as of the same date as the Indenture between the Governmental Lender and the Borrower (the “Loan Agreement”), for purposes of funding a portion of the costs of acquiring, constructing and equipping a 100-unit (including one manager’s unit) multifamily rental housing development located in the City San Diego, California, to be known as SkyLINE (formerly known as Rancho Bernardo Transit Village) (the “Project”); and

WHEREAS, in connection with the issuance of the Bonds, the Funding Lender entered into a Forward Commitment Agreement with the Borrower and Bank of America, N.A. (the “Construction Lender”) dated as of _____ 1, 2023 (the “Citi Forward Commitment”), whereby the Funding Lender committed, subject to the satisfaction on or before the Termination Date (as defined in the Citi Forward Commitment) of the Conditions to Conversion set forth in the Citi Forward Commitment, to facilitate the permanent financing of the Project by making the Funding Loan (defined below) pursuant to the provisions of the Funding Loan Agreement dated as of the Conversion Date among the Governmental Lender, the Funding Lender and the Fiscal Agent (the “Funding Loan Agreement”); and

WHEREAS, as of the date hereof, the Funding Lender has determined that the Conditions to Conversion have been satisfied and, as a result, (i) the Bonds are subject to mandatory tender in accordance with the Indenture, (ii) the purchase price of the Bonds is being paid with amounts on deposit under the Indenture, (iii) a portion of the principal amount of the Bonds is being cancelled such that the principal amount outstanding equals the Permanent Period Amount (as defined in the Citi Forward Commitment), (iv) the Bonds are being removed from the Book-Entry System and being converted to a physical Governmental Lender Note (as described below) which is being

purchased by the Funding Lender, (v) the Funding Loan Agreement and this Borrower Loan Agreement are being delivered by the respective parties and becoming effective and superseding the Indenture and the Loan Agreement, and (vi) the taxable mortgage loan provided by the Construction Lender is being paid in full in accordance with the Indenture; and

WHEREAS, pursuant to the Funding Loan Agreement, the Funding Lender will (i) advance funds (the “Funding Loan”) to or for the account of the Governmental Lender, and (ii) apply the proceeds of the Funding Loan to make a loan (the “Borrower Loan”) to the Borrower; and

WHEREAS, pursuant to this Borrower Loan Agreement, the Borrower agrees to make loan payments to the Governmental Lender in an amount which, when added to other funds available under the Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related thereto when due; and

WHEREAS, to evidence its payment obligations under this Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender its Borrower Note (as defined in this Borrower Loan Agreement) and the obligations of the Borrower under the Borrower Note will be secured by a lien on and security interest in the land upon which the Project is located pursuant to a [Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture Filing], dated as of the date hereof (as amended, restated and/or supplemented from time to time, the “Security Instrument”), encumbering the Project, made by the Borrower in favor of the Governmental Lender and assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan Agreement.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

A R T I C L E I

D E F I N I T I O N S ; P R I N C I P L E S O F C O N S T R U C T I O N

Section 1.1 Specific Definitions. For all purposes of this Borrower Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

- (a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Security Instrument or, if not defined in the Security Instrument, in the Funding Loan Agreement.
- (b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP.
- (c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

- (d) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.
- (e) Unless otherwise specified, (i) all references to sections and schedules are to those in this Borrower Loan Agreement, (ii) the words “hereof,” “herein” and “hereunder” and words of similar import refer to this Borrower Loan Agreement as a whole and not to any particular provision, (iii) all definitions are equally applicable to the singular and plural forms of the terms defined and (iv) the word “including” means “including but not limited to.”

Section 1.2 Definitions. The following terms, when used in this Borrower Loan Agreement (including when used in the above recitals), shall have the following meanings:

“Act” shall have the meaning given to it in the recitals to this Borrower Loan Agreement.

“Act of Bankruptcy” shall mean the filing of a petition in bankruptcy (or any other commencement of a bankruptcy or similar proceeding) under any applicable bankruptcy, insolvency, reorganization, or similar law, now or hereafter in effect; provided that, in the case of an involuntary proceeding, such proceeding is not dismissed within ninety (90) days after the commencement thereof.

“ADA” shall have the meaning set forth in Section 4.1.38 hereof.

“Additional Borrower Payments” shall mean the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default), Section 5.14 (Expenses), and Section 10 of the Borrower Note (Voluntary and Involuntary Prepayments).

“Administrative General Partner” shall mean AHG Rancho Bernardo, LLC, a California limited liability company.

“Agreement of Environmental Indemnification” shall mean the Agreement of Environmental Indemnification, of even date herewith, executed by the Borrower and Guarantor for the benefit of the Beneficiary Parties (as defined therein) and any lawful holder, owner or pledgee of the Borrower Note from time to time.

“Authorized Borrower Representative” shall mean a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer and containing the specimen signature of such person and signed on behalf of the Borrower by its Borrower Controlling Entity which certificate may designate one or more alternates.

“Bankruptcy Code” shall mean the United States Bankruptcy Reform Act of 1978, as amended from time to time, or any substitute or replacement legislation.

“Bankruptcy Event” shall have the meaning given to that term in the Security Instrument.

“Bankruptcy Proceeding” shall have the meaning set forth in Section 4.1.8 hereof.

“Beneficiary Parties” shall mean, collectively, the Funding Lender and the Governmental Lender.

“Borrower” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Borrower Affiliate” means, as to the Borrower, its general partners or the Guarantor, (i) any entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of Borrower, its general partner or the Guarantor, (ii) any corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the Borrower, its general partner or the Guarantor, (iii) any partner or, if a limited liability company, member, of Borrower, its general partners or the Guarantor, or (iv) any other person that is related (to the third degree of consanguinity) by blood or marriage to the Borrower, its general partner or the Guarantor (to the extent any of the Borrower, its general partner or the Guarantor is a natural person).

“Borrower Controlling Entity” shall mean any general partner of the Borrower.

“Borrower Loan” shall mean the mortgage loan made by the Governmental Lender to the Borrower, as of the Conversion Date, pursuant to this Borrower Loan Agreement, in the principal amount of \$[PERM LOAN AMT], as evidenced by the Borrower Note.

“Borrower Loan Agreement” shall mean this Borrower Loan Agreement.

“Borrower Loan Documents” shall mean this Borrower Loan Agreement, the Loan Covenant Agreement, the Borrower Note, the Security Instrument, the Agreement of Environmental Indemnification, the Replacement Reserve Agreement, the Guaranty and all other documents or agreements evidencing or relating to the Borrower Loan.

“Borrower Loan Payment Date” shall mean (i) the date upon which regularly scheduled Borrower Loan Payments are due pursuant to the Borrower Note, or (ii) any other date on which the Borrower Note is prepaid or paid, whether at the scheduled maturity or upon the acceleration of the maturity thereof.

“Borrower Loan Payments” shall mean the monthly loan payments payable pursuant to the Borrower Note.

“Borrower Note” shall mean that certain Multifamily Note dated as of the Conversion Date in the original maximum principal amount of \$[PERM LOAN AMT] made by the Borrower and payable to the Governmental Lender, as endorsed and assigned to the Funding Lender, as it may be amended, supplemented, or replaced from time to time.

“Borrower Payment Obligations” shall mean all payment obligations of the Borrower under the Borrower Loan Documents, including, but not limited to, the Borrower Loan Payments and the Additional Borrower Payments.

“Business Day” shall mean any day other than (i) a Saturday or Sunday, or (ii) a day on which the Fiscal Agent or federally insured depository institutions in New York, New York or

California are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Calendar Month” shall mean each of the twelve (12) calendar months of the year.

“CC&R’s” shall mean any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Project or the Mortgaged Property.

“Code” shall mean the Internal Revenue Code of 1986 as in effect on the Delivery Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Delivery Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Collateral” shall mean all collateral described in (i) this Borrower Loan Agreement (including, without limitation, all property in which the Funding Lender is granted a security interest pursuant to any provision of this Borrower Loan Agreement), (ii) the Security Instrument, or (iii) any other Security Document, which Collateral shall include the Project, all of which collateral is pledged and assigned to Funding Lender under the Funding Loan Agreement to secure the Funding Loan.

“Computation Date” shall have the meaning ascribed thereto in Section 1.148-3(e) of the Regulations.

“Condemnation” shall mean any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Project, whether direct or indirect.

“Conditions to Conversion” shall have the meaning given to such term in the Citi Forward Commitment.

“Continuing Disclosure Agreement” shall mean that certain Continuing Disclosure Agreement dated of even date herewith, between the Borrower and the Funding Lender, pursuant to which the Borrower agrees to provide certain information with respect to the Project, the Borrower and the Funding Loan subsequent to the Conversion Date, as amended, supplemented or restated from time to time.

“Contractual Obligation” shall mean, for any Person, any debt or equity security issued by that Person, and any indenture, mortgage, deed of trust, contract, undertaking, instrument or agreement (written or oral) to which such Person is a party or by which it is bound, or to which it or any of its assets is subject.

“Conversion Date” shall mean _____, 20__, the date on which the Conditions to Conversion are satisfied pursuant to the Forward Commitment Agreement and the Funding Lender is funding the Funding Loan as evidenced by the Governmental Lender Note.

“Costs of Funding Deposit” shall mean the deposit by the Borrower as required under Section 2.3(b)(ii) of the Borrower Loan Agreement.

“Day” or “Days” shall mean calendar days unless expressly stated to be Business Days.

“Debt” shall mean, as to any Person, any of such Person’s liabilities, including all indebtedness (whether recourse or nonrecourse, short term or long term, direct or contingent), all committed and unfunded liabilities, and all unfunded liabilities, that would appear upon a balance sheet of such Person prepared in accordance with GAAP.

“Default Rate” shall have the meaning given to that term in the Borrower Note.

“Determination of Taxability” shall mean (i) a determination by the Commissioner or any District Director of the Internal Revenue Service, (ii) a private ruling or Technical Advice Memorandum concerning the Governmental Lender Note issued by the National Office of the Internal Revenue Service in which Governmental Lender and Borrower were afforded the opportunity to participate, (iii) a determination by any court of competent jurisdiction, (iv) the enactment of legislation or (v) receipt by the Funding Lender, at the request of the Governmental Lender, the Borrower or the Funding Lender, of an opinion of Tax Counsel, in each case to the effect that the interest on the Governmental Lender Note is includable in gross income for federal income tax purposes of any holder or any former holder of all or a portion of the Governmental Lender Note, other than a holder 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 (i) or (iii) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower), the Funding 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 (a) a final determination from which no appeal may be taken with respect to such determination, (b) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (c) one year from the date of initial determination.

“Equipment” shall have the meaning given to the term “Personalty” in the Security Instrument.

“Equity Contributions” shall mean the equity to be contributed by the Equity Investor to Borrower, in accordance with and subject to the terms of the Partnership Agreement.

“Equity Investor” shall mean Bank of America, N.A., a national banking association, as investor limited partner of the Borrower, and its permitted successors and assigns.

“ERISA” shall mean the Employment Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“ERISA Affiliate” shall mean all members of a controlled group of corporations and all trades and business (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under any or all of Section 414(b), (c), (m) or (o) of the Code.

“Event of Default” shall mean any Event of Default set forth in Section 8.1 of this Borrower Loan Agreement. An Event of Default shall “exist” if a Potential Default shall have occurred and be continuing beyond any applicable cure period.

“Excess Revenues” shall have the meaning ascribed thereto in Section 2.2(e) hereof.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Expenses of the Project” shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g. repairs which would not be payable from amounts on deposit in a repair and replacement fund held pursuant to the Borrower Loan Documents), a property management fee (however characterized) not to exceed the Underwritten Management Fee, costs of billings and collections, costs of insurance, and costs of audits. Expenses of the Project shall not include any payments, however characterized, on account of any subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

“Fair Market Value” shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is an interest in any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

“Fiscal Agent” shall mean the Fiscal Agent from time to time under and pursuant to the Funding Loan Agreement. Initially, the Fiscal Agent is U.S. Bank Trust Company, National Association.

“Funding Lender” shall mean Citibank, N.A., a national banking association, in its capacity as lender under the Funding Loan.

“Funding Loan” means the Funding Loan in the original principal amount of \$[PERM LOAN AMT] made by Funding Lender to Governmental Lender under the Funding Loan Agreement, the proceeds of which are used by the Governmental Lender to make the Borrower Loan.

“Funding Loan Agreement” means the Funding Loan Agreement, of even date herewith, among the Governmental Lender, the Fiscal Agent and the Funding Lender, as it may from time

to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

“Funding Loan Documents” shall have the meaning given to that term in the Funding Loan Agreement.

“GAAP” shall mean generally accepted accounting principles as in effect on the date of the application thereof and consistently applied throughout the periods covered by the applicable financial statements.

“General Partner” shall mean, collectively, (i) the Administrative General Partner, (ii) the Managing General Partner, and/or (iii) any other Person that the partners of the Borrower, with the prior written approval of the Funding Lender (or as otherwise permitted with the Funding Lender’s approval pursuant to the Borrower Loan Documents), selected to be a general partner of the Borrower.

“Governmental Authority” shall mean (i) any governmental municipality or political subdivision thereof, (ii) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, or (iii) any court, administrative tribunal or public utility, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), now or hereafter in existence.

“Governmental Lender” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Governmental Lender Note” shall mean the “Governmental Lender Note” as defined in the Funding Loan Agreement.

“Governmental Lender’s Closing Fee” shall mean any fees or expenses of the Governmental Lender payable on the Conversion Date.

“Gross Income” shall mean all receipts, revenues, income and other moneys received or collected by or on behalf of Borrower and derived from the ownership or operation of the Project, if any, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of such rights, and whether now owned or held or hereafter coming into existence and proceeds received upon the foreclosure sale of the Project. Gross Income shall not include loan proceeds, equity or capital contributions, or tenant security deposits being held by Borrower in accordance with applicable law.

“Gross Proceeds” shall mean, without duplication, the aggregate of:

(a) the net amount (after payment of all expenses of originating the Funding Loan) of Funding Loan proceeds received by the Governmental Lender as a result of the origination of the Funding Loan;

(b) all amounts received by the Governmental Lender as a result of the investment of the Funding Loan proceeds;

(c) any amounts held in any fund or account to the extent that the Governmental Lender reasonably expects to use the amounts in such fund to pay any portion of the Funding Loan; and

(d) any securities or obligations pledged by the Governmental Lender or by the Borrower as security for the payment of any portion of the Funding Loan.

“Guarantor” shall mean, _____, or any other person or entity which may hereafter become a guarantor of any of the Borrower’s obligations under the Borrower Loan.

“Guaranty” shall mean the Exceptions to Non-Recourse Guaranty, of even date herewith, by Guarantor for the benefit of the Beneficiary Parties (as defined therein).

“Improvements” shall mean the 100-unit multifamily rental housing development (including one manager’s unit) on the Land and known as “SkyLINE” (formerly known as Rancho Bernardo Transit Village), and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and personal property constructed and/or installed at or on the Land. For the avoidance of doubt, no proceeds of the Governmental Lender Note will be used to finance any commercial or retail space in respect of the Project.

“Indemnified Party” shall have the meaning set forth in Section 5.15 hereof.

“Installment Computation Date” shall mean any Computation Date other than the first Computation Date or the final Computation Date.

“Interest Rate” shall mean the rate of interest accruing on the Borrower Loan pursuant to the Borrower Note.

“Land” means the real property described on Exhibit A to the Security Instrument.

“Late Charge” shall mean the amount due and payable as a late charge on overdue payments under the Borrower Note, as provided in Section 7 of the Borrower Note and Section 2.5 hereof.

“Legal Action” shall mean an action, suit, investigation, inquiry, proceeding or arbitration at law or in equity or before or by any foreign or domestic court, arbitrator or other Governmental Authority.

“Legal Requirements” shall mean statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting all or part of the Project or any property (including the Project) or the construction, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to the Borrower, at any time in force affecting all or part of the Project, including any that may (i) require repairs, modifications or alterations in or to all or part of the Project, or (ii) in any way limit the use and enjoyment thereof.

“Liabilities” shall have the meaning set forth in Section 5.15 hereof.

“Licenses” shall have the meaning set forth in Section 4.1.22 hereof.

“Lien” shall mean any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a deed of trust, mortgage, deed to secure debt, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

“Loan Covenant Agreement” shall mean the Loan Covenant Agreement between the Borrower and the Funding Lender, dated the date hereof.

“Management Agreement” shall mean the Management Agreement between the Borrower and the Manager, pursuant to which the Manager is to manage the Project, as same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Manager” shall mean the management company to be employed by the Borrower and approved by the Funding Lender in accordance with the terms of the Security Instrument, this Borrower Loan Agreement or any of the other Borrower Loan Documents.

“Managing General Partner” shall mean CFAH Housing LLC, a California limited liability company, as managing general partner of the Borrower.

“Material Adverse Change” means any set of circumstances or events which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Borrower Loan Agreement or any other Borrower Loan Document; (b) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition, results of operations of the Borrower, General Partner, Guarantor or the Mortgaged Property; (c) could reasonably be expected to impair materially the ability of the Borrower, General Partner or Guarantor to duly and punctually pay or perform any of their respective obligations under any of the Borrower Loan Documents to which they are a party; or (d) impairs materially or could reasonably be expected to impair materially any rights of or benefits available to the Governmental Lender under this Borrower Loan Agreement or any other Borrower Loan Document, including, without limitation, the ability of Governmental Lender or, upon the assignment of the Borrower Loan to it, of the Funding Lender, to the extent permitted, to enforce its legal remedies pursuant to this Borrower Loan Agreement or any other Borrower Loan Document.

“Moody’s” shall mean Moody’s Investors Service, Inc., or its successor.

“Mortgaged Property” shall have the meaning given to that term in the Security Instrument.

“Net Operating Income” shall mean: (i) the Gross Income, less (ii) the Expenses of the Project.

“Nonpurpose Investment” shall mean any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Funding Loan and which is not

acquired to carry out the governmental purpose of the Funding Loan.

“Ongoing Governmental Lender Fee” shall mean the ongoing portion of the Authority Fee (as that term is defined in the Regulatory Agreement).

“Other Charges” shall mean all maintenance charges, impositions other than Taxes, and any other charges, including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Project, now or hereafter levied or assessed or imposed against the Project or any part thereof.

“Partnership Agreement” shall mean that certain [Second] Amended and Restated Agreement of Limited Partnership of the Borrower dated as of _____, 20__, as the same may be amended, restated or modified from time to time in accordance with its terms.

“Patriot Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

“Patriot Act Offense” shall have the meaning set forth in Section 4.1.48 hereof.

“Permitted Encumbrances” shall have the meaning given to that term in the Security Instrument.

“Permitted Lease” shall mean a lease and occupancy agreement pursuant to the form approved by Funding Lender, to a residential tenant in compliance with the Legal Requirements, providing for an initial term of not less than six (6) months nor more than two (2) years.

“Person” shall mean a natural person, a partnership, a joint venture, an unincorporated association, a limited liability company, a corporation, a trust, any other legal entity, or any Governmental Authority.

“Plan” shall mean (i) an employee benefit or other plan established or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions and (ii) which is covered by Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code.

“Potential Default” shall mean the occurrence of an event which, under this Borrower Loan Agreement or any other Borrower Loan Document, would, but for the giving of notice or passage of time, or both, be an Event of Default.

“Prepayment Premium” shall mean any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any prepayment premium as set forth in the Borrower Note).

“Project” shall mean the Mortgaged Property (as defined in the Security Instrument) and Improvements thereon owned by the Borrower and encumbered by the Security Instrument, subject to the Ground Lease, together with all rights pertaining to such real property and Improvements, as more particularly described in the Granting Clauses of the Security Instrument

and referred to therein as the “Mortgaged Property” provided, however, that for the avoidance of doubt, no proceeds of the Governmental Lender Note shall be used for any commercial or other non-residential purpose and any such facilities are excluded from the term “Project.”

“Project Agreements and Licenses” shall mean any and all Management Agreements and all other rights, licenses, permits, franchises, authorizations, approvals and agreements relating to use, occupancy, operation or leasing of the Project or the Mortgaged Property.

“Provided Information” shall have the meaning set forth in Section 9.1.1 (a) hereof.

“Qualified Project Costs” shall mean costs paid with respect to the Project that meet each of the following requirements: (i) the costs 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 Section 1.103-8(a)(1) of the Regulations (as defined in the Funding Loan Agreement), provided, however, that only such portion of the interest accrued during construction of the Project shall be eligible to be a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the acquisition and construction of the Project; and provided further that interest accruing after the date of completion of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed by a Borrower Affiliate (whether as general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out of pocket costs incurred by such Affiliate in constructing the Project (or any portion thereof), and (B) any overhead expenses incurred by 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 construction of the Project or payments received by such Affiliate due to early completion of the Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) the costs are paid after the earlier of 60 days prior to June 16, 2020, being the date on which the Governmental Lender first declared its “official intent” to reimburse costs paid with respect to the Project (within the meaning of Section 1.1502 of the Regulations) or the date of issue of the Governmental Lender Note, and (iv) if the costs of the acquisition and construction of the Project were previously paid and are to be reimbursed with proceeds of the Funding Loan such costs were (A) “preliminary expenditures” (within the meaning of Section 1.1502(f)(2) of the Regulations) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition and construction of the Project that do not exceed twenty percent (20%) of the issue price of the Governmental Lender Note (as defined in Section 1.148-1 of the Regulations), or (B) were capital expenditures with respect to the Project that are reimbursed no later than 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 years after the expenditures is paid); provided, however, that (w) Costs of Funding shall not be deemed to be Qualified Project Costs; (x) fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) shall not be deemed to be Qualified Project Costs; (y) letter of credit fees and municipal bond insurance premiums which represent a transfer of credit risk and are allocable to the construction period of the Project shall be allocated between Qualified Project Costs and other costs and expenses to be paid from the proceeds of the Funding Loan; and (z) letter of credit

fees and municipal bond insurance premiums which do not represent a transfer of credit risk (including, without limitation, letter of credit fees payable to a “related person” to the Borrower) shall not constitute Qualified Project Costs.

“Rebate Amount” shall mean, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

“Rebate Analyst” shall mean the rebate analyst selected by the Borrower and acceptable to the Governmental Lender and the Funding Lender.

“Rebate Analyst’s Fee” shall mean the annual fee of the Rebate Analyst payable by the Borrower to the Rebate Analyst.

“Rebate Fund” shall mean the Rebate Fund created pursuant to Section 5.35 hereof.

“Regulatory Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of October 1, 2023, among the Governmental Lender, the Fiscal Agent and the Borrower.

“Related Documents” shall mean, collectively, any agreement or other document (other than the Borrower Loan Documents) granting a security interest in all or a portion of the Project (including each agreement that is the subject of any Borrower Loan Document), and any other agreement, instrument or other document (not constituting a Borrower Loan Document) relating to or executed in connection with the transactions contemplated by this Borrower Loan Agreement, but excluding the Partnership Agreement.

“Replacement Reserve Agreement” shall mean the Replacement Reserve Agreement, of even date herewith, between the Borrower and the Funding Lender, as the same may be amended, restated or supplemented from time to time.

“Replacement Reserve Fund Requirement” means Borrower’s funding obligations from time to time under the Replacement Reserve Agreement.

“Review Fee” shall mean the three thousand dollar (\$3,000) fee payable to Funding Lender in connection with the review of requests from the Borrower in connection with events requiring the consent and/or approval of the Funding Lender, including, but not limited to, subordinate financings and easements.

“Secondary Market Disclosure Document” shall have the meaning set forth in Section 9.1.2 hereof.

“Secondary Market Transaction” shall have the meaning set forth in Section 9.1.1 hereof.

“Securities” shall have the meaning set forth in Section 9.1.1 hereof.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security Documents” shall mean the Security Instrument, the Replacement Reserve Agreement, the Collateral Agreements, the Collateral Assignments, this Borrower Loan Agreement, the Agreement of Environmental Indemnification, and such other security instruments that Funding Lender may reasonably request.

“Security Instrument” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Servicer” shall mean the Servicer contracting with or appointed by the Funding Lender to service the Borrower Loan. The initial Servicer shall be Citibank, N.A.

“Servicing Agreement” shall mean any servicing agreement or master servicing agreement, between the Servicer and the Funding Lender relating to the servicing of the Borrower Loan and any amendments thereto or any replacement thereof.

“Standard & Poor’s” or “S&P” shall mean S&P Global Ratings, a business unit of Standard & Poor’s Rating Services, or its successors.

“State” shall mean the State in which the Project is located.

[“Subordinate Debt” shall mean, collectively, the _____ and the _____.]

[“Subordinate Lender” shall mean, individually or collectively as the context shall require, _____, and _____.]

[“Subordinate Loan Documents” shall mean, collectively, all instruments, agreements and other documents evidencing, securing or otherwise relating to the Subordinate Debt or executed and delivered by Borrower and/or Subordinate Lender in connection with the Subordinate Debt.]

“Tax Counsel” shall have the meaning set forth in the Funding Loan Agreement.

“Taxes” shall mean 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.

“Term” shall mean the term of this Borrower Loan Agreement pursuant to Section 10.14.

“Title Company” means [_____].

“Title Insurance Policy” shall mean the mortgagee title insurance policy, in form acceptable to the Funding Lender, issued with respect to the Mortgaged Property and insuring the lien of the Security Instrument.

“Transfer” shall have the meaning given to that term in the Security Instrument.

“UCC” shall mean the Uniform Commercial Code as in effect in the State.

“Unassigned Rights” shall have the meaning set forth in the Funding Loan Agreement.

“Underwritten Management Fee” shall have the meaning set forth in the Loan Covenant

Agreement.

“Unit” shall mean a residential apartment unit within the Improvements.

“Written Consent” and “Written Notice” shall mean a written consent or notice signed by an Authorized Borrower Representative or an authorized representative of the Governmental Lender or the Funding Lender, as appropriate.

ARTICLE II

GENERAL

Section 2.1 Origination of Borrower Loan. In order to provide funds for the permanent financing of the Project, the Governmental Lender agrees that it will, in accordance with the Act, enter into the Funding Loan Agreement and accept the Funding Loan from the Funding Lender. The proceeds of the Funding Loan shall be advanced by the Funding Lender to the Title Company on the Conversion Date and disbursed in accordance with the terms of the Funding Loan Agreement, the Loan Covenant Agreement and this Borrower Loan Agreement.

The Governmental Lender hereby appoints the Funding Lender as its agent with full authority and power to act on its behalf to disburse the Borrower Loan for the account of the Governmental Lender, to take certain actions and exercise certain remedies with respect to the Borrower Loan, and for the other purposes set forth in this Borrower Loan Agreement and to do all other acts necessary or incidental to the performance and execution thereof to the extent those actions and remedies are not delegated to the Fiscal Agent. This appointment is coupled with an interest and is irrevocable except as expressly set forth herein. Accordingly, references to the rights of the Funding Lender to take actions under this Borrower Loan Agreement shall refer to Funding Lender in its role as agent of the Governmental Lender. The Funding Lender may designate Servicer to fulfill the rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to this Section 2.1.

Section 2.2 Security for the Funding Loan.

(a) As security for the Funding Loan, the Governmental Lender has pledged and assigned to the Funding Lender under and pursuant to the Funding Loan Agreement (a) the Borrower Note and all of its right, title and interest in and to this Borrower Loan Agreement and the Borrower Loan Documents (except for the Unassigned Rights) and all revenues and receipts therefrom and the security therefor (including the Security Instrument) and (b) the amounts on deposit from time to time in any and all funds, other than the Rebate Fund, established under the Funding Loan Agreement. All revenues and assets pledged and assigned thereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act. The Borrower hereby acknowledges and consents to such assignment to the Funding Lender.

(b) With respect to the Unassigned Rights, subject to the limitations set forth in this Section 2.2, the Governmental Lender may:

(i) Tax Covenants. Seek specific performance of, and enforce, the tax

covenants in Section 8.7 of the Funding Loan Agreement, the provisions of the Regulatory Agreement, the Tax Certificate and the covenants of the Borrower in Section 5.34 of this Borrower Loan Agreement, and seek injunctive relief against acts which may be in violation of any of the foregoing covenants, and enforce the Borrower's obligation under Section 5.35 to pay amounts for credit to the Rebate Fund;

(ii) Regulatory Agreement. Seek specific performance of the obligations of the Borrower or any other owner of the Project under the Regulatory Agreement and injunctive relief against acts which may be in violation of the Regulatory Agreement or otherwise in accordance with the provisions of the Regulatory Agreement; provided, however, that the Governmental Lender may enforce any right it may have under the Regulatory Agreement for monetary damages only against Excess Revenues (defined below), if any, of the Borrower, unless Funding Lender otherwise specifically consents in writing to the use of other funds; and

(iii) Unassigned Rights. Take whatever action at law or in equity which appears necessary or desirable to enforce the other Unassigned Rights, provided, however, that the Governmental Lender or any person under its control may only enforce any right it may have for monetary damages against Excess Revenues, if any, of the Borrower, unless Funding Lender otherwise specifically consents in writing to the enforcement against other funds of the Borrower.

(c) In no event shall the Governmental Lender, except at the express written direction of the Funding Lender:

(i) prosecute its action to a lien on the Project; or

(ii) except in connection with actions under Section 2.2(b) above, 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 of causing 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, construction, composition, reorganization, conservation or other similar law in effect now or in the future; or

(iii) interfere with the exercise by Funding Lender or Servicer of any of their rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Borrower Loan Documents or the Funding Loan 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.

(d) The Governmental Lender shall provide Written Notice to the Funding Lender and the Servicer immediately upon taking any action at law or in equity to exercise

any remedy or direct any proceeding under the Borrower Loan Documents or the Funding Loan Documents.

(e) As used in this Section 2.2, the term “Excess Revenues” means, for any period, the net cash flow of the Borrower available for distribution to shareholders, members or partners (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due during such period (whether by maturity, mandatory sinking fund payment, acceleration or otherwise), the payment of all fees, costs and expenses on an occasional or recurring basis in connection with the Borrower Loan or the Funding Loan, the payment of all operating, overhead, ownership and other expenditures of the Borrower directly or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of all reserves for taxes, insurance, water and sewer charges or other similar impositions, capital expenditures, repairs and replacements and all other amounts which the Borrower is required to set aside pursuant to agreement, but excluding depreciation and amortization of intangibles.

Section 2.3 Loan; Borrower Note; Conditions to Closing.

(a) The Borrower hereby accepts the Borrower Loan. As evidence of its obligation to repay the Borrower Loan, simultaneously with its execution and delivery of this Borrower Loan Agreement, the Borrower hereby agrees to execute and deliver the Borrower Note. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note.

(b) Closing of the Borrower Loan on the Conversion Date shall be conditioned upon satisfaction or waiver by the Governmental Lender and the Funding Lender, in their sole discretion, of each of the conditions precedent to closing set forth in the Funding Loan Agreement and this Borrower Loan Agreement, including but not limited to the following:

(i) evidence of proper recordation of the Security Instrument, an assignment of the Security Instrument from the Governmental Lender to the Funding Lender, the Regulatory Agreement, and each of the other documents specified for recording in instructions delivered to the Title Company by counsel to the Funding Lender (or that such documents have been delivered to an authorized agent of the Title Company for recordation under binding recording instructions from Funding Lender’s counsel or such other counsel as may be acceptable to the Funding Lender);

(ii) delivery to the Fiscal Agent or into escrow with the Title Company (or separate escrow company, if applicable) of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit and the Borrower Initial Equity, all as specified in written instructions delivered to the Title Company by counsel to the Funding Lender (or such other counsel as may be acceptable to the Funding Lender) and/or as specified in a closing memorandum of the Funding Lender; and

- (iii) payment of all fees payable in connection with the closing of the Borrower Loan including the Governmental Lender's Closing Fee and the initial fees and expenses of the Fiscal Agent and the Funding Lender.

In addition, closing of the Borrower Loan shall be subject to the delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender and the Funding Lender, dated the Conversion Date, in form and substance acceptable to Tax Counsel, regarding the due execution by the Borrower of, and the enforceability against the Borrower of, the Borrower Loan Documents.

Section 2.4 Borrower Loan Payments.

(a) The Borrower shall make Borrower Loan Payments in accordance with the Borrower Note. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Servicer by 2:00 p.m., New York City time, on the date that is two (2) Business Days prior to the Borrower Loan Payment Date. Each such payment shall be made to the Fiscal Agent or the Servicer, as applicable, by deposit to such account as the Fiscal Agent or Servicer, as applicable, may designate by Written Notice to the Borrower. Whenever any Borrower Loan Payment shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the Borrower Note in the amounts and at the times necessary to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

(b) Unless there is no Servicer, payments of principal and interest on the Borrower Note shall be paid to the Servicer and the Servicer shall then remit such funds to the Fiscal Agent for deposit into the Funding Loan Payment Fund created under the Funding Loan Agreement. If there is no Servicer, payments of principal and interest on the Borrower Note shall be paid directly to the Fiscal Agent.

Section 2.5 Additional Borrower Payments.

(a) The Borrower shall pay the following amounts:

(i) to the Fiscal Agent, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 5.35 hereof and the Rebate Analyst's Fee and any other costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Governmental Lender, any and, on demand, all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Governmental Lender incurred by the Governmental Lender at any time in connection with the Borrower Loan Documents, the Funding Loan Documents or the Project, including, without limitation, the Ongoing Governmental Lender Fee, counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses relating to the

enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit related to the Governmental Lender Note, the Project or the Borrower as and when such payments become due and payable;

(iii) Reserved;

(iv) all Costs of Funding and fees, charges and expenses, including agent and counsel fees incurred in connection with the origination of the Borrower Loan and the Funding Loan, as and when the same become due;

(v) to the Funding Lender, on demand, all charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Funding Lender incurred by the Funding Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, any Review Fee, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit;

(vi) all Late Charges due and payable under the terms of the Borrower Note and Section 2.6 hereof; provided, however, that all payments made pursuant to this subsection (vi) shall be made to the Servicer, and if there is no Servicer, such payments shall be made to the Funding Lender; and

(vii) to the Fiscal Agent, all reasonable fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of Fiscal Agent incurred under the Borrower Loan Documents or the Funding Loan Documents as and when the same become due.

(b) The Borrower shall pay to the party entitled thereto as expressly set forth in this Borrower Loan Agreement or the other Borrower Loan Documents or Funding Loan Documents:

(i) all expenses incurred in connection with the enforcement of any rights under this Borrower Loan Agreement or any other Borrower Loan Document, the Regulatory Agreement, or any Funding Loan Document by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer;

(ii) all other payments of whatever nature that the Borrower has agreed to pay or assume under the provisions of this Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document; and

(iii) all expenses, costs and fees relating to inspections of the Project required by the Governmental Lender, the Funding Lender, the Fiscal Agent or the

Servicer, in accordance with the Borrower Loan Documents or the Funding Loan Documents or to reimburse such parties for such expenses, costs and fees.

Section 2.6 Overdue Payments; Payments in Default. If any Borrower Payment Obligation is not paid by or on behalf of the Borrower when due, the Borrower shall pay to the Servicer a Late Charge in the amount and to the extent set forth in the Borrower Note, if any.

Section 2.7 Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds. The Borrower acknowledges as follows: (a) calculation of all interest payments shall be made by the Funding Lender in accordance with the terms of the Borrower Note; (b) deposits with respect to the Taxes and Other Charges shall be calculated by the Servicer or if there is no Servicer, the Funding Lender in accordance with the Security Instrument; and (c) deposits with respect to any replacement reserve funds required by the Funding Lender shall be calculated by the Servicer in accordance with the Replacement Reserve Agreement. In the event and to the extent that the Servicer or the Funding Lender, pursuant to the terms hereof, shall determine at any time that there exists a deficiency in amounts previously owed but not paid with respect to deposits to such replacement reserve fund, such deficiency shall be immediately due and payable hereunder following Written Notice to the Borrower.

Section 2.8 Grant of Security Interest; Application of Funds. To the extent not inconsistent with the Security Instrument and as security for payment of the Borrower Payment Obligations and the performance by the Borrower of all other terms, conditions and provisions of the Borrower Loan Documents, the Borrower hereby pledges and assigns to the Fiscal Agent and the Funding Lender, and grants to the Fiscal Agent and the Funding Lender, a security interest in, all the Borrower's right, title and interest in and to all payments to or moneys held in the funds and accounts created and held by the Fiscal Agent, the Funding Lender or the Servicer for the Project. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default hereunder, the Fiscal Agent, the Funding Lender and the Servicer shall apply or cause to be applied any sums held by the Fiscal Agent, the Funding Lender and the Servicer with respect to the Project in accordance with the provisions of Article IX of the Funding Loan Agreement to the extent applicable and otherwise in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion.

Section 2.9 Marshalling; Payments Set Aside. The Governmental Lender, the Fiscal Agent and the Funding Lender shall be under no obligation to marshal any assets in favor of the Borrower or any other Person or against or in payment of any or all of the proceeds. To the extent that the Borrower makes a payment or payments or transfers any assets to the Governmental Lender, the Fiscal Agent or the Funding Lender, or the Governmental Lender, the Fiscal Agent or the Funding Lender enforces its liens, and such payment or payments or transfers, or the proceeds of such enforcement or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party in connection with any insolvency proceeding, or otherwise, then: (i) any and all obligations owed to the Governmental Lender, the Fiscal Agent or the Funding Lender and any and all remedies available to the Governmental Lender, the Fiscal Agent or the Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or equity against the Borrower, Guarantor or General Partner and/or any of their properties shall be automatically

revived and reinstated to the extent (and only to the extent) of any recovery permitted under clause (ii) below; and (ii) the Governmental Lender, the Fiscal Agent and the Funding Lender shall be entitled to recover (and shall be entitled to file a proof of claim to obtain such recovery in any applicable bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding) either: (x) the amount of payments or the value of the transfer or (y) if the transfer has been undone and the assets returned in whole or in part, the value of the consideration paid to or received by the Borrower for the initial asset transfer, plus in each case any deferred interest from the date of the disgorgement to the date of distribution to the Governmental Lender, the Fiscal Agent or the Funding Lender in any bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding, and any costs and expenses due and owing, including, without limitation, any reasonable attorneys' fees incurred by the Governmental Lender, the Fiscal Agent or the Funding Lender in connection with the exercise by the Governmental Lender, the Fiscal Agent or the Funding Lender of its rights under this Section 2.9.

ARTICLE III

[RESERVED]

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1 Borrower Representations. To induce the Governmental Lender to execute this Borrower Loan Agreement, the Borrower represents and warrants for the benefit of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer, that the representations and warranties set forth in this Section 4.1 are complete and accurate as of the Conversion Date, and subject to Section 4.2, shall survive the making of the Borrower Loan.

(a) **Organization; Special Purpose.** The Borrower is a limited partnership in good standing under the laws of the State (and under the laws of the state in which the Borrower was formed if the Borrower was not formed under the laws of the State), has full legal right, power and authority to enter into the Borrower Loan Documents to which it is a party, and to carry out and consummate all transactions contemplated by the Borrower Loan Documents to which it is a party, and by proper limited partnership action has duly authorized the execution, delivery and performance of the Borrower Loan Documents to which it is a party. The Person(s) of the Borrower executing the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are fully authorized to execute the same. The Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower. The sole business of the Borrower is the ownership, management and operation of the Project.

(b) **Proceedings; Enforceability.** Assuming due execution and delivery by the other parties thereto, the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency or other laws affecting

the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

(c) **No Conflicts.** The execution and delivery of the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the Partnership Agreement of the Borrower or to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever (other than the lien of the Security Instrument or lien securing the Subordinate Debt) upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, or the financial condition, assets, properties or operations of the Borrower.

(d) **Litigation; Adverse Facts.** There is no Legal Action, nor is there a basis known to Borrower for any Legal Action, before or by any court or federal, state, municipal or other governmental authority, pending, or to the knowledge of the Borrower, after reasonable investigation, threatened, against or affecting the Borrower, the General Partner or the Guarantor, or their respective assets, properties or operations which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, the Borrower Loan Documents or the Funding Loan Documents, upon the ability of each of Borrower, General Partner and Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or upon the financial condition, assets (including the Project), properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, General Partner or Guarantor is in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the ability of each of Borrower, General Partner and Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or the financial condition, assets, properties or operations of the Borrower, General Partner or Guarantor. None of Borrower, General Partner or Guarantor are (a) in violation of any applicable law, which violation materially and adversely affects or may materially and adversely affect the business, operations, assets (including the Project), financial condition of Borrower,

General Partner or Guarantor, as applicable; (b) subject to, or in default with respect to, any other Legal Requirement that would have a material adverse effect on the business, operations, assets (including the Project), financial condition of Borrower, General Partner or Guarantor, as applicable; or (c) in default with respect to any agreement to which Borrower, General Partner or Guarantor, as applicable, are a party or by which they are bound, which default would have a material adverse effect on the business, operations, assets (including the Project), financial condition of Borrower, General Partner or Guarantor, as applicable; and (d) there is no Legal Action pending or, to the knowledge of Borrower, threatened against or affecting Borrower, General Partner or Guarantor questioning the validity or the enforceability of this Borrower Loan Agreement or any of the other Borrower Loan Documents or the Funding Loan Documents or of any of the Related Documents. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein. The Borrower enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities.

(e) **Agreements; Consents; Approvals.** Except as contemplated by the Borrower Loan Documents and the Funding Loan Documents, the Borrower is not a party to any agreement or instrument or subject to any restriction that would materially adversely affect the Borrower, the Project, or the Borrower's business, properties, operations or financial condition or business prospects, except the Permitted Encumbrances. The Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Project is bound.

No consent or approval of any trustee or holder of any indebtedness of the Borrower, and to the best knowledge of the Borrower and only with respect to the Borrower, no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except no representation is made with respect to any state securities or "blue sky" laws) is necessary in connection with the execution and delivery of the Borrower Loan Documents or the Funding Loan Documents, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

(f) **Title.** The Borrower shall have marketable title to the Project free and clear of all Liens except the Permitted Encumbrances. The Security Instrument, when properly recorded in the appropriate records, together with any UCC financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the Borrower's interest in the Project (subject to the Ground Lease) and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty included in the Project (including the Permitted Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. To the

Borrower's knowledge, there are no delinquent real property taxes or assessments, including water and sewer charges, with respect to the Project, nor are there any claims for payment for work, labor or materials affecting the Project which are or may become a Lien prior to, or of equal priority with, the Liens created by the Borrower Loan Documents and the Funding Loan Documents.

(g) **Survey.** To the best knowledge of the Borrower, the survey for the Project delivered to the Governmental Lender and the Funding Lender does not fail to reflect any material matter affecting the Project or the title thereto.

(h) **No Bankruptcy Filing.** The Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency law or the liquidation of all or a major portion of its property (a "Bankruptcy Proceeding"), and the Borrower has no knowledge of any Person contemplating the filing of any such petition against it. As of the Conversion Date, the Borrower has the ability to pay its debts as they become due.

(i) **Full and Accurate Disclosure.** No statement of fact made by the Borrower in any Borrower Loan Document or any Funding Loan Document contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein in light of the circumstances in which they were made, not misleading. There is no material fact or circumstance presently known to the Borrower that has not been disclosed to the Governmental Lender and the Funding Lender which materially and adversely affects the Project or the business, operations or financial condition or business prospects of the Borrower or the Borrower's ability to meet its obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and Funding Loan Documents to which it is a party in a timely manner.

(j) **No Plan Assets.** The Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3101.

(k) **Compliance.** The Borrower, the Project and the use thereof will comply, to the extent required, in all material respects with all applicable Legal Requirements. The Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which would materially adversely affect the financial condition or business prospects or the business of the Borrower. There has not been committed by the Borrower or any Borrower Affiliate involved with the operation or use of the Project any act or omission affording any Governmental Authority the right of forfeiture as against the Project or any part thereof or any moneys paid in performance of the Borrower's obligations under any Borrower Loan Document or any Funding Loan Documents.

(l) **Contracts.** All service, maintenance or repair contracts affecting the Project have been entered into at arm's length (except for such contracts between the Borrower and its affiliates or the affiliates of the Borrower Controlling Entity of the

Borrower) in the ordinary course of the Borrower's business and provide for the payment of fees in amounts and upon terms comparable to existing market rates.

(m) **Financial Information.** All financial data, including any statements of cash flow and income and operating expense, that have been delivered to the Governmental Lender or the Funding Lender in respect of the Project by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects, (ii) accurately represent the financial condition of the Project as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP consistently applied throughout the periods covered, except as disclosed therein. Other than pursuant to or permitted by the Borrower Loan Documents or the Funding Loan Documents or the Borrower organizational documents, the Borrower has no contingent liabilities, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of the Borrower from that set forth in said financial statements.

(n) **Condemnation.** No Condemnation or other proceeding has been commenced or, to the Borrower's knowledge, is contemplated, threatened or pending with respect to all or part of the Project or for the relocation of roadways providing access to the Project.

(o) **Federal Reserve Regulations.** No part of the proceeds of the Borrower Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements or any Borrower Loan Document or Funding Loan Document.

(p) **Utilities and Public Access.** To the best of the Borrower's knowledge, the Project is or will be served by water, sewer, sanitary sewer and storm drain facilities adequate to service it for its intended uses. All public utilities necessary or convenient to the full use and enjoyment of the Project are or will be located in the public right-of-way abutting the Project or through a recorded easement, and all such utilities are or will be connected so as to serve the Project without passing over other property absent a valid easement. All roads necessary for the use of the Project for its current purpose have been or will be completed and dedicated to public use and accepted by all Governmental Authorities. Except for Permitted Encumbrances, the Project does not share ingress and egress through an easement or private road or share on-site or off-site recreational facilities and amenities that are not located on the Project and under the exclusive control of the Borrower, or where there is shared ingress and egress or amenities, there exists an easement or joint use and maintenance agreement under which (i) access to and use and enjoyment of the easement or private road and/or recreational facilities and amenities is perpetual, (ii) the number of parties sharing such easement and/or recreational facilities and amenities must be specified, (iii) the Borrower's responsibilities and share of expenses are specified,

and (iv) the failure to pay any maintenance fee with respect to an easement will not result in a loss of usage of the easement.

(q) **Not a Foreign Person.** The Borrower is not a “foreign person” within the meaning of §1445(f)(3) of the Code.

(r) **[RESERVED].**

(s) **Assessments.** Except as may be set forth in the Title Insurance Policy, there are no pending or, to the Borrower’s best knowledge, proposed special or other assessments for public improvements or otherwise affecting the Project, or any contemplated improvements to the Project that may result in such special or other assessments.

(t) **Enforceability.** The Borrower Loan Documents and the Funding Loan Documents are not subject to, and the Borrower has not asserted, any right of rescission, set-off, counterclaim or defense, including the defense of usury.

(u) **Insurance.** The Borrower has obtained the insurance required by this Borrower Loan Agreement, if applicable, and the Security Instrument and has delivered to the Servicer copies of insurance policies or certificates of insurance reflecting the insurance coverages, amounts and other requirements set forth in this Borrower Loan Agreement, if applicable, and the Security Instrument.

(v) **Use of Property; Licenses.** The Project will be used exclusively as a multifamily rental housing project and other appurtenant and related uses, which use is consistent with the applicable zoning classification for the Project. To the Borrower’s knowledge, all Licenses obtained by the Borrower have been validly issued and are in full force and effect. No Licenses will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project, including any transfer pursuant to foreclosure sale under the Security Instrument or deed in lieu of foreclosure thereunder. The Project does not violate any density or building setback requirements of the applicable zoning law except to the extent, if any, shown on the survey. No proceedings are, to the best of the Borrower’s knowledge, pending or threatened that would result in a change of the zoning of the Project.

(w) **Flood Zone.** No structure within the Mortgaged Property lies or is located in an identifiable or designated Special Flood Hazard Area, or if the Mortgaged Property is determined to be in a Special Flood Hazard Area, Borrower will obtain appropriate flood insurance as required under the National Flood Insurance Act of 1968, Flood Disaster Protection Act of 1973, or the National Flood Insurance Reform Act of 1994, as amended or as required by the Servicer pursuant to its underwriting guidelines.

(x) **Physical Condition.** The Project, including all Improvements, parking facilities, systems, fixtures, Equipment and landscaping, are in good and habitable condition in all material respects and in good order and repair in all material respects (reasonable wear and tear excepted). The Borrower has not received notice from any insurance company or bonding company of any defect or inadequacy in the Project, or any

part thereof, which would adversely affect its insurability or cause the imposition of extraordinary premiums or charges thereon or any termination of any policy of insurance or bond. The physical configuration of the Project is not in material violation of the ADA, if required under applicable law.

(y) **Encroachments.** All of the Improvements included in determining the appraised value of the Project lie wholly within the boundaries and building restriction lines of the Project, and no improvement on an adjoining property encroaches upon the Project, and no easement or other encumbrance upon the Project encroaches upon any of the Improvements, so as to affect the value or marketability of the Project, except those insured against by the Title Insurance Policy or disclosed in the survey of the Project as approved by the Servicer.

(z) **State Law Requirements.** The Borrower hereby represents, covenants and agrees to comply with the provisions of all applicable state laws relating to the Borrower Loan, the Funding Loan and the Project.

(aa) **Filing and Recording Taxes.** All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements in connection with the transfer of the Project to the Borrower have been paid. All mortgage, mortgage recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Borrower Loan Documents and the Funding Loan Documents have been or will be paid.

(bb) **Investment Company Act.** The Borrower is not (i) an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended; or (ii) a “holding company” or a “subsidiary company” of a “holding company” or an “affiliate” of either a “holding company” or a “subsidiary company” within the meaning of the Public Utility Holding Company Act of 1935, as amended.

(cc) **Fraudulent Transfer.** The Borrower has not accepted the Borrower Loan or entered into any Borrower Loan Document or Funding Loan Document with the actual intent to hinder, delay or defraud any creditor, and the Borrower has received reasonably equivalent value in exchange for its obligations under the Borrower Loan Documents and the Funding Loan Documents. Giving effect to the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the fair saleable value of the Borrower’s assets exceeds and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, exceed the Borrower’s total liabilities, including subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of the Borrower’s assets is and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, be greater than the Borrower’s probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. The Borrower’s assets do not and, immediately following the execution and

delivery of the Borrower Loan Documents and the Funding Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. The Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of the Borrower).

(dd) **Ownership of the Borrower.** Except as set forth in the Partnership Agreement of the Borrower and the exhibits thereto, the Borrower has no obligation to any Person to purchase, repurchase or issue any ownership interest in the Borrower.

(ee) **Environmental Matters.** To the best of Borrower's knowledge, the Project is not in violation of any Legal Requirement pertaining to or imposing liability or standards of conduct concerning environmental regulation, contamination or cleanup, and will comply with covenants and requirements relating to environmental hazards as set forth in the Security Instrument. The Borrower will execute and deliver the Agreement of Environmental Indemnification on the Conversion Date.

(ff) **Name; Principal Place of Business.** Unless prior Written Notice is given to the Funding Lender, the Borrower does not use and will not use any trade name, and has not done and will not do business under any name other than its actual name set forth herein. The principal place of business of the Borrower is its primary address for notices as set forth in Section 10.1 hereof, and the Borrower has no other place of business, other than the Project and such principal place of business.

(gg) **Subordinated Debt.** There is no secured or unsecured indebtedness with respect to the Project or any residual interest therein, other than Permitted Encumbrances and the permitted secured indebtedness described in Section 6.7 hereof and partner loans and deferred development fee loans made pursuant to the Borrower's Partnership Agreement.

(hh) **Filing of Taxes.** The Borrower has filed (or has obtained effective extensions for filing) all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments, if any, payable by the Borrower.

(ii) **General Tax.** All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Certificate are incorporated by reference herein and the Borrower will comply with such as if set forth herein.

(jj) **Approval of the Borrower Loan Documents and Funding Loan Documents.** By its execution and delivery of this Borrower Loan Agreement, the Borrower approves the form and substance of the Borrower Loan Documents and the Funding Loan Documents, and agrees to carry out the responsibilities and duties specified in the Borrower Loan Documents and the Funding Loan Documents to be carried out by the Borrower. The Borrower acknowledges that (a) it understands the nature and structure of the transactions relating to the financing of the Project, (b) it is familiar with the

provisions of all of the Borrower Loan Documents and the Funding Loan Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents or otherwise relied on the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer in any manner.

(kk) **Funding Loan Agreement.** The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the Funding Loan Documents.

(ll) **Americans with Disabilities Act.** The Project, as designed, will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project, including, but not limited to, the Americans with Disabilities Act of 1990 (“ADA”), to the extent required (as evidenced by an architect’s certificate to such effect).

(mm) **Requirements of Act, Code and Regulations.** The Project satisfies all requirements of the Act, the Code and the Regulations applicable to the Project.

(nn) **Regulatory Agreement.** The Project is, as of the date of origination of the Funding Loan, in compliance with all requirements of the Regulatory Agreement to the extent such requirements are applicable; and the Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code and the Regulations, and pursuant to leases which comply with all applicable laws.

(oo) **Intention to Hold Project.** The Borrower intends to hold the Project for its own account and has no current plans, and except as set forth in the Partnership Agreement or its exhibits has not entered into any agreement, to sell the Project or any part of it; and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

(pp) **Concerning General Partner.** Each General Partner represents and covenants as to itself only and not on behalf of the other General Partner as follows:

(i) The managing general partner of Borrower is CFAH Housing LLC, a California limited liability company, and the administrative general partner of Borrower is AHG Rancho Bernardo, LLC, a California limited liability company, and each of the Managing General Partner and Administrative General Partner is duly organized and validly existing under the laws of the State of California. Each

General Partner has all requisite power and authority, rights and franchises to enter into and perform its obligations under the Borrower Loan Documents and the Funding Loan Documents to be executed by it for its own account and on behalf of Borrower, as a general partner of Borrower, under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents.

(ii) The General Partner has made all filings (including, without limitation, all required filings related to the use of fictitious business names) and is in good standing in the State and in each other jurisdiction in which the character of the property it owns or the nature of the business it transacts makes such filings necessary or where the failure to make such filings could have a material adverse effect on the business, operations, assets, or financial condition of General Partner.

(iii) The General Partner is duly authorized to do business in the State.

(iv) The execution, delivery and performance by Borrower of the Borrower Loan Documents and the Funding Loan Documents have been duly authorized by all necessary action of General Partner on behalf of Borrower, and by all necessary action on behalf of General Partner.

(v) The execution, delivery and performance by General Partner, on behalf of Borrower, of the Borrower Loan Documents and the Funding Loan Documents will not violate (i) General Partner's organizational documents; (ii) any other Legal Requirement affecting General Partner or any of its properties; or (iii) any agreement to which General Partner is bound or to which it is a party; and will not result in or require the creation (except as provided in or contemplated by this Borrower Loan Agreement) of any Lien upon any of such properties, any of the Collateral or any of the property or funds pledged or delivered to Funding Lender pursuant to the Security Documents.

(qq) **Government and Private Approvals.** All governmental or regulatory orders, consents, permits, authorizations and approvals required for the construction, use, occupancy and operation of the Improvements, that may be granted or denied in the discretion of any Governmental Authority, have been obtained and are in full force and effect. All such orders, consents, permits, authorizations and approvals that may not be denied in the discretion of any Governmental Authority shall be obtained prior to the commencement of any work for which such orders, consents, permits, authorizations or approvals are required, and, once obtained, such orders, consents, permits, authorizations and approvals will be maintained in full force and effect at all times during the construction of the Improvements. Except as set forth in the preceding two sentences, no additional governmental or regulatory actions, filings or registrations with respect to the Improvements, and no approvals, authorizations or consents of any trustee or holder of any indebtedness or obligation of Borrower, are required for the due execution, delivery and performance by Borrower or General Partner of any of the Borrower Loan Documents or the Funding Loan Documents or the Related Documents executed by Borrower or General Partner, as applicable. All required zoning approvals have been obtained, and the zoning of the Land for the Project is not conditional upon the happening of any further event.

(rr) **Concerning Guarantor.** The Borrower Loan Documents and the Funding Loan Documents to which the Guarantor is a party or a signatory executed simultaneously with this Borrower Loan Agreement have been duly executed and delivered by Guarantor and are legally valid and binding obligations of Guarantor, enforceable against Guarantor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

(ss) **No Material Defaults.** Except as previously disclosed to Funding Lender and the Governmental Lender in writing, there exists no material violation of or material default by Borrower under, and, to the best knowledge of Borrower, no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default with respect to: (i) the terms of any instrument evidencing, securing or guaranteeing any indebtedness secured by the Project or any portion or interest thereof or therein; (ii) any lease or other agreement affecting the Project or to which Borrower is a party; (iii) any license, permit, statute, ordinance, law, judgment, order, writ, injunction, decree, rule or regulation of any Governmental Authority, or any determination or award of any arbitrator to which Borrower or the Project may be bound; or (iv) any mortgage, instrument, agreement or document by which Borrower or any of its respective properties is bound; in the case of any of the foregoing: (1) which involves any Borrower Loan Document or Funding Loan Document; (2) which involves the Project and is not adequately covered by insurance; (3) that might materially and adversely affect the ability of Borrower, General Partner or Guarantor or to perform any of its respective obligations under any of the Borrower Loan Documents or the Funding Loan Documents or any other material instrument, agreement or document to which it is a party; or (4) which might adversely affect the priority of the Liens created by this Borrower Loan Agreement or any of the Borrower Loan Documents or the Funding Loan Documents.

(tt) **Payment of Taxes.** Except as previously disclosed to Funding Lender in writing: (i) all tax returns and reports of Borrower, General Partner and Guarantor required to be filed have been timely filed, and all taxes, assessments, fees and other governmental charges upon Borrower, General Partner and Guarantor, and upon their respective properties, assets, income and franchises, which are due and payable have been paid when due and payable; and (ii) Borrower knows of no proposed tax assessment against it or against General Partner or Guarantor that would be material to the condition (financial or otherwise) of Borrower, General Partner or Guarantor, and neither Borrower nor General Partner have contracted with any Governmental Authority in connection with such taxes.

(uu) **Rights to Project Agreements and Licenses.** Borrower is the legal and beneficial owner of all rights in and to the Project Agreements and Licenses, and will be the legal and beneficial owner of all rights in and to all future Project Agreements and Licenses. The Borrower's interest in the Project Agreements and Licenses is not subject to any present claim (other than under the Borrower Loan Documents, the Funding Loan Documents and the Subordinate Loan Documents or as otherwise approved by Funding Lender in its sole discretion), set-off or deduction other than in the ordinary course of business.

(vv) **Patriot Act Compliance.** Borrower is not now, nor has ever been (i) listed on any Government Lists (as defined below), (ii) a person who has been determined by a Governmental Authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (September 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any Governmental Authority for alleged criminal activity. For purposes hereof, the term “Patriot Act Offense” shall mean any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism; (B) the criminal laws against money laundering, (C) Bank Representative Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended, or (E) the Patriot Act. “Patriot Act Offense” also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term “Government Lists” shall mean (1) the Specially Designated Nationals and Blocked Persons Lists maintained by the Office of Foreign Assets Control (“OFAC”), (2) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that Funding Lender notified Borrower in writing is now included in “Government Lists”, or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other Governmental Authority or pursuant to any Executive Order of the President of the United States of America that Funding Lender notified Borrower in writing is now included in “Government Lists”.

(ww) **Other Documents.** Each of the representations and warranties of Borrower or General Partner contained in any of the other Borrower Loan Documents or the Funding Loan Documents or Related Documents is true and correct in all material respects (or, in the case of representations or warranties contained in any of the other Borrower Loan Documents or Funding Loan Documents or Related Documents that speak as of a particular date, were true and correct in all material respects as of such date). All of such representations and warranties are incorporated herein for the benefit of Funding Lender.

(xx) **Subordinate Loan Documents.** The Subordinate Loan Documents are in full force and effect and the Borrower has paid all commitment fees and other amounts due and payable to the Subordinate Lender(s) thereunder. There exists no material violation of or material default by the Borrower under, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default under the Subordinate Loan Documents.

(yy) **Ground Lease.** The Ground Lease is in full force and effect and the Borrower has paid all rent and other amounts due and payable to the ground lessor thereunder. There exists no material violation of or material default by the Borrower under the Ground Lease, and no event has occurred which, upon the giving of notice or the

passage of time, or both, would constitute a material default by any other party under the Ground Lease.

(zz) **Survival of Representations and Covenants.** All of the representations and warranties in Section 4.1 hereof and elsewhere in the Borrower Loan Documents (i) shall survive for so long as any portion of the Borrower Payment Obligations remains due and owing and (ii) shall be deemed to have been relied upon by the Governmental Lender and the Servicer notwithstanding any investigation heretofore or hereafter made by the Governmental Lender or the Servicer or on its or their behalf, provided, however, that the representations, warranties and covenants set forth in Section 4.1.31 hereof shall survive in perpetuity and shall not be subject to the exculpation provisions of Section 11.1 hereof.

ARTICLE V

AFFIRMATIVE COVENANTS

During the term of this Borrower Loan Agreement, the Borrower hereby covenants and agrees with the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer that:

Section 5.1 Existence. The Borrower shall (i) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence and its material rights, and franchises, (ii) continue to engage in the business presently conducted by it, (iii) obtain and maintain all material Licenses, and (iv) qualify to do business and remain in good standing under the laws of the State.

Section 5.2 Taxes and Other Charges. The Borrower shall pay all Taxes and Other Charges as the same become due and payable and prior to their becoming delinquent in accordance with the Security Instrument, except to the extent that the amount, validity or application thereof is being contested in good faith as permitted by the Security Instrument.

The Borrower covenants to pay all Taxes and Other Charges of any type or character charged to the Governmental Lender or Funding Lender affecting the amount available to the Governmental Lender or Funding Lender from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including Taxes and Other Charges assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Funding Lender and taxes based upon or measured by the net income of the Funding Lender; provided, however, that the Borrower shall have the right to protest any such Taxes or Other Charges and to require the Funding Lender, at the Borrower's expense, to protest and contest any such Taxes or Other Charges levied upon them and that the Borrower shall have the right to withhold payment of any such Taxes or Other Charges pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Funding Lender. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.3 Repairs; Maintenance and Compliance; Physical Condition. The Borrower shall cause the Project to be maintained in a good, habitable and safe (so as to not

threaten the health or safety of the Project's tenants or their invited guests) condition and repair (reasonable wear and tear excepted) as set forth in the Security Instrument and shall not remove, demolish or materially alter the Improvements or Equipment (except for removal of aging or obsolete equipment or furnishings in the normal course of business), except as provided in the Security Instrument.

Section 5.4 Litigation. The Borrower shall give prompt Written Notice to the Governmental Lender, the Funding Lender and the Servicer of any litigation, governmental proceedings or claims or investigations regarding an alleged actual violation of a Legal Requirement pending or, to the Borrower's knowledge, threatened against the Borrower which might materially adversely affect the Borrower's condition (financial or otherwise) or business or the Project.

Section 5.5 Performance of Other Agreements. The Borrower shall observe and perform in all material respects each and every term to be observed or performed by it pursuant to the terms of any agreement or instrument affecting or pertaining to the Project.

Section 5.6 Notices. The Borrower shall promptly advise the Governmental Lender, the Funding Lender and the Servicer of (i) any Material Adverse Change in the Borrower's financial condition, assets, properties or operations other than general changes in the real estate market, (ii) any fact or circumstance affecting the Borrower or the Project that materially and adversely affects the Borrower's ability to meet its obligations hereunder or under any of the other Borrower Loan Document to which it is a party in a timely manner, or (iii) the occurrence of any Potential Default or Event of Default of which the Borrower has knowledge. If the Borrower becomes subject to federal or state securities law filing requirements, the Borrower shall cause to be delivered to the Governmental Lender, the Funding Lender and the Servicer any Securities and Exchange Commission or other public filings, if any, of the Borrower within two (2) Business Days of such filing.

Section 5.7 Cooperate in Legal Proceedings. The Borrower shall cooperate fully with the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer with respect to, and permit the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer at their option, to participate in, any proceedings before any Governmental Authority that may in any way affect the rights of the Governmental Lender, the Funding Lender, the Fiscal Agent and/or the Servicer under any Borrower Loan Document or Funding Loan Document.

Section 5.8 Further Assurances. The Borrower shall, at the Borrower's sole cost and expense (except as provided in Section 9.1 hereof), (i) furnish to the Servicer and the Funding Lender all instruments, documents, boundary surveys, footing or foundation surveys (to the extent that Borrower's construction or renovation of the Project alters any existing building foundations or footprints), certificates, plans and specifications, appraisals, title and other insurance reports and agreements relating to the Project, reasonably requested by the Servicer or the Funding Lender for the better and more efficient carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents; (ii) execute and deliver to the Servicer and the Funding Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the Borrower Loan, as the Servicer, the Fiscal Agent (at the

direction of the Funding Lender) and the Funding Lender may reasonably require from time to time; (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents, as the Servicer, the Fiscal Agent (at the direction of the Funding Lender) or the Funding Lender shall reasonably require from time to time; provided, however, with respect to clauses (i)-(iii) above, the Borrower shall not be required to do anything that has the effect of (A) changing the essential economic terms of the Borrower Loan or (B) imposing upon the Borrower greater personal liability under the Borrower Loan Documents and the Funding Loan Documents; and (iv) upon the Servicer's, the Fiscal Agent's (at the direction of the Funding Lender) or the Funding Lender's request therefor given from time to time after the occurrence of any Potential Default or Event of Default for so long as such Potential Default or Event of Default, as applicable, is continuing pay for (a) reports of UCC, federal tax lien, state tax lien, judgment and pending litigation searches with respect to the Borrower and (b) searches of title to the Project, each such search to be conducted by search firms reasonably designated by the Servicer, the Fiscal Agent (at the direction of the Funding Lender) or the Funding Lender in each of the locations reasonably designated by the Servicer, the Fiscal Agent or the Funding Lender.

Section 5.9 Delivery of Financial Information. After notice to the Borrower of a Secondary Market Disclosure Document, the Borrower shall, concurrently with any delivery to the Funding Lender or the Servicer, deliver copies of all financial information required under Article IX.

Section 5.10 Environmental Matters. So long as the Borrower owns or is in possession of the Project, the Borrower shall (a) keep the Project in compliance with all Hazardous Materials Laws (as defined in the Security Instrument), (b) promptly notify the Funding Lender and the Servicer if the Borrower shall become aware that any Hazardous Materials (as defined in the Security Instrument) are on or near the Project in violation of Hazardous Materials Laws, and (c) commence and thereafter diligently prosecute to completion all remedial work necessary with respect to the Project required under any Hazardous Material Laws, in each case as set forth in the Security Instrument or the Agreement of Environmental Indemnification.

Section 5.11 Governmental Lender's and Funding Lender's Fees. The Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Ongoing Governmental Lender Fee), the Fiscal Agent and the Funding Lender or any agents, attorneys, accountants, consultants selected by the Governmental Lender, the Fiscal Agent or the Funding Lender to act on its behalf in connection with this Borrower Loan Agreement and the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents, including, without limitation, any and all reasonable expenses incurred in connection with the making of the Borrower Loan or in connection with any litigation which may at any time be instituted involving the Borrower Loan, this Borrower Loan Agreement, the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.12 Estoppel Statement. The Borrower shall furnish to the Funding Lender, the Fiscal Agent or the Servicer for the benefit of the Funding Lender or the Servicer within ten (10) days after request by the Funding Lender and the Servicer, with a statement, duly acknowledged and certified, setting forth (i) the unpaid principal of the Borrower Note, (ii) the applicable Interest Rate, (iii) the date installments of interest and/or principal were last paid, (iv) any offsets or defenses to the payment of the Borrower Payment Obligations, and (v) that the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are valid, legal and binding obligations of the Borrower and have not been modified or, if modified, giving particulars of such modification, and no Event of Default exists thereunder or specify any Event of Default that does exist thereunder. The Borrower shall use commercially reasonable efforts to furnish to the Funding Lender or the Servicer, within 30 days of a request by the Funding Lender or Servicer, tenant estoppel certificates from each commercial tenant at the Project in form and substance reasonably satisfactory to the Funding Lender and the Servicer; provided that the Funding Lender and the Servicer shall not make such requests more frequently than twice in any year.

Section 5.13 Defense of Actions. The Borrower shall appear in and defend any action or proceeding purporting to affect the security for this Borrower Loan Agreement hereunder or under the Borrower Loan Documents and the Funding Loan Documents, and shall pay, in the manner required by Section 2.4 hereof, all costs and expenses, including the cost of evidence of title and attorneys' fees, in any such action or proceeding in which the Governmental Lender or the Funding Lender may appear. If the Borrower fails to perform any of the covenants or agreements contained in this Borrower Loan Agreement or any other Borrower Loan Document, or if any action or proceeding is commenced that is not diligently defended by the Borrower which affects the Funding Lender's interest in the Project or any part thereof, including eminent domain, code enforcement or proceedings of any nature whatsoever under any Federal or state law, whether now existing or hereafter enacted or amended, then the Funding Lender may make such appearances, disburse such sums and take such action as the Funding Lender deems necessary or appropriate to protect its interests. Such actions include disbursement of attorneys' fees, entry upon the Project to make repairs or take other action to protect the security of the Project, and payment, purchase, contest or compromise of any encumbrance, charge or lien which in the judgment of Funding Lender appears to be prior or superior to the Borrower Loan Documents or the Funding Loan Documents. Neither the Governmental Lender nor the Funding Lender shall have any obligation to do any of the above. The Funding Lender may take any such action without notice to or demand upon the Borrower. No such action shall release the Borrower from any obligation under this Borrower Loan Agreement or any of the other Borrower Loan Documents or Funding Loan Documents. In the event (i) that the Security Instrument is foreclosed in whole or in part or that any Borrower Loan Document is put into the hands of an attorney for collection, suit, action or foreclosure, or (ii) of the foreclosure of any mortgage, deed of trust or deed to secure debt prior to or subsequent to the Security Instrument or any Borrower Loan Document in which proceeding the Governmental Lender or Funding Lender is made a party or (iii) of the bankruptcy of the Borrower or an assignment by the Borrower for the benefit of its creditors, the Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including actual attorneys' fees in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, which shall be due and payable together with all required service or use taxes.

Section 5.14 Expenses. The Borrower shall pay all reasonable expenses incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer (except as provided in Section 9.1 hereof) in connection with the Borrower Loan and the Funding Loan, including reasonable fees and expenses of the Governmental Lender's, the Fiscal Agent's, the Funding Lender's and the Servicer's attorneys, environmental, engineering and other consultants, and fees, charges or taxes for the recording or filing of the Borrower Loan Documents and the Funding Loan Documents. The Borrower shall pay or cause to be paid all reasonable expenses of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer (except as provided in Section 9.1 hereof) in connection with the issuance or administration of the Borrower Loan and the Funding Loan, including audit costs, inspection fees, settlement of condemnation and casualty awards, and premiums for title insurance and endorsements thereto. The Borrower shall, upon request, promptly reimburse the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer for all reasonable amounts expended, advanced or incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer to collect the Borrower Note, or to enforce the rights of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer under this Borrower Loan Agreement or any other Borrower Loan Document, or to defend or assert the rights and claims of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer under the Borrower Loan Documents and the Funding Loan Documents arising out of an Event of Default or with respect to the Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be reasonably incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer in connection with any such matters (whether or not litigation is instituted), together with interest at the Default Rate on each such amount from the Date of Disbursement until the date of reimbursement to the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer, all of which shall constitute part of the Borrower Loan and the Funding Loan and shall be secured by the Borrower Loan Documents and the Funding Loan Documents. The obligations and liabilities of the Borrower under this Section 5.14 shall survive the Term of this Borrower Loan Agreement and the exercise by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, of any of its rights or remedies under the Borrower Loan Documents and the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Notwithstanding the foregoing, the Borrower shall not be obligated to pay amounts incurred as a result of the gross negligence or willful misconduct of any other party, and any obligations of the Borrower to pay for environmental inspections or audits will be governed by Section 18(i) and 43(i) of the Security Instrument.

Section 5.15 Indemnity. In addition to its other obligations hereunder, and in addition to any and all rights of reimbursement, indemnification, subrogation and other rights of Governmental Lender, the Fiscal Agent or Funding Lender pursuant hereto, pursuant to the Regulatory Agreement and under law or equity, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer, the Beneficiary Parties, Citigroup, Inc., and each of their respective commissioners, officers, directors, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (hereinafter, the "Liabilities") 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, to the extent arising out of or based upon or in any way relating to:

(a) The Borrower Loan Documents and the Funding Loan Documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the sale, transfer or resale of the Borrower Loan or the Funding Loan, except with respect to any Secondary Market Disclosure Document (other than any Borrower's obligations under Article IX);

(b) Any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan, the Funding 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, construction, installation or operation of, the Project or any part thereof;

(c) Any lien (other than a Permitted Lien) or charge upon payments by the Borrower to the Governmental Lender, the Fiscal Agent or the Funding Lender hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and Other Charges imposed on the Governmental Lender, the Fiscal Agent or the Funding Lender in respect of any portion of the Project;

(d) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance or hazardous material from, the Project or any part thereof; provided, however, Borrower's liability under this provision shall not extend to cover the period of any violation that first arose, commenced or occurred as a result of actions of the Indemnified Party, after the satisfaction, discharge, release, assignment, termination or cancellation of the Security Instrument following the payment in full of the Borrower Note and all other sums payable under the Borrower Loan Documents or after the actual dispossession from the entire Mortgaged Property of Borrower and all entities which control, are controlled by, or are under common control with Borrower following foreclosure of the Security Instrument or acquisition of the Mortgaged Property by a deed in lieu of foreclosure;

(e) The enforcement of, or any action taken by the Governmental Lender, the Fiscal Agent or the Funding Lender related to remedies under, this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents;

(f) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower made in the course of Borrower applying for the Borrower Loan or the Funding Loan or contained in any of the Borrower Loan Documents or Funding Loan Documents to which the Borrower is a party;

(g) Any Determination of Taxability;

(h) Any breach (or alleged breach) by Borrower of any representation, warranty or covenant made in or pursuant to this Borrower Loan Agreement or in connection with

any written or oral representation, presentation, report, appraisal or other information given or delivered by Borrower, General Partner, Guarantor or Borrower Affiliates to the Governmental Lender, the Fiscal Agent the Funding Lender, Servicer or any other Person in connection with the Borrower's application for the Borrower Loan and the Funding Loan (including, without limitation, any breach or alleged breach by Borrower of any agreement with respect to the provision of any substitute credit enhancement);

(i) any failure (or alleged failure) by Borrower, the Funding Lender or Governmental Lender to comply with applicable federal and state laws and regulations pertaining to the making of the Borrower Loan and the Funding Loan;

(j) the Project, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation, construction of, the Project or any part thereof; or

(k) the use of the proceeds of the Borrower Loan and the Funding Loan,

except in the case of the foregoing indemnification of the Governmental Lender or any related Indemnified Party, to the extent such damages are caused by the willful misconduct of such Indemnified Party, and except in the case of the foregoing indemnification of the Funding Lender or the Servicer or any related Indemnified Party, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party. Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 9.1.4 hereof with respect to any securitization or Secondary Market Transaction described in Article IX hereof shall be limited to the indemnity set forth in Section 9.1.4 hereof. 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 the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably 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 the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement, which approval shall not be unreasonably withheld. 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 only employ separate counsel at the expense of the Borrower if and only if in such Indemnified Party's good faith judgment (based on the advice of counsel) a conflict of interest exists or could arise by reason of common representation.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 5.15 if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder, in which event the Borrower shall only be obligated to indemnify for events up to the date the Project is transferred.

The rights of any persons to indemnity hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan and in the case of the Servicer, any resignation or removal. The provisions of this Section 5.15 shall survive the termination of this Borrower Loan Agreement and the earlier removal or resignation of the Fiscal Agent.

The foregoing provisions of this Section 5.15 are not intended to and shall not negate, modify, limit or change the provisions of Section 9 of the Borrower Note.

Section 5.16 No Warranty of Condition or Suitability by the Governmental Lender or Funding Lender. Neither the Governmental Lender nor the Funding Lender makes any warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Borrower's purposes or needs.

Section 5.17 Right of Access to the Project. Subject to the rights of tenants, the Borrower agrees that the Governmental Lender, the Funding Lender and the Servicer, and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but no obligation, at all reasonable times during business hours and upon reasonable notice, to enter onto the Land (a) to examine, test and inspect the Project without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Project made necessary by reason of the Borrower's default under any of the provisions of this Borrower Loan Agreement. The Governmental Lender, the Funding Lender, the Servicer, and their duly authorized agents, attorneys, accountants and representatives shall also be permitted, without any obligation to do so, at all reasonable times and upon reasonable notice during business hours, to examine the books and records of the Borrower with respect to the Project.

Section 5.18 Notice of Default. The Borrower will provide the Governmental Lender, the Funding Lender and the Servicer as soon as possible, and in any event not later than five (5) Business Days after the occurrence of any Potential Default or Event of Default, with a statement of an Authorized Borrower Representative describing the details of such Potential Default or Event of Default and any curative action Borrower proposes to take.

Section 5.19 Covenant with Governmental Lender and Funding Lender. The Borrower agrees that this Borrower Loan Agreement is executed and delivered in part to induce the purchase by others of the Governmental Lender Note and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are hereby declared to be for the benefit of the Governmental Lender, the Fiscal Agent, the Funding Lender and any lawful owner, holder or pledgee of the Borrower Note or the Governmental Lender Note from time to time.

Section 5.20 Reserved.

Section 5.21 Maintenance of Insurance. Borrower will maintain the insurance required by the Security Instrument.

Section 5.22 Information; Statements and Reports. Borrower shall furnish or cause to be furnished to Funding Lender and, with respect to subsection (a) only, to Governmental Lender:

(a) Financial Statements; Rent Rolls. In the manner and to the extent required under the Security Instrument, such financial statements, expenses statements, rent rolls, reports and other financial documents and information as required by the Security Instrument and the other Borrower Loan Documents and Funding Loan Documents, in the form and within the time periods required therein;

(b) Reserved;

(c) Audit Reports. Promptly upon receipt thereof, copies of all reports, if any, submitted to Borrower by independent public accountants in connection with each annual, interim or special audit of the financial statements of Borrower made by such accountants, including the comment letter submitted by such accountants to management in connection with their annual audit;

(d) Notices; Certificates or Communications. Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Project or to Borrower or General Partner naming Governmental Lender or Funding Lender as addressee or which could reasonably be deemed to affect the structural integrity of the Project or the ability of Borrower to perform its obligations under the Borrower Loan Documents and the Funding Loan Documents;

(e) Certification of Non-Foreign Status. Promptly upon request of Funding Lender from time to time, a Certification of Non-Foreign Status, executed on or after the date of such request by Funding Lender;

(f) Compliance Certificates. Together with each of the documents required pursuant to Section 5.22(a) hereof submitted by or on behalf of Borrower, a statement, in form and substance satisfactory to Funding Lender and certified by an Authorized Borrower Representative, to the effect that Borrower is in compliance with all covenants, terms and conditions applicable to Borrower, under or pursuant to the Borrower Loan Documents and the Funding Loan Documents and under or pursuant to any other Debt owing by Borrower to any Person, and disclosing any noncompliance therewith, and any Event of Default or Potential Default, and describing the status of Borrower's actions to correct such noncompliance, Event of Default or Potential Default, as applicable; and

(g) Other Items and Information. Such other information concerning the assets, business, financial condition, operations, property and results of operations of Borrower, General Partner, Guarantor or the Project, as Funding Lender or Governmental Lender reasonably requests from time to time.

Borrower shall furnish to Governmental Lender, upon its written request, any of the items described in the foregoing subsections (b) through and including (i) above.

Section 5.23 Additional Notices. Borrower will, promptly after becoming aware thereof, give notice to Funding Lender and the Governmental Lender of:

(a) any Lien affecting the Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement;

(b) any Legal Action which is instituted by or against Borrower, General Partner or Guarantor, or any Legal Action which is threatened against Borrower, General Partner or Guarantor which, in any case, if adversely determined, could have a material adverse effect upon the business, operations, properties, assets, management, ownership or financial condition of Borrower, General Partner, Guarantor or the Project;

(c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which Borrower, General Partner or Guarantor is a party or by or to which Borrower, General Partner or Guarantor, or any of their respective properties or assets, may be bound or subject, which default would have a material adverse effect on the business, operations, assets (including the Project), or financial condition of Borrower, General Partner or Guarantor, as applicable;

(d) any default, alleged default or potential default on the part of Borrower under any of the CC&R's (together with a copy of each notice of default, alleged default or potential default received from any other party thereto);

(e) any notice of default, alleged default or potential default on the part of Borrower received from any tenant or occupant of the Project under or relating to its lease or occupancy agreement (together with a copy of any such notice), if, in the aggregate, notices from at least fifteen percent (15%) of the tenants at the Project have been received by Borrower with respect to, or alleging, the same default, alleged default or potential default;

(f) any change in (i) the location of Borrower's or General Partner's executive headquarters or principal place of business; (ii) the legal, trade, or fictitious business names used by Borrower or General Partner; or (iii) the nature of the trade or business of Borrower; and

(g) any default, alleged default or potential default on the part of any general or limited partner (including, without limitation, General Partner and the Equity Investor) under the Partnership Agreement.

Section 5.24 Compliance with Other Agreements; Legal Requirements.

(a) Borrower shall timely perform and comply with, and shall cause General Partner to timely perform and comply with the covenants, agreements, obligations and restrictions imposed on them under the Partnership Agreement, and Borrower shall not do or permit to be done anything to impair any such party's rights or interests under any of the foregoing.

(b) Borrower will comply and, to the extent it is able, will require others to comply with, all Legal Requirements of all Governmental Authorities having jurisdiction over the Project or construction of the Improvements, and will furnish Funding Lender with reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities. Borrower will comply and, to the extent it is able, will require others to comply, with applicable CC&R's and all restrictive covenants and all obligations created by private contracts and leases which affect ownership, construction, equipping, fixturing, use or operation of the Project, and all other agreements requiring a certain percentage of the Units to be rented to persons of low or moderate income. The Improvements, when completed, shall comply with all applicable building, zoning and other Legal Requirements, and will not violate any restrictions of record against the Project or the terms of any other lease of all or any portion of the Project. Funding Lender and Governmental Lender shall at all times have the right to audit, at Borrower's expense, Borrower's compliance with any agreement requiring a certain percentage of the Units to be rented to persons of low or moderate income, and Borrower shall supply all such information with respect thereto as Funding Lender or Governmental Lender, as applicable, may request and otherwise cooperate with Funding Lender or Governmental Lender, as applicable, in any such audit. Without limiting the generality of the foregoing, Borrower shall properly obtain, comply with and keep in effect (and promptly deliver copies to Funding Lender of) all permits, licenses and approvals which are required to be obtained from Governmental Authorities in order to construct, occupy, operate, market and lease the Project.

Section 5.25 Maintenance of Project. The Borrower shall maintain the Project as a residential apartment complex in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to assure the continuation of first-class maintenance consistent with industry standards for similar multifamily buildings in the County.

Section 5.26 Fixtures. Borrower shall deliver to Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which Borrower or any other Person claims title to any materials, fixtures or articles incorporated into the Improvements.

Section 5.27 Income from Project. Borrower shall first apply all Gross Income to Expenses of the Project, including all amounts then required to be paid under the Borrower Loan Documents and the Funding Loan Documents and the funding of all sums necessary to meet the Replacement Reserve Fund Requirement, before using or applying such Gross Income for any other purpose

Section 5.28 Leases and Occupancy Agreements.

(a) Lease Approval.

(i) Borrower may enter into leases (or subleases) of space within the Improvements (and amendments to such leases) in the ordinary course of business

with bona fide third-party tenants without Funding Lender's prior Written Consent if:

(1) The lease is a Permitted Lease;

(2) Borrower, acting in good faith following the exercise of due diligence, has determined that the tenant meets requirements imposed under any applicable CC&R and is financially capable of performing all of its obligations under the lease; and

(ii) If any Event of Default has occurred and is continuing, Funding Lender may make written demand on Borrower to submit all future leases for Funding Lender's approval prior to execution. Borrower shall comply with any such demand by Funding Lender.

(iii) No approval of any lease by Funding Lender shall be for any purpose other than to protect Funding Lender's security for the Borrower Loan and to preserve Funding Lender's rights under the Borrower Loan Documents and the Funding Loan Documents. No approval by Funding Lender shall result in a waiver of any default of Borrower. In no event shall any approval by Funding Lender of a lease be a representation of any kind with regard to the lease or its enforceability, or the financial capacity of any tenant or guarantor.

(b) Landlord's Obligations. Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

(c) Leasing and Marketing Agreements. Except as may be contemplated in the Management Agreement with Borrower's Manager, Borrower shall not without the approval of Funding Lender enter into any leasing or marketing agreement and Funding Lender reserves the right to approve the qualifications of any marketing or leasing agent.

Section 5.29 Project Agreements and Licenses. To the extent not heretofore delivered to Funding Lender, Borrower will furnish to Funding Lender, as soon as available, true and correct copies of all Project Agreements and Licenses and the Plans and Specifications, and upon the Funding Lender's request assignments thereof to Funding Lender and consents to such assignments where required by Funding Lender, all in form and substance acceptable to Funding Lender. Neither Borrower nor General Partner has assigned or granted, or will assign or grant, a security interest in any of the Project Agreements and Licenses, other than to Funding Lender and the Subordinate Lender.

Section 5.30 Payment of Debt Payments. In addition to its obligations under the Borrower Note, Borrower will (i) duly and punctually pay or cause to be paid all principal of and interest on any Debt of Borrower as and when the same become due on or before the due date; (ii) comply with and perform all conditions, terms and obligations of other instruments or agreements evidencing or securing such Debt; (iii) promptly inform Funding Lender of any default, or anticipated default, under any such note, agreement, instrument; and (iv) forward to Funding Lender a copy of any notice of default or notice of any event that might reasonably result in default

under any such note, agreement, instrument, including Liens encumbering the Project, or any portion thereof, which have been subordinated to the Security Instrument (regardless of whether or not permitted under this Borrower Loan Agreement).

Section 5.31 ERISA. Borrower will comply, and will cause each of its ERISA Affiliates to comply, in all respects with the provisions of ERISA.

Section 5.32 Patriot Act Compliance. Borrower shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Project, including those relating to money laundering and terrorism. Funding Lender shall have the right to audit Borrower's compliance with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Project, including those relating to money laundering and terrorism. In the event that Borrower fails to comply with the Patriot Act or any such requirements of Governmental Authorities, then Funding Lender may, at its option, cause Borrower to comply therewith and any and all costs and expenses incurred by Funding Lender in connection therewith shall be secured by the Security Instrument and shall be immediately due and payable.

Borrower covenants that it shall comply with all Legal Requirements and internal requirements of Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect. Without limiting the foregoing, Borrower shall not take any action, or permit any action to be taken, that would cause Borrower's representations and warranties in Section 4.1.48 and this Section 5.32 become untrue or inaccurate at any time during the term of the Funding Loan. Upon any Beneficiary Party's request from time to time during the term of the Funding Loan, Borrower shall certify in writing to such Beneficiary Party that Borrower's representations, warranties and obligations under Section 4.1.48 and this Section 5.32 remain true and correct and have not been breached, and in addition, upon request of any Beneficiary Party, Borrower covenants to provide all information required to satisfy obligations under all Legal Requirements and internal requirements of Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, during the term of the Funding Loan. Borrower shall immediately notify the Funding Lender in writing of (a) Borrower's actual knowledge that any of such representations, warranties or covenants are no longer true and have been breached, (b) Borrower has a reasonable basis to believe that they may no longer be true and have been breached or (c) Borrower becomes the subject of an investigation by Governmental Authorities related to money laundering, anti-terrorism, trade embargos and economic sanctions. Borrower shall also reimburse Funding Lender for any expense incurred by Funding Lender in evaluating the effect of an investigation by Governmental Authorities on the Funding Loan and Funding Lender's interest in the collateral for the Funding Loan, in obtaining necessary license from Governmental Authorities as may be necessary for Funding Lender to enforce its rights under the Funding Loan Documents, and in complying with all Legal Requirements and internal requirements of Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect applicable to Funding Lender as a result of the existence of such an event and for any penalties or fines imposed upon Funding Lender as a result thereof.

Section 5.33 Funds from Equity Investor. Borrower shall cause the Equity Investor to fund all installments of the Equity Contributions in the amounts and at the times subject and according to the terms of the Partnership Agreement.

Section 5.34 Tax Covenants. The Borrower further represents, warrants and covenants as follows:

(a) General. The Borrower shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the exclusion of interest on the Governmental Lender Note from gross income (as defined in Section 61 of the Code), for federal income tax purposes and, if it should take or permit any such action, the Borrower will take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof and that the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Security Instrument and the Regulatory Agreement, as may be necessary, in the opinion of Tax Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service applicable to the Governmental Lender Note, the Funding Loan or affecting the Project. Capitalized terms used in this Section 5.34 shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Governmental Lender Note, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Effect Opinion, as such term is defined in the Funding Loan Agreement (other than with respect to interest on any portion of the Governmental Lender Note for a period during which such portion of the Governmental Lender Note is held by a “substantial user” of any facility financed with the proceeds of the Governmental Lender Note or a “related person,” as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section 5.34.

(b) Use of Proceeds. The use of the net proceeds of the Governmental Lender Note at all times will satisfy the following requirements:

(i) Limitation on Net Proceeds. At least 95% of the net proceeds of the Governmental Lender Note (within the meaning of the Code) actually expended by Borrower shall be used to pay Qualified Project Costs that are costs of a “qualified residential rental project” (within the meaning of Sections 142(a)(7) and 142(d) of the Code) and property that is “functionally related and subordinate” thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) of the Regulations).

(ii) Limit on Costs of Funding. The proceeds of the Governmental Lender Note will be expended by Borrower for the purposes set forth in this Borrower Loan Agreement and in the Governmental Lender Note Agreement and no portion thereof in excess of two percent of the proceeds of the Governmental Lender Note, within the meaning of Section 147(g) of the Code, will be expended to pay Costs of Funding.

(iii) **Prohibited Facilities.** The Borrower shall not use or permit the use of any proceeds of the Governmental Lender Note or any income from the investment thereof to provide any airplane, skybox, or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(iv) **Limitation on Land.** Less than 25 percent of the net proceeds of the Governmental Lender Note actually expended by Borrower will be used, directly or indirectly, for the acquisition of land or an interest therein, nor will any portion of the net proceeds of the Governmental Lender Note be used, directly or indirectly, for the acquisition of land or an interest therein to be used for farming purposes.

(v) **Reserved.**

(vi) **Accuracy of Information.** The information furnished by the Borrower and used by the Governmental Lender in preparing its certifications with respect to Section 148 of the Code and the Borrower's information statement pursuant to Section 149(e) of the Code is accurate and complete as of the date of origination of the Governmental Lender Note.

(vii) **Limitation of Project Expenditures.** The acquisition and construction of the Project were not commenced (within the meaning of Section 144(a) of the Code) prior to the 60th day preceding the adoption of the resolution of the Governmental Lender with respect to the Project on June 16, 2020, and no obligation for which reimbursement will be sought from proceeds of the Governmental Lender Note relating to the acquisition or construction of the Project was paid or incurred prior to 60 days prior to such date, except for permissible "preliminary expenditures", which include architectural, engineering surveying, soil testing, reimbursement bond issuance and similar costs incurred prior to the commencement of the acquisition and construction of the Project.

(viii) **Qualified Costs.** The Borrower hereby represents, covenants and warrants that the proceeds of the Governmental Lender Note shall be used or deemed used by Borrower exclusively to pay Qualified Project Costs.

(c) **Limitation on Maturity.** The average maturity of the Governmental Lender Note does not exceed 120 percent of the average reasonably expected economic life of the Project to be financed by the Funding Loan, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the net proceeds of the Funding Loan. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the date on which such property is placed in service. In addition, land shall not be taken into account in determining the reasonably expected economic life of property.

(d) **No Arbitrage.** The Borrower shall not take any action or omit to take any action with respect to the Gross Proceeds of the Funding Loan or of any amounts expected

to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause the Governmental Lender Note to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code. Except as provided in the Funding Loan Agreement and this Borrower Loan Agreement, the Borrower shall not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Borrower Loan Agreement or the Borrower Note relating to the Funding Loan, shall not establish any segregated reserve or similar fund for such purpose and shall not prepay any such amounts in advance of the redemption date of an equal principal amount of the Funding Loan, unless the Borrower has obtained in each case a Tax Counsel No Adverse Effect Opinion with respect to such action, a copy of which shall be provided to the Governmental Lender and the Funding Lender. The Borrower shall not, at any time prior to the final maturity of the Funding Loan, invest or cause any Gross Proceeds to be invested in any investment (or to use Gross Proceeds to replace money so invested), if, as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Funding Loan to the Maturity Date, except as permitted by Section 148 of the Code and Regulations thereunder or as provided in the Regulatory Agreement. The Borrower further covenants and agrees that it will comply with all applicable requirements of said Section 148 and the rules and Regulations thereunder relating to the proceeds of the Governmental Lender Note and the interest thereon, including the employment of a Rebate Analyst acceptable to the Governmental Lender and Funding Lender for the calculation of rebatable amounts to the United States Treasury Department. The Borrower agrees that it will cause the Rebate Analyst to calculate the rebatable amounts not later than forty-five days after the fifth anniversary of the [Delivery Date] and each five years thereafter, and not later than forty-five days after the final Computation Date, and agrees that the Borrower will pay all costs associated therewith. Upon the request of the Governmental Lender or the Funding Lender, the Borrower agrees to provide evidence of the employment of the Rebate Analyst satisfactory to the entity requesting the same.

(e) No Federal Guarantee. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Borrower shall not take or omit to take any action which would cause the Governmental Lender Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) Representations. The Borrower has supplied or caused to be supplied to Tax Counsel all documents, instruments and written information requested by Tax Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Tax Counsel, which have been reasonably relied upon by Tax Counsel in rendering its opinion with respect to the exclusion from gross income of the interest on the Governmental Lender Note for federal income tax purposes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein in order to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information which Tax Counsel has not requested.

(g) Qualified Residential Rental Project. The Borrower hereby covenants and agrees that the Project will be operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Governmental Lender Note remain outstanding, to the end that the interest on the Governmental Lender Note shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(h) Information Reporting Requirements. The Borrower will comply with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Governmental Lender Note to be filed with the Internal Revenue Service within prescribed time limits.

(i) Funding Loan Not a Hedge Bond. The Borrower covenants and agrees that not more than 50% of the proceeds of the Governmental Lender Note will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more within the meaning of Section 149(f)(3)(A)(ii) of the Code, and the Borrower reasonably expects that at least 85% of the spendable proceeds of the Governmental Lender Note will be used to carry out the governmental purposes of the Funding Loan within the three-year period beginning on the Delivery Date.

(j) Termination of Restrictions. Although the parties hereto recognize that, subject to the provisions of the Regulatory Agreement, the provisions of this Borrower Loan Agreement shall terminate in accordance with Section 10.14 hereof, the parties hereto recognize that pursuant to the Regulatory Agreement, certain requirements, including the requirements incorporated by reference in this Section, may continue in effect beyond the term hereof.

(k) Public Approval. The Borrower covenants and agrees that the proceeds of the Governmental Lender Note will not be used by Borrower in a manner that deviates in any substantial degree from the Project described in the written notice of a public hearing regarding the Funding Loan.

(l) 40/60 Test Election. The Borrower and the Governmental Lender hereby elect to apply the requirements of Section 142(d)(1)(B) to the Project. The Borrower hereby represents, covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(m) Modification of Tax Covenants. Subsequent to the origination of the Funding Loan and prior to its payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Funding Loan Agreement), this Section 5.34 hereof may not be amended, changed, modified, altered or terminated except as permitted herein and by the Funding Loan Agreement and with the Written Consent of the Governmental Lender and the Funding Lender. Anything contained in this Borrower Loan Agreement or the Funding Loan Agreement to the contrary notwithstanding, the

Governmental Lender, the Funding Lender and the Borrower hereby agree to amend this Borrower Loan Agreement and, if appropriate, the Funding Loan Agreement and the Regulatory Agreement, to the extent required, in the opinion of Tax Counsel, in order for interest on the Governmental Lender Note to remain excludable from gross income for federal income tax purposes. The party requesting such amendment, which may include the Funding Lender, shall notify the other parties to this Borrower Loan Agreement of the proposed amendment and send a copy of such requested amendment to Tax Counsel. After review of such proposed amendment, Tax Counsel shall render to the Funding Lender and the Governmental Lender an opinion as to the effect of such proposed amendment upon the includability of interest on the Governmental Lender Note in the gross income of the recipient thereof for federal income tax purposes. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Governmental Lender and, where applicable, the Funding Lender per written instructions from the Governmental Lender shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement, with a file-stamped copy to the Funding Lender, necessary to effectuate the intent of this Section 5.34, and the Borrower and the Governmental Lender hereby appoint the Funding Lender as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligation under this Section 5.34; provided, however, that the Funding Lender shall take no action under this Section 5.34 without first notifying the Borrower or the Governmental Lender in writing, as is applicable, of its intention to take such action and providing the Borrower or the Governmental Lender, as is applicable, a reasonable opportunity to comply with the requirements of this Section 5.34.

The Borrower irrevocably authorizes and directs the Funding Lender and any other agent designated by the Governmental Lender to make payment of such amounts from funds of the Borrower, if any, held by the Funding Lender, or any agent of the Governmental Lender or the Funding Lender. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148-1(b), it (or any related person contemplated by such regulations) will not purchase interests in the Funding Loan or the Governmental Lender Note in an amount related to the amount of the Borrower Loan.

In furtherance of the covenants in this Section 5.34, the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which are by this reference incorporated into this Borrower Loan Agreement and made a part of this Borrower Loan Agreement as if set forth in this Borrower Loan Agreement in full. In the event of a conflict between the terms of this Borrower Loan Agreement and the Tax Certificate, the terms of the Tax Certificate shall control.

Section 5.35 Payment of Rebate.

(a) Arbitrage Rebate. The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage relating to the Governmental Lender Note in accordance with Section 148(f) of the Code including:

(i) Delivery of Documents and Money on Computation Dates. The Borrower will deliver to the Fiscal Agent, with a copy to the Funding Lender, within 55 days after each Computation Date:

(1) with a copy to the Governmental Lender, a statement, signed by the Borrower, stating the Rebate Amount as of such Computation Date;

(2) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90% of the Rebate Amount as of such Installment Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations), or (2) if such Computation Date is the final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount as of such final Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations); and

(3) with a copy to the Governmental Lender, an Internal Revenue Service Form 8038-T properly signed and completed as of such Computation Date.

(ii) Correction of Underpayments. If the Borrower shall discover or be notified as of any date that any payment paid to the United States Treasury pursuant to this Section 5.35 of an amount described in Section 5.35(a)(i)(A) or (B) above shall have failed to satisfy any requirement of Section 1.148-3 of the Regulations (whether or not such failure shall be due to any default by the Borrower, the Governmental Lender or the Funding Lender), the Borrower shall (1) pay to the Fiscal Agent (for deposit to the Rebate Fund) and cause the Fiscal Agent to pay to the United States Treasury from the Rebate Fund the underpayment of the Rebate Amount, together with any penalty and/or interest due, as specified in Section 1.148-3(h) of the Regulations, within 175 days after any discovery or notice and (2) deliver to the Fiscal Agent an Internal Revenue Service Form 8038-T completed as of such date. If such underpayment of the Rebate Amount, together with any penalty and/or interest due, is not paid to the United States Treasury in the amount and manner and by the time specified in the Regulations, the Borrower shall take such steps as are necessary to prevent the Governmental Lender Note from becoming an arbitrage bond within the meaning of Section 148 of the Code.

(iii) Records. The Borrower shall retain all of its accounting records relating to the funds established under this Borrower Loan Agreement and all calculations made in preparing the statements described in this Section 5.35 for at least six years after the later of the final maturity of the Governmental Lender Note or the date the Funding Loan is retired in full.

(iv) Costs. The Borrower agrees to pay all of the fees and expenses of a nationally recognized Tax Counsel, the Rebate Analyst a certified public

accountant and any other necessary consultant employed by the Borrower or the Funding Lender in connection with computing the Rebate Amount.

(v) **No Diversion of Rebatable Arbitrage.** The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Funding Loan which is not purchased at Fair Market Value or includes terms that the Borrower would not have included if the Funding Loan were not subject to Section 148(f) of the Code.

(vi) **Modification of Requirements.** If at any time during the term of this Borrower Loan Agreement, the Governmental Lender, the Funding Lender or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section 5.35, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein a Tax Counsel No Adverse Effect Opinion (as defined in the Funding Loan Agreement) with respect to such action.

(b) **Rebate Fund.** The Borrower acknowledges that the Fiscal Agent shall establish and hold a separate fund designated as the “Rebate Fund” under the Funding Loan Agreement and deposit or transfer to the credit of the Rebate Fund each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto, as further described in Section 7.8 of the Funding Loan Agreement.

Section 5.36 Covenants under Funding Loan Agreement. The Borrower will fully and faithfully perform all the duties and obligations which the Governmental Lender has covenanted and agreed in the Funding Loan Agreement to cause the Borrower to perform and any duties and obligations which the Borrower is required in the Funding Loan Agreement to perform. The foregoing will not apply to any duty or undertaking of the Governmental Lender that by its nature cannot be delegated or assigned.

Section 5.37 Continuing Disclosure Agreement. The Borrower and the Funding Lender shall enter into the Continuing Disclosure Agreement to provide for the continuing disclosure of information about the Funding Loan, the Borrower and other matters as specifically provided for in such agreement.

ARTICLE VI

NEGATIVE COVENANTS

Borrower hereby covenants and agrees as follows, which covenants shall remain in effect so long as any Borrower Payment Obligation or other obligation of Borrower under any of the other Borrower Loan Documents or the Funding Loan Documents remains outstanding or unperformed. Borrower covenants and agrees that it will not, directly or indirectly:

Section 6.1 Management Agreement. Without first obtaining the Funding Lender's prior Written Consent, enter into the Management Agreement, and thereafter the Borrower shall not, without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the Management Agreement or otherwise replace the Manager or enter into any other management agreement; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; (iv) otherwise modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect any of its rights and remedies under, the Management Agreement; or (v) suffer or permit the occurrence and continuance of a default beyond any applicable cure period under the Management Agreement (or any successor management agreement) if such default permits the Manager to terminate the Management Agreement (or such successor management agreement).

Section 6.2 Dissolution. Dissolve or liquidate, in whole or in part, merge with or consolidate into another Person.

Section 6.3 Change in Business or Operation of Property. Enter into any line of business other than the ownership and operation of the Project, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business and activities incidental or related thereto or otherwise cease to operate the Project as a multi-family property or terminate such business for any reason whatsoever.

Section 6.4 Debt Cancellation. Cancel or otherwise forgive or release any claim or debt owed to the Borrower by a Person, except for adequate consideration or in the ordinary course of the Borrower's business in its reasonable judgment.

Section 6.5 Assets. Purchase or own any real property or personal property incidental thereto other than the Project.

Section 6.6 Transfers. Make, suffer or permit the occurrence of any Transfer other than a transfer permitted under the Security Instrument and Section 10 of the Regulatory Agreement, nor transfer any material License required for the operation of the Project.

Section 6.7 Debt. Other than as expressly approved in writing by the Funding Lender, create, incur or assume any indebtedness for borrowed money (including subordinate debt) whether unsecured or secured by all or any portion of the Project or interest therein or in the Borrower or any partner thereof (including subordinate debt) other than (i) the Borrower Payment Obligations, (ii) the Subordinate Debt, (iii) secured indebtedness incurred pursuant to or permitted by the Borrower Loan Documents and the Funding Loan Documents, (iv) trade payables incurred in the ordinary course of business, (v) deferred developer fees, and (vi) unsecured loans payable solely from cash flow made by a partner of the Borrower as set forth in the Partnership Agreement.

Section 6.8 Assignment of Rights. Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Borrower Loan Document or Funding Loan Document in contravention of any Borrower Loan Document or Funding Loan Document.

Section 6.9 Principal Place of Business. Change its principal place of business without providing 30 days' prior Written Notice of the change to the Funding Lender, the Governmental Lender, the Fiscal Agent and the Servicer.

Section 6.10 Partnership Agreement. Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) surrender, terminate, cancel, modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect (except as allowed by the Security Instrument), any of its rights or remedies under the Partnership Agreement; provided, however, the consent of Funding Lender is not required for an amendment of the Partnership Agreement resulting solely from the "Permitted Transfer" of partnership interests of Borrower as defined in and permitted by the Security Instrument.

Section 6.11 ERISA. Maintain, sponsor, contribute to or become obligated to contribute to, or suffer or permit any ERISA Affiliate of the Borrower to, maintain, sponsor, contribute to or become obligated to contribute to, any Plan, or permit the assets of the Borrower to become "plan assets," whether by operation of law or under regulations promulgated under ERISA.

Section 6.12 No Hedging Arrangements. Without the prior Written Consent of the Funding Lender or unless otherwise required by this Borrower Loan Agreement, the Borrower will not enter into or guarantee, provide security for or otherwise undertake any form of contractual obligation with respect to any interest rate swap, interest rate cap or other arrangement that has the effect of an interest rate swap or interest rate cap or that otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt or any agreement or other arrangement to enter into any of the above on a future date or after the occurrence of one or more events in the future.

Section 6.13 Loans and Investments; Distributions; Related Party Payments. Without the prior Written Consent of Funding Lender in each instance, Borrower shall not (i) lend money, make investments, or extend credit, other than in the ordinary course of its business as presently conducted; or (ii) repurchase, redeem or otherwise acquire any interest in Borrower, any Borrower Affiliate or any other Person owning an interest, directly or indirectly, in Borrower, or make any distribution, in cash or in kind, in respect of interests in Borrower, any Borrower Affiliate or any other Person owning an interest, directly or indirectly, in Borrower (except to the extent permitted by the Security Instrument and subject to the limitations set forth in Section 5.27 hereof).

Section 6.14 Amendment of Related Documents or CC&R's. Without the prior Written Consent of Funding Lender in each instance, except as provided herein or in the Loan Covenant Agreement, Borrower shall not enter into or consent to any amendment, termination, modification, or other alteration of any of the Related Documents or any of the CC&R's (including, without limitation, those contained in this Borrower Loan Agreement and any Management Agreement, but excluding the Partnership Agreement, which is covered by Section 6.10), or any assignment, transfer, pledge or hypothecation of any of its rights thereunder, if any.

Section 6.15 Personal Property. Borrower shall not install materials, personal property, equipment or fixtures subject to any security agreement or other agreement or contract wherein the right is reserved to any Person other than Borrower to remove or repossess any such materials, equipment or fixtures, or whereby title to any of the same is not completely vested in Borrower at

the time of installation, without Funding Lender's prior Written Consent; provided, however, that this Section 6.15 shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants.

Section 6.16 Fiscal Year. Without Funding Lender's Written Consent, which shall not be unreasonably withheld, neither Borrower nor General Partner shall change the times of commencement or termination of its fiscal year or other accounting periods, or change its methods of accounting, other than to conform to GAAP.

Section 6.17 Publicity. Neither Borrower nor General Partner shall issue any publicity release or other communication to any print, broadcast or on-line media, post any sign or in any other way identify Funding Lender or any of its Affiliates as the source of the financing provided for herein, without the prior written approval of Funding Lender in each instance (provided that nothing herein shall prevent Borrower or General Partner from identifying Funding Lender or its Affiliates as the source of such financing to the extent that Borrower or General Partner are required to do so by disclosure requirements applicable to publicly held companies).

Section 6.18 Subordinate Loan Documents. Without Funding Lender's prior written consent, Borrower will not surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Subordinate Loan Documents.

ARTICLE VII

RESERVED

ARTICLE VIII

DEFAULTS

Section 8.1 Events of Default. Each of the following events shall constitute an "Event of Default" under this Borrower Loan Agreement:

(a) failure by the Borrower to pay any Borrower Loan Payment in the manner and on the date such payment is due in accordance with the terms and provisions of the Borrower Note, or the failure by the Borrower to pay any Additional Borrower Payment on the date such payment is due in accordance with the terms and provisions of the Borrower Note, the Security Instrument, this Borrower Loan Agreement or any other Borrower Loan Document;

(b) failure by or on behalf of the Borrower to pay when due any amount (other than as provided in subsection (a) above or elsewhere in this Section 8.1) required to be paid by the Borrower under this Borrower Loan Agreement, the Borrower Note, the Security Instrument or any of the other Borrower Loan Documents or Funding Loan Documents, including a failure to repay any amounts that have been previously paid but are recovered, attached or enjoined pursuant to any insolvency, receivership, liquidation or similar proceedings, which default remains uncured for a period of five (5) days after Written Notice thereof shall have been given to the Borrower;

(c) an Event of Default, as defined in the Borrower Note, the Security Instrument or any other Borrower Loan Document, occurs (or to the extent an “Event of Default” is not defined in any other Borrower Loan Document, any default or breach by the Borrower or any Guarantor of its obligations, covenants, representations or warranties under such Borrower Loan Document occurs and any applicable notice and/or cure period has expired);

(d) any representation or warranty made by any of the Borrower, the Guarantor or the General Partner in any Borrower Loan Document or Funding Loan Document to which it is a party, or in any report, certificate, financial statement or other instrument, agreement or document furnished by the Borrower, the Guarantor or the General Partner in connection with any Borrower Loan Document or Funding Loan Document, shall be false or misleading in any material respect as of the Conversion Date;

(e) the Borrower shall make a general assignment for the benefit of creditors, or shall generally not be paying its debts as they become due;

(f) the Borrower Controlling Entity shall make a general assignment for the benefit of creditors, shall generally not be paying its debts as they become due, or an Act of Bankruptcy with respect to the Borrower Controlling Entity shall occur, unless in all cases the Borrower Controlling Entity is replaced with a substitute Borrower Controlling Entity that satisfies the requirements of Section 21 of the Security Instrument; which, in the case of a nonprofit Borrower Controlling Entity, may be replaced within sixty (60) days of such event with another nonprofit Borrower Controlling Entity acceptable to the Funding Lender, in which case no Event of Default shall be deemed to have occurred;

(g) the failure by Borrower or any ERISA Affiliate of Borrower to comply in all respects with ERISA, or the occurrence of any other event (with respect to the failure of Borrower or any ERISA Affiliate to pay any amount required to be paid under ERISA or with respect to the termination of, or withdrawal of Borrower or any ERISA Affiliate from, any employee benefit or welfare plan subject to ERISA) the effect of which is to impose upon Borrower (after giving effect to the tax consequences thereof) for the payment of any amount in excess of Fifty Thousand Dollars (\$50,000);

(h) a Bankruptcy Event shall occur with respect to Borrower, any General Partner or Guarantor, or there shall be a change in the assets, liabilities or financial position of any such Person which has a material adverse effect upon the ability of such Person to perform such Person’s obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document, provided that any such Bankruptcy Event with respect to a Guarantor shall not constitute an Event of Default: (i) if such Bankruptcy Event occurs on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such Bankruptcy Event occurs prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the

Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(i) all or any part of the property of Borrower is attached, levied upon or otherwise seized by legal process, and such attachment, levy or seizure is not quashed, stayed or released within thirty (30) days of the date thereof;

(j) subject to Section 10.16 hereof, Borrower fails to pay when due any monetary obligation (other than pursuant to this Borrower Loan Agreement) to any Person in excess of \$100,000, and such failure continues beyond the expiration of any applicable cure or grace periods;

(k) any material litigation or proceeding is commenced before any Governmental Authority against or affecting Borrower, any General Partner or Guarantor, or property of Borrower, any General Partner or Guarantor, or any part thereof, and such litigation or proceeding is not defended diligently and in good faith by Borrower, any General Partner or Guarantor, as applicable, provided that any such material litigation or proceeding against a Guarantor shall not constitute an Event of Default: (i) if such material litigation is commenced on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such material litigation or proceeding is commenced prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender

(l) a final judgment or decree for monetary damages in excess of \$50,000 or a monetary fine or penalty (not subject to appeal or as to which the time for appeal has expired) is entered against Borrower, any General Partner or Guarantor by any Governmental Authority, and such judgment, decree, fine or penalty is not paid and discharged or stayed within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment, fine or penalty) , provided that any such judgment, decree, fine or penalty against a Guarantor shall not constitute an Event of Default: (i) if such judgment, decree, fine or penalty is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, decree, fine or penalty is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(m) a final, un-appealable and uninsured money judgment or judgments, in favor of any Person other than a Governmental Authority, in the aggregate sum of \$50,000 or more shall be rendered against Borrower, any General Partner or Guarantor, or against any of their respective assets, that is not paid, superseded or stayed within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment); or any levy of execution, writ or warrant of attachment, or similar process, is entered or filed against Borrower, any General Partner or Guarantor, or against any of their respective assets (that is likely to have a material adverse effect upon the ability of Borrower, any General Partner or Guarantor to perform their respective obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document), and such judgment, writ, warrant or process shall remain unsatisfied, unsettled, unvacated, unhanded and unstayed for a period of thirty (30) days, or in any event later than five (5) Business Days prior to the date of any proposed sale thereunder, provided that any such judgment, levy, writ, warrant, attachment or similar process against a Guarantor shall not constitute an Event of Default: (i) if such judgment, levy, writ, warrant, attachment or similar process is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, levy, writ, warrant, attachment or similar process is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(n) Borrower shall fail to keep in force and effect any material permit, license, consent or approval required under this Borrower Loan Agreement, or any required approval, license, or permit shall be withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of thirty (30) days;

(o) a default shall occur under any of the Subordinate Loan Documents, which shall continue beyond the expiration of all applicable notice and cure periods and which shall not be waived by the applicable Subordinate Lender; or

(p) any failure by the Borrower to perform or comply with any of its obligations under this Borrower Loan Agreement (other than those specified in this Section 8.1), as and when required, which continues for a period of thirty (30) days after written notice of such failure by Funding Lender or the Servicer on its behalf to the Borrower; provided, however, if such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, and the Borrower shall have commenced to cure such failure within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period not to exceed sixty (60) days. However, no such notice or grace period shall apply to the extent such failure could, in the Funding Lender's judgment, absent immediate exercise by the Funding Lender of a right or remedy under this Borrower

Loan Agreement, result in harm to the Funding Lender, impairment of the Borrower Note or this Borrower Loan Agreement or any security given under any other Borrower Loan Document.

Section 8.2 Remedies.

(a) **Acceleration.** Upon the occurrence of an Event of Default (other than an Event of Default described in paragraph (e), (f) or (i) of Section 8.1) and at any time and from time to time thereafter, as long as such Event of Default continues to exist, in addition to any other rights or remedies available to the Governmental Lender pursuant to the Borrower Loan Documents or at law or in equity, the Funding Lender may, take such action (whether directly or by directing the actions of the Fiscal Agent), 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 Payment Obligations to be immediately due and payable (including, without limitation, the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Borrower Note to be immediately due and payable), without notice or demand, and apply such payment of the Borrower Payment Obligations in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion; and upon any Event of Default described in paragraph (e), (f) or (i) of Section 8.1, the Borrower Payment Obligations shall become immediately due and payable, without notice or demand, and the Borrower hereby expressly waives any such notice or demand, anything contained in any Borrower Loan Document to the contrary notwithstanding. Notwithstanding anything herein to the contrary, enforcement of remedies hereunder and under the Funding Loan Agreement shall be controlled by the Funding Lender.

(b) **Remedies Cumulative.** Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to the Funding Lender against the Borrower under the Borrower Loan Documents or at law or in equity may be exercised by the Funding Lender or the Fiscal Agent, at any time and from time to time, whether or not all or any of the Borrower Payment Obligations shall be declared due and payable, 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 Borrower Loan Documents. Any such actions taken by the Funding Lender shall be cumulative and concurrent and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as the Funding Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of the Funding Lender permitted by law, equity or contract or as set forth in the Borrower Loan Documents. Without limiting the generality of the foregoing, the Borrower agrees that if an Event of Default is continuing, all Liens and other rights, remedies or privileges provided to the Funding Lender shall remain in full force and effect until it has exhausted all of its remedies, the Security Instrument has been foreclosed, the Project has been sold and/or otherwise realized upon satisfaction of the Borrower Payment Obligations or the Borrower Payment Obligations have been paid in full. To the extent permitted by applicable law, nothing contained in any Borrower Loan Document shall be construed as requiring the Funding Lender to resort to any portion of the Project for the satisfaction of any of the

Borrower Payment Obligations in preference or priority to any other portion, and the Funding Lender may seek satisfaction out of the entire Project or any part thereof, in its absolute discretion.

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 Equity Investor under the Borrower Loan Documents or the Funding 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.

(c) **Delay.** No delay or omission to exercise any remedy, right, power accruing upon an Event of Default, or the granting of any indulgence or compromise by the Funding Lender or the Fiscal Agent shall impair any such remedy, right or power hereunder or be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Potential Default or Event of Default shall not be construed to be a waiver of any subsequent Potential Default or Event of Default or to impair any remedy, right or power consequent thereon. Notwithstanding any other provision of this Borrower Loan Agreement, the Funding Lender and the Fiscal Agent reserve the right to seek a deficiency judgment or preserve a deficiency claim, in connection with the foreclosure of the Security Instrument to the extent necessary to foreclose on the Project, the Rents, the funds or any other collateral.

(d) **Set Off; Waiver of Set Off.** Upon the occurrence of an Event of Default, Funding Lender may, at any time and from time to time, without notice to Borrower or any other Person (any such notice being expressly waived), set off and appropriate and apply (against and on account of any obligations and liabilities of the Borrower to the Funding Lender or the Fiscal Agent arising under or connected with this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents, irrespective of whether or not the Funding Lender shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured), and the Borrower hereby grants to the Funding Lender, as security for the Borrower Payment Obligations, a security interest in, any and all deposits (general or special, including but not limited to Debt evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Debt at any time held or owing by the Funding Lender to or for the credit or the account of the Borrower.

(e) **Assumption of Obligations.** In the event that the Funding Lender or its 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 Borrower Note, the Regulatory Agreement, and any other Borrower Loan Documents and Funding Loan Documents to which the Borrower is a party. 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.

(f) **Accounts Receivable.** Upon the occurrence of an Event of Default, Funding Lender shall have the right, to the extent permitted by law, to impound and take possession of books, records, Note and other documents evidencing Borrower's accounts, accounts receivable and other claims for payment of money, arising in connection with the Project, and to make direct collections on such accounts, accounts receivable and claims for the benefit of Funding Lender.

(g) **Defaults under Other Documents.** Funding Lender shall have the right to cure any default under any of the Related Documents and the Subordinate Loan Documents, but shall have no obligation to do so.

(h) **Reserved.**

(i) **Reserved.**

(j) **Right to Directly Enforce.** Notwithstanding any other provision hereof to the contrary, the Funding Lender shall have the right to directly enforce all rights and remedies hereunder with or without involvement of the Governmental Lender or the Fiscal Agent, provided that only the Governmental Lender may enforce the Unassigned Rights. In the event that any of the provisions set forth in this Section 8.2.10 are inconsistent with the covenants, terms and conditions of the Security Instrument, the covenants, terms and conditions of the Security Instrument shall prevail.

(k) **Power of Attorney.** Effective upon the occurrence of an Event of Default, and continuing until and unless such Event of Default is cured or waived, Borrower hereby constitutes and appoints Funding Lender, or an independent contractor selected by Funding Lender, as its true and lawful attorney-in-fact with full power of substitution, for the purposes of completion of the Project and performance of Borrower's obligations under this Borrower Loan Agreement in the name of Borrower, and hereby empowers said attorney-in-fact to do any or all of the following upon the occurrence and continuation of an Event of Default (it being understood and agreed that said power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked until full payment and performance of all obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents):

(i) to employ attorneys to defend against attempts to interfere with the exercise of power granted hereby;

(ii) to pay, settle or compromise all existing bills and claims which are or may be liens against the Project or the Improvements, or clearance of objections to or encumbrances on title;

(iii) to execute all applications and certificates in the name of Borrower, which may be required by any other construction contract;

(iv) to prosecute and defend all actions or proceedings in connection with the Project, which the Borrower might do on its own behalf;

(v) to let new or additional contracts to the extent not prohibited by their existing contracts;

(vi) to employ watchmen and erect security fences to protect the Project from injury; and

(vii) to take such action and require such performance as it deems necessary under any of the bonds or insurance policies to be furnished hereunder, to make settlements and compromises with the sureties or insurers thereunder, and in connection therewith to execute instruments of release and satisfaction.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default, rights and remedies may be pursued pursuant to the terms of the Borrower Loan Documents and the Funding Loan Documents. The parties hereto acknowledge that, among the possible outcomes to the pursuit of such remedies, is the situation where the Funding Lender assignees or designees become the owner of the Project and assume the obligations identified above, and the Borrower Note, the Borrower Loan and the other Borrower Loan Documents and Funding Loan Documents remain outstanding.

ARTICLE IX

SPECIAL PROVISIONS

Section 9.1 Sale of Note and Secondary Market Transaction.

(a) **Cooperation.** Subject to the restrictions of Section 2.4 of the Funding Loan Agreement, at the Funding Lender's or the Servicer's request (to the extent not already required to be provided by the Borrower under this Borrower Loan Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Funding Lender or the Servicer customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender or the Servicer in connection with one or more sales or assignments of all or a portion of the Governmental Lender Note or participations therein or securitizations of single or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or a portion of the Governmental Lender Note (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that neither the Borrower nor the Governmental Lender shall incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender or the Servicer, and shall not materially modify Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

(i) (1) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Manager, the contractor of the Project or the Borrower Controlling Entity, (2) provide financial statements, audited, if available, relating to the Project with customary disclaimers

for any forward looking statements or lack of audit, and (3), at the expense of the Funding Lender or the Servicer, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I's and, if appropriate, Phase II's), engineering reports and other due diligence investigations of the Project, as may be reasonably requested from time to time by the Funding Lender or the Servicer or the Rating Agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Funding Lender or the Servicer pursuant to this paragraph (a) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents (including, without limitation, auditor consents) to include or incorporate by reference the Provided Information in an offering document or otherwise provide the Provided Information to investors and potential investors or opinions of counsel of independent attorneys acceptable to the Funding Lender or the Servicer and the Rating Agencies;

(ii) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project, the Borrower, the Borrower Loan Documents and the Funding Loan Documents reasonably acceptable to the Funding Lender or the Servicer, consistent with the facts covered by such representations and warranties as they exist on the date thereof; and

(iii) execute such amendments to the Borrower Loan Documents and the Funding Loan Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect the material economic terms of the Borrower Loan Documents and the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

(b) **Use of Information.** The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a "Secondary Market Disclosure Document"), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 9.1.1(c) hereof, with the Funding Lender and the Servicer in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a Secondary Market Transaction by providing all current information pertaining to the Borrower and the Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

The Borrower and the Funding Lender agree and acknowledge that the Governmental Lender undertakes no obligation hereunder or in the Funding Loan Agreement to participate in the preparation of, or to approve, any Secondary Market

Disclosure Document.

(c) **Borrower Obligations Regarding Secondary Market Disclosure Documents.** In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Manager, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender and the Servicer, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Manager, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Manager) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender and the Servicer for any Liabilities to which any such parties may become subject to the extent such Liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document unless caused by the gross negligence or willful misconduct of such party seeking indemnification.

(d) **Borrower Indemnity Regarding Filings.** In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify Funding Lender and the underwriter group for any securities (the “Underwriter Group”) for any Liabilities to which Funding Lender, the Servicer or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading and (ii) reimburse the Funding Lender, the Servicer, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, the Servicer or the Underwriter Group in connection with defending or investigating the Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

(e) **Indemnification Procedure.** Promptly after receipt by an indemnified party under Sections 9.1.3 and 9.1.4 hereof of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they)

may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 9.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

(f) **Contribution.** In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 9.1.4 hereof is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 9.1.4 hereof, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

ARTICLE X

MISCELLANEOUS

Section 10.1 Notices. All notices, consents, approvals and requests required or permitted hereunder or under any other Borrower Loan Document or Funding Loan Document (a "notice") shall be deemed to be given and made when delivered by hand, recognized overnight delivery service, confirmed facsimile transmission (provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day), or five (5) calendar days after deposited in the United States mail, registered or certified, postage prepaid, with return receipt requested, addressed as follows:

If to the Fiscal Agent:

U.S. Bank Trust Company, National Association
[Address]
Attention: Global Corporate Trust
Ref: [_____]
Telephone:
Email:

If to 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
Email:

If to the Borrower:

Bernardo Family Housing, L.P.
[Address]
Attention:
Telephone:

And a copy to:

If to the Equity Investor:

Bank of America, N.A.
100 Federal St.
Mail Code: MA5-100-004-11
Boston, MA 02110
Attention: Asset Management

With a copy to:

Buchalter, a Professional Corporation
1000 Wilshire Blvd., Suite 1500
Los Angeles, CA 90017
Attn: Michael A. Williamson, Esq.

Re: Skyline (B0965-0723

If to the Funding Lender:

Citibank, N.A.
388 Greenwich Street, 6th Floor Trading
New York, New York 10013
Attention: Transaction and Asset
Management Group
Re: [SkyLINE]
Deal ID #[_____]
Facsimile: (212) 723-8209

And to:

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Re: [SkyLINE]
Deal ID #[_____]
Facsimile: (805) 557-0924

And to:

Citibank, N.A.
c/o Berkadia Commercial Servicing Department
323 Norristown Road, Suite 300
Ambler, Pennsylvania 19002

Attention: Client Relations Manager
Re: [SkyLINE]
Deal ID #[_____]
Facsimile: (215) 328-0305

And a copy of any notices of default sent to: Citibank, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Re: [SkyLINE]
Deal ID #[_____]
Facsimile: (646) 291-5754

Any party may change such party's address for the notice or demands required under this Borrower Loan Agreement by providing written notice of such change of address to the other parties by written notice as provided herein.

Section 10.2 Brokers and Financial Advisors. The Borrower hereby represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with the Borrower Loan, other than those disclosed to the Funding Lender and whose fees shall be paid by the Borrower pursuant to separate agreements. The Borrower and the Funding Lender shall indemnify and hold the other harmless from and against any and all claims, liabilities, costs and expenses of any kind in any way relating to or arising from a claim by any Person that such Person acted on behalf of the indemnifying party in connection with the transactions contemplated herein. The provisions of this Section 10.2 shall survive the expiration and termination of this Borrower Loan Agreement and the repayment of the Borrower Payment Obligations.

Section 10.3 Survival. This Borrower Loan Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by the Governmental Lender of the Borrower Loan and the execution and delivery to the Governmental Lender of the Borrower Note and the assignment of the Borrower Note to the Funding Lender, and shall continue in full force and effect so long as all or any of the Borrower Payment Obligations is unpaid. All the Borrower's covenants and agreements in this Borrower Loan Agreement shall inure to the benefit of the respective legal representatives, successors and assigns of the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer.

Section 10.4 Preferences. The Governmental Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by the Borrower to any portion of the Borrower Payment Obligations. To the extent the Borrower makes a payment to the Governmental Lender or the Servicer, or the Governmental Lender or the Servicer receives proceeds of any collateral, which is in whole or part subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Borrower Payment Obligations or part thereof intended

to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Governmental Lender or the Servicer.

Section 10.5 Waiver of Notice. The Borrower shall not be entitled to any notices of any nature whatsoever from the Funding Lender, the Fiscal Agent or the Servicer except with respect to matters for which this Borrower Loan Agreement or any other Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, to the Borrower and except with respect to matters for which the Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. The Borrower hereby expressly waives the right to receive any notice from the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, with respect to any matter for which no Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender, the Fiscal Agent or the Servicer to the Borrower.

Section 10.6 Offsets, Counterclaims and Defenses. The Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by the Funding Lender or the Servicer with respect to a Borrower Loan Payment. Any assignee of Funding Lender's interest in and to the Borrower Loan Documents or the Funding Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses that are unrelated to the Borrower Loan Documents or the Funding Loan Documents which the Borrower may otherwise have against any assignor of such documents, and no such unrelated offset, counterclaim or defense shall be interposed or asserted by the Borrower in any action or proceeding brought by any such assignee upon such documents, and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by the Borrower.

Section 10.7 Publicity. The Funding Lender and the Servicer (and any Affiliates of either party) shall have the right to issue press releases, advertisements and other promotional materials describing the Funding Lender's or the Servicer's participation in the making of the Borrower Loan or the Borrower Loan's inclusion in any Secondary Market Transaction effectuated by the Funding Lender or the Servicer or one of its or their Affiliates. All news releases, publicity or advertising by the Borrower or Borrower Affiliates through any media intended to reach the general public, which refers to the Borrower Loan Documents or the Funding Loan Documents, the Borrower Loan, the Funding Lender or the Servicer in a Secondary Market Transaction, shall be subject to the prior Written Consent of the Funding Lender or the Servicer, as applicable.

Section 10.8 Construction of Documents. The parties hereto acknowledge that they were represented by counsel in connection with the negotiation and drafting of the Borrower Loan Documents and the Funding Loan Documents and that the Borrower Loan Documents and the Funding Loan Documents shall not be subject to the principle of construing their meaning against the party that drafted them.

Section 10.9 No Third Party Beneficiaries. The Borrower Loan Documents and the Funding Loan Documents are solely for the benefit of the Governmental Lender, the Funding Lender, the Servicer, the Fiscal Agent and the Borrower and, with respect to Sections 9.1.3 and 9.1.4 hereof, the Underwriter Group, and nothing contained in any Borrower Loan Document shall be deemed to confer upon anyone other than the Governmental Lender, the Funding Lender, the

Fiscal Agent, the Servicer, and the Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained therein.

Section 10.10 Assignment. The Borrower Loan, the Security Instrument, the Borrower Loan Documents and the Funding Loan Documents and all Funding Lender's or Fiscal Agent's rights, title, obligations and interests therein may be assigned by the Funding Lender or the Fiscal Agent, as appropriate, at any time in its sole discretion, whether by operation of law (pursuant to a merger or other successor in interest) or otherwise, subject in any event to the provisions of Section 2.4 of the Funding Loan Agreement. Upon such assignment, all references to Funding Lender or the Fiscal Agent, as appropriate, in this Borrower Loan Agreement and in any Borrower Loan Document shall be deemed to refer to such assignee or successor in interest and such assignee or successor in interest shall thereafter stand in the place of the Funding Lender or the Fiscal Agent, as appropriate. The Borrower shall accord full recognition to any such assignment, and all rights and remedies of Funding Lender in connection with the interest so assigned shall be as fully enforceable by such assignee as they were by Funding Lender before such assignment. In connection with any proposed assignment, Funding Lender may disclose to the proposed assignee any information that the Borrower has delivered, or caused to be delivered, to Funding Lender with reference to the Borrower, General Partner, Guarantor or any Borrower Affiliate, or the Project, including information that the Borrower is required to deliver to Funding Lender pursuant to this Borrower Loan Agreement, provided that such proposed assignee agrees to treat such information as confidential. The Borrower may not assign its rights, interests or obligations under this Borrower Loan Agreement or under any of the Borrower Loan Documents or Funding Loan Documents, or the Borrower's interest in any moneys to be disbursed or advanced hereunder, except only as may be expressly permitted hereby.

Section 10.11 Reserved.

Section 10.12 Governmental Lender, Funding Lender and Servicer Not in Control; No Partnership. None of the covenants or other provisions contained in this Borrower Loan Agreement shall, or shall be deemed to, give the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer the right or power to exercise control over the affairs or management of the Borrower, the power of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer being limited to the rights to exercise the remedies referred to in the Borrower Loan Documents and the Funding Loan Documents. The relationship between the Borrower and the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Borrower Loan Documents or the Funding Loan Documents is intended, nor shall it be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between the Borrower and the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer or to create an equity interest in the Project in the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer. Neither the Governmental Lender, the Funding Lender, the Fiscal Agent nor the Servicer undertakes or assumes any responsibility or duty to the Borrower or to any other person with respect to the Project or the Borrower Loan, except as expressly provided in the Borrower Loan Documents or the Funding Loan Documents; and notwithstanding any other provision of the Borrower Loan Documents and the Funding Loan Documents: (1) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer are not, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other

business associate or participant of any kind of the Borrower or its stockholders, members, or partners and the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer do not intend to ever assume such status; (2) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer shall in no event be liable for any the Borrower Payment Obligations, expenses or losses incurred or sustained by the Borrower; and (3) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer shall not be deemed responsible for or a participant in any acts, omissions or decisions of the Borrower, the Borrower Controlling Entities or its stockholders, members, or partners. The Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer and the Borrower disclaim any intention to create any partnership, joint venture, agency or common interest in profits or income between the Governmental Lender, the Funding Lender, the Servicer, the Fiscal Agent and the Borrower, or to create an equity interest in the Project in the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer, or any sharing of liabilities, losses, costs or expenses.

Section 10.13 Release. The Borrower hereby acknowledges that it is executing this Borrower Loan Agreement and each of the Borrower Loan Documents and the Funding Loan Documents to which it is a party as its own voluntary act free from duress and undue influence.

Section 10.14 Term of Borrower Loan Agreement. This Borrower Loan Agreement shall be in full force and effect until all payment obligations of the Borrower hereunder have been paid in full and the Borrower Loan and the Funding Loan have been retired or the payment thereof has been provided for; except that on and after payment in full of the Borrower Note, this Borrower Loan Agreement shall be terminated, without further action by the parties hereto; provided, however, that the obligations of the Borrower under Sections 5.11, 5.14, 5.15, 9.1.3, 9.1.4, 9.1.5, 9.1.6 and 10.15 hereof shall survive the termination of this Borrower Loan Agreement.

Section 10.15 Reimbursement of Expenses. If, upon or after the occurrence of any Event of Default or Potential Default, the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein, the Borrower will on demand therefor reimburse the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer for fees of such attorneys and such other expenses so incurred.

The Borrower's obligation to pay the amounts required to be paid under this Section 10.15 shall be subordinate to its obligations to make payments under the Borrower Note.

Section 10.16 Permitted Contests. Notwithstanding anything to the contrary contained in this Borrower Loan Agreement, Borrower shall have the right to contest or object in good faith to any claim, demand, levy or assessment (other than in respect of Debt or Contractual Obligations of Borrower under any Borrower Loan Document or Related Document) by appropriate legal proceedings that are not prejudicial to Funding Lender's rights, but this shall not be deemed or construed as in any way relieving, modifying or providing any extension of time with respect to Borrower's covenant to pay and comply with any such claim, demand, levy or assessment, unless Borrower shall have given prior Written Notice to the Funding Lender of Borrower's intent to so contest or object thereto, and unless (i) Borrower has, in the Funding Lender's judgment, a reasonable basis for such contest, (ii) Borrower pays when due any portion of the claim, demand, levy or assessment to which Borrower does not object, (iii) Borrower demonstrates to Funding

Lender's satisfaction that such legal proceedings shall conclusively operate to prevent enforcement prior to final determination of such proceedings, (iv) Borrower furnishes such bond, surety, undertaking or other security in connection therewith as required by law, or as requested by and satisfactory to Funding Lender, to stay such proceeding, which bond, surety, undertaking or other security shall be issued by a bonding company, insurer or surety company reasonably satisfactory to Funding Lender and shall be sufficient to cause the claim, demand, levy or assessment to be insured against by the Title Company or removed as a lien against the Project, (v) Borrower at all times prosecutes the contest with due diligence, and (vi) Borrower pays, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by Borrower, the amount so determined to be due and owing by Borrower. In the event that Borrower does not make, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by Borrower, any payment required to be made pursuant to clause (vi) of the preceding sentence, an Event of Default shall have occurred, and Funding Lender may draw or realize upon any bond or other security delivered to Funding Lender in connection with the contest by Borrower, in order to make such payment.

Section 10.17 Funding Lender Approval of Instruments and Parties. All proceedings taken in accordance with transactions provided for herein, and all surveys, appraisals and documents required or contemplated by this Borrower Loan Agreement and the persons responsible for the execution and preparation thereof, shall be satisfactory to and subject to approval by Funding Lender. Funding Lender's approval of any matter in connection with the Project shall be for the sole purpose of protecting the security and rights of Funding Lender. No such approval shall result in a waiver of any default of Borrower. In no event shall Funding Lender's approval be a representation of any kind with regard to the matter being approved.

Section 10.18 Funding Lender Determination of Facts. Funding Lender shall at all times be free to establish independently, to its reasonable satisfaction, the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Borrower Loan Agreement.

Section 10.19 Calendar Months. With respect to any payment or obligation that is due or required to be performed within a specified number of Calendar Months after a specified date, such payment or obligation shall become due on the day in the last of such specified number of Calendar Months that corresponds numerically to the date so specified; provided, however, that with respect to any obligation as to which such specified date is the 29th, 30th or 31st day of any Calendar Month: if the Calendar Month in which such payment or obligation would otherwise become due does not have a numerically corresponding date, such obligation shall become due on the first day of the next succeeding Calendar Month.

Section 10.20 Determinations by Lender. Except to the extent expressly set forth in this Borrower Loan Agreement to the contrary, in any instance where the consent or approval of the Governmental Lender and the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Governmental Lender and the Funding Lender under this Borrower Loan Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Governmental Lender and the Funding Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

Section 10.21 Governing Law. This Borrower Loan Agreement shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

Section 10.22 Consent to Jurisdiction and Venue. Borrower agrees that any controversy arising under or in relation to this Borrower Loan Agreement shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Borrower Loan Agreement. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Beneficiary Parties' right to bring any suit, action or proceeding relating to matters arising under this Borrower Loan Agreement against Borrower or any of Borrower's assets in any court of any other jurisdiction.

Section 10.23 Successors and Assigns. This Borrower Loan Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. Notwithstanding the foregoing, in no event shall the Borrower have any right to assign all or any portion of its rights or obligations under this Borrower Loan Agreement or the other Borrower Loan Documents. References to a "person" or "persons" shall be deemed to include individuals and entities.

Section 10.24 Severability. The invalidity, illegality or unenforceability of any provision of this Borrower Loan Agreement shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

Section 10.25 Entire Agreement; Amendment and Waiver. This Borrower Loan Agreement contains the complete and entire understanding of the parties with respect to the matters covered. This Borrower Loan Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Borrower Loan Agreement shall be considered as a general waiver.

Section 10.26 Counterparts. This Borrower Loan Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

Section 10.27 Captions. The captions of the sections of this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

Section 10.28 Servicer. Borrower hereby acknowledges and agrees that, pursuant to the terms of Section 39 of the Security Instrument: (a) from time to time, the Governmental Lender or the Funding Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under the Borrower Note, this Borrower Loan Agreement or the other

Borrower Loan Documents, and to otherwise service the Borrower Loan and (b) unless Borrower receives Written Notice from the Governmental Lender or the Funding Lender to the contrary, any action or right which shall or may be taken or exercised by the Governmental Lender or the Funding Lender may be taken or exercised by such servicer with the same force and effect.

Section 10.29 Beneficiary Parties as Third Party Beneficiary. Each of the Beneficiary Parties shall be a third party beneficiary of this Borrower Loan Agreement for all purposes.

Section 10.30 Waiver of Trial by Jury. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER AND THE BENEFICIARY PARTIES (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS BORROWER LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

IF FOR ANY REASON THIS WAIVER IS DETERMINED TO BE UNENFORCEABLE, ALL DISPUTES WILL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROCEDURES SET FORTH IN THE SECURITY INSTRUMENT.

Section 10.31 Time of the Essence. Time is of the essence with respect to this Borrower Loan Agreement.

Section 10.32 Reserved.

Section 10.33 Reserved.

ARTICLE XI

LIMITATIONS ON LIABILITY

Section 11.1 Limitation on Liability. Notwithstanding anything to the contrary herein, the liability of the Borrower hereunder and under the other Borrower Loan Documents and the Funding Loan Documents (except under Section 5.15 hereof, with respect to the indemnification of the Fiscal Agent, which shall be full recourse to the Borrower) shall be limited to the extent set forth in the Borrower Note.

Section 11.2 Limitation on Liability of Governmental Lender. The Governmental Lender shall not be obligated to pay the principal (or prepayment price) of or interest on the Funding Loan, except from moneys and assets received by the Fiscal Agent or the Funding Lender 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 is pledged to the payment of the principal (or prepayment price) of 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 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 moneys 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 price) of and interest on the Funding Loan as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Fiscal Agent, the Funding Lender or the Servicer, 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 price) of or interest on the Funding Loan, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Fiscal Agent, the Funding Lender, the Borrower, the Governmental Lender or any third party, subject to any right of reimbursement from the Fiscal Agent, the Funding Lender, the Governmental Lender or any such third party, as the case may be, therefor.

Section 11.3 Waiver of Personal Liability. No Commissioner, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of any principal (or prepayment price) of or interest on the Funding Loan or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Borrower Loan Agreement; but nothing herein contained shall relieve any such member, director, officer, agent or employee from the performance of any official duty provided by law or by this Borrower Loan Agreement.

Section 11.4 Limitation on Liability of Governmental Lender's or Funding Lender's Commissioners, Officers, Employees, Etc.

(a) Borrower assumes all risks of the acts or omissions of the Governmental Lender and the Funding Lender, provided, however, this assumption is not intended to, and shall not, preclude the Borrower from pursuing such rights and remedies as it may have against the Governmental Lender and the Funding Lender at law or under any other agreement. None of Governmental Lender, the Fiscal Agent and the Funding Lender, nor the other Beneficiary Parties or their respective commissioners, officers, directors, employees or agents shall be liable or responsible for (i) for any acts or omissions of the Governmental Lender and the Funding Lender; or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the Funding Lender, or willful misconduct of the Governmental Lender.

(b) None of the Governmental Lender, the Fiscal Agent, the Funding Lender, the other Beneficiary Parties or any of their respective commissioners, officers, directors, employees or agents shall be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. The Governmental Lender, the Fiscal Agent and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against the Borrower or others or against the Project. Borrower is not and shall not be an agent of the Governmental Lender and the Funding Lender for any purpose. Neither the Governmental Lender nor the Funding Lender is a joint venture partner with Borrower in any manner whatsoever. Prior to default by Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender, the Fiscal Agent and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by the Governmental Lender, the Fiscal Agent and the Funding Lender. Approvals granted by the Governmental Lender, the Fiscal Agent and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

(c) Any obligation or liability whatsoever of the Governmental Lender, the Fiscal Agent and the Funding Lender that may arise at any time under this Borrower Loan Agreement or any other Borrower Loan Document shall be satisfied, if at all, out of the Funding Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the Project or any of the Governmental Lender's, the Fiscal Agent's or the Funding Lender's shareholders (if any), directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 11.5 Delivery of Reports, Etc. The delivery of reports, information and documents to the Governmental Lender, the Fiscal Agent and the Funding Lender as provided herein is for informational purposes only and the Governmental Lender's, the Fiscal Agent's and the Funding Lender's receipt of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained therein. The Governmental Lender, the Fiscal Agent and the Funding Lender shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Borrower Loan Agreement against the Governmental Lender, the Fiscal Agent and the Funding Lender.

Section 11.6 Prior Bond Documents. On the Conversion Date, this Borrower Loan Agreement, the Governmental Lender Note and the Funding Loan Agreement shall amend, restate and supersede the Loan Agreement, the Bonds and the Indenture, respectively.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Borrower Loan Agreement by their respective authorized representative, as of the date first set forth above.

BORROWER:

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood, President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood, Executive Director

GOVERNMENTAL LENDER:

HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO

By:_____

Name:

Title:

Agreed to and Acknowledged by:

FUNDING LENDER:

CITIBANK, N.A.

By:_____

Name:

Title:

TO Housing Authority of the City of San Diego

FROM Christine Rankin, Orrick, Herrington & Sutcliffe LLP

DATE September 20, 2023

RE SkyLINE (formerly known as Rancho Bernardo Transit Village)

If the Housing Authority of the City of San Diego (Authority) adopts a resolution authorizing the issuance of the Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B (Bonds), it is expected that the Bonds will be sold, issued and delivered in October 2023. The primary legal documents for the Bonds that are referenced in the Resolution of the Authority authorizing the issuance of the Bonds (Resolution) currently contain a number of blanks or bracketed items that are related to the final principal amount of the Bonds, various dates and other matters. The respective par amounts of the Bonds will depend upon the final pricing, which will occur closer to the closing date.

The following table sets forth a summary of the open items in the primary legal documents for the Bonds 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>
Trust Indenture	Cover Page (and throughout)	Principal amount of Bonds and loan	Prior to closing	Underwriter/Borrower/ Authority
	Cover Page (and throughout)	Dated date of Trust Indenture and other documents	Prior to closing	Financing Team
	Recital G	Dated date of Citi Forward Commitment Agreement	Prior to closing	Citibank and counsel

September 20, 2023

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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 1.01 Definitions	Definition of “Bond Purchase Agreement”	Prior to closing	Borrower/Underwriter/ Authority
	Section 1.01 Definitions (and references throughout)	Definition of “Closing Date”	Prior to closing	Borrower/Underwriter/ Authority
	Section 1.01 Definitions	Definitions of “Cash Flow Projections”	Prior to closing	Borrower/Underwriter/ Underwriter’s Counsel
	Section 1.01 (and throughout)	Definitions relating to key dates including “Conversion Date,” “Maturity Date”	Pricing date	Underwriter/Borrower and counsel
	Section 1.01	Definition of “Certificate of Occupancy”	Prior to closing	Borrower and counsel
	Section 1.01	Definition of “Ground Lease”	Prior to closing	Borrower (depending upon final version of Ground Lease)
	Section 1.01	Definition of “Guarantor”	Prior to closing	Underwriter/Borrower and counsel
	Section 1.01	Definition of “Guaranty”	Prior to closing	Underwriter/Borrower and counsel

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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 1.01	Definition of “Initial Interest Rate”	Pricing date	Underwriter/Borrower and counsel
	Section 1.01	Definition of “Issuer Authorizing Resolution”	Authority Approval Date	Authority and counsel
	Section 1.01	Definition of “Mortgage Loan Security Instrument”	Prior to closing	Lender and counsel
	Section 1.01	Definition of “Official Statement”	Pricing date	Underwriter and counsel
	Section 1.01	Definition of “Project”	Prior to closing	Borrower/Authority and counsel
	Section 1.01	Definition of “Partnership Agreement”	Prior to closing	Investor limited partner and counsel
	Section 1.01	Definitions relating to Subordinate Lenders and Subordinate Loans	Prior to closing	Borrower, subordinate lenders and counsel
	Section 1.01	Definition of “Trustee’s Fee”	Prior to closing	Borrower, Trustee
	Section 3.02	Notice provisions	Prior to closing	Underwriter/Borrower/Trustee

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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 3.05	Optional redemption provisions	Prior to pricing	Underwriter/Borrower/Trustee
	Section 4.01	Final Funds and Accounts	Prior to pricing	Underwriter/Borrower
	Section 6.01	Initial investments	Prior to closing	Borrower/Trustee
	Section 10.26	Financing Statements	Prior to closing	Underwriter, Lender, Borrower and counsel
	Section 12.06	Notice Addresses	Prior to closing	Trustee, Borrower and counsel
	Section 12.06	Citi deal ID	Prior to closing	Citibank and counsel
	Section 12.12	Electronic notice provisions	Prior to closing	Underwriter, Borrower, Authority, Trustee and counsel
Appendix C to Trust Indenture (Form of Funding Loan Agreement)	Cover Page (and throughout)	Principal amount of Note and permanent loan	Prior to conversion date	Citibank/Borrower
	Cover Page (and throughout)	Dated date of document	Prior to conversion date	Financing Team
	Recitals (and throughout)	All dates relating to construction loan closing	Prior to closing date	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>
	Recitals (and throughout)	All dates relating to conversion date and permanent loan closing	Prior to conversion date	Financing Team
	Recitals (and throughout)	Title of Deed of Trust document	Prior to closing date	Citibank and counsel
	Section 1.1	Definition of “Fiscal Agent Fees”	Prior to conversion date	Borrower, Trustee
	Section 1.1	Definition of “Title Company”	Prior to conversion date	Borrower
	Section 12.1	Notices	Prior to conversion date	Financing Team
	Section 12.1	Citibank Deal ID Number	Prior to closing	Citibank and counsel
Appendix D to Trust Indenture (Form of Borrower Loan Agreement)	Cover Page and throughout	Principal amount	Prior to conversion date	Borrower/Citibank
	Cover Page and throughout	Dated date of document	Prior to conversion date	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>
	Recitals (and throughout)	All dates relating to conversion date and permanent loan closing	Prior to conversion date	Financing Team
	Recitals (and throughout)	Title of Deed of Trust document	Prior to closing date	Citibank and counsel
	Section 1.2	Definition of “Partnership Agreement” and dated date thereof	Prior to closing	Borrower/Equity Investor & Counsel
	Section 1.2	Definition of “Subordinate Debt”	Prior to closing	Borrower/Underwriter
	Section 1.2	Definition of “Subordinate Lender”	Prior to closing	Borrower/Underwriter
	Section 1.2	Definition of “Title Company”	Prior to conversion date	Borrower
	Section 10.1	Notice Addresses	Prior to conversion date	Financing Team
	Section 10.1	Citi Deal ID	Prior to conversion date	Citibank

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<u>Document</u>	<u>Location Within Document</u>	<u>Item</u>	<u>When Completed</u>	<u>Responsible Party/Parties</u>
Loan Agreement	Cover and throughout	Principal amount	Pricing date	Underwriter/Borrower
	Cover and throughout	Dated date of document	Prior to closing	Financing Team
	Recitals	Dated date of lender documents	Prior to closing	Citibank and counsel
	Section 5.06	Disposition of insurance and condemnation proceeds	Prior to pricing	Underwriter, Lender, Borrower and counsel
	Section 5.09	Prepayment provisions	Prior to pricing	Underwriter, Lender, Borrower and counsel
	Exhibit A	Project Description	Prior to pricing	Borrower and counsel in conjunction with Financing Team
Regulatory Agreement	Cover Page (and throughout)	Dated date of document	Prior to closing	Financing Team
	Cover Page (and throughout)	Principal amounts	Prior to closing	Underwriter/Authority/Borrower
	Section 1	Definition of “CDLAC Resolution”	Prior to closing	Borrower/Authority and counsel
	Section 1	Definition of “Closing Date”	Prior to closing	Borrower/Underwriter/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 1	Definition of “Ground Lease”	Prior to closing	Borrower (depending on finalization of Ground Lease)
	Section 1	Definition of “Ground Lessor”	Prior to closing	Borrower (pending finalization of Ground Lease)
	Section 1	Definition of “Manager”	Prior to closing	Borrower
	Section 20	Authority’s fee	Prior to closing	Authority (following determination of principal amounts)
	Section 20	Occupancy Monitoring Fee information	Prior to closing	Authority
	Exhibit A	Legal Description	Prior to closing	Borrower/ Title Company
Preliminary Official Statement	Cover Page (and throughout)	Rating	Prior to pricing	Underwriter/Rating Agency
	Cover Page (and throughout)	All dates	Prior to closing	Financing Team
	Appendices A-D	All summaries	Prior to pricing	To be completed concurrently with terms of documents to be summarized

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<u>Document</u>	<u>Location Within Document</u>	<u>Item</u>	<u>When Completed</u>	<u>Responsible Party/Parties</u>
	Appendix F	Form of Bond Counsel Opinion	Prior to pricing	Bond Counsel
Bond Purchase Agreement	Cover and throughout	Dated date	Pricing date	Financing Team
	Cover and throughout	Principal amount to be sold	Pricing date	Underwriter/Borrower
	Section 10	Rating	Prior to pricing	Underwriter/Borrower/ Rating Agency
Collateral Funds Agreement	Page 1 and throughout	Dated date of document	Prior to pricing	Counsel to Bank of America
	Page 1 and throughout	Principal amount	Prior to pricing	Underwriter/Borrower
	Page 1, Recital B	Tax credit amounts	Prior to closing	Investor limited partner, Borrower and counsel
	Pages 4-5, Section 4	Deposit amounts	Prior to closing	Investor limited partner, Borrower and counsel
	Exhibit A	Draw schedule	Prior to closing	Investor limited partner, Borrower and counsel
	Exhibit B	Budget	Prior to closing	Investor limited partner, Borrower and counsel

BOND PURCHASE AGREEMENT

Dated October __, 2023

by and among

LUMENT SECURITIES, LLC,

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

and

BERNARDO FAMILY HOUSING, L.P.

Relating to:

\$42,476,000

**Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

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BOND PURCHASE AGREEMENT

Lument Securities, LLC (the “*Underwriter*”), on its own behalf and not as your fiduciary, hereby offers to enter into this Bond Purchase Agreement dated October __, 2023 (this “*Purchase Contract*”) with the Housing Authority of the City of San Diego (together with its successors and assigns, the “*Issuer*”) and Bernardo Family Housing, L.P., a California limited partnership (the “*Borrower*”), for the sale by the Issuer and the purchase by the Underwriter of the Bonds defined below which are being issued by the Issuer for the benefit of the Borrower. The Underwriter is an “underwriter” as defined in Section 2(a)(11) of the Securities Act of 1933, as amended (the “*1933 Act*”). This offer is made subject to the written acceptance hereof by the Issuer and the Borrower and delivery of such acceptance (in the form of one or more counterparts hereof) at or prior to 5:00 p.m., Pacific Time, on the date hereof, and will expire if not so accepted at or prior to such time (or such later time as the Underwriter may agree in writing). Upon such acceptance, this Purchase Contract will be binding upon each of the Issuer, the Borrower and the Underwriter.

Section 1. Definitions and Background.

1.1 Capitalized terms used in this Purchase Contract but not defined herein have the meanings assigned to them in the Trust Indenture by and between the Issuer and U.S. Bank Trust Company, National Association, a national banking association (the “*Trustee*”) dated as of October 1, 2023 (the “*Indenture*”).

1.2 This Purchase Contract is for the sale and delivery of the Issuer’s \$42,476,000 Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE), 2023 Series 2023 B (the “*Bonds*”) which are being issued by the Issuer to provide financing for the Project. The Bonds will be issued pursuant to (i) that certain resolution of the Issuer adopted October __, 2023 (the “*Bond Resolution*”), (ii) Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code (the “*Act*”), and (iii) the terms of the Indenture. The Bonds will be payable from sources pledged under the Indenture, including the moneys and securities from time to time held by the Trustee in the funds and accounts established under the terms of the Indenture (collectively, the “*Trust Estate*”). In connection with the issuance of the Bonds, the Issuer will execute and deliver this Purchase Contract; the Indenture; the Loan Agreement by and between the Issuer and the Borrower (the “*Loan Agreement*”) dated as of October 1, 2023; the Tax Certificate and Agreement of the Borrower and the Issuer, each dated October __, 2023 (the “*Tax Certificate*”); and the Regulatory Agreement and Declaration of Restrictive Covenants (the “*Tax Regulatory Agreement*”) (collectively, the “*Issuer Documents*”) and the Borrower will execute and deliver this Purchase Contract, the Loan Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement, the Tax Certificate, and the Tax Regulatory Agreement (collectively, the “*Borrower Documents*”). The Issuer Documents and the Borrower Documents are referred to herein as the “*Financing Documents*.”

Section 2. Purchase and Sale.

2.1 Subject to the terms and conditions set forth in this Purchase Contract, the Underwriter hereby agrees to purchase from the Issuer and the Issuer hereby agrees to sell to the Underwriter, at the Closing (as hereafter defined), \$42,476,000 aggregate principal amount of its Bonds at a price set forth in Exhibit A attached hereto.

2.2 The Bonds will (i) be issued pursuant to the Indenture and (ii) have the payment related terms (that is, the dated date, maturity date, interest rate and price) set forth in Exhibit A attached hereto, and will otherwise correspond to the description thereof contained in the hereinafter-defined Official Statement.

2.3 The Issuer, the Borrower and the Underwriter each acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to this Purchase Contract is an arm's-length commercial transaction among the Issuer, the Borrower and the Underwriter, (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as a principal and is not acting as the agent, municipal advisor, financial advisor, or fiduciary of the Issuer or the Borrower, (iii) the Underwriter has not assumed individually or collectively any advisory or fiduciary responsibility in favor of the Issuer or the Borrower with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has advised or provided other services or is currently advising or providing other services to the Issuer or the Borrower on other matters) and the Underwriter has no contractual obligation to the Issuer or the Borrower with respect to the offering contemplated hereby except the obligations expressly set forth in this Purchase Contract, and (iv) the Issuer and the Borrower have consulted their own legal, financial, accounting, tax and other advisors to the extent they deem appropriate in connection with the offering of the Bonds. The primary role of the Underwriter is to purchase the Bonds for resale to investors in an arm's-length commercial transaction among the Issuer, the Borrower and the Underwriter. The Underwriter has financial and other interests that differ from those of the Issuer.

Section 3. Issue Price.

The Underwriter will provide to the Issuer an executed Issue Price Certificate dated the Closing Date (as defined herein) in the form attached as Exhibit E hereto or other form reasonably required by Bond Counsel in order to establish the issue price of the Bonds.

The Underwriter reserves the right to change such prices as it deems necessary in connection with the offering of the Bonds. Concessions from the public offering price may be allowed to selected dealers and special purchasers. The Borrower authorizes the Underwriter to complete the supplement to the Official Statement to insert the reoffering price for the Bonds selected by the Underwriter in its complete discretion.

Section 4. Closing.

Subject to the terms and conditions hereof, the delivery of the Bonds and the payment of the purchase price of the Bonds as set forth in Exhibit A hereof (the "*Closing*") will take place at 10:00 a.m. Eastern Time on October __, 2023, or at such other time or on such other date mutually agreed upon by the Issuer, the Borrower and the Underwriter, which date shall be referred to herein as the "*Closing Date*."

Section 5. Official Statement; Disclosure Matters.

5.1 The Issuer and the Borrower each hereby (a) confirms its consent to the use by the Underwriter of the Preliminary Official Statement dated October __, 2023, relating to the Bonds (the "*Preliminary Official Statement*") in the marketing of the Bonds and (b) authorizes the Underwriter to prepare, use and distribute (at the expense of the Borrower) the Official Statement dated October __, 2023, relating to the Bonds (the "*Official Statement*") in final form in connection with the offering and sale of the Bonds.

5.2 The Issuer and the Borrower each agrees to the extent required and permitted by applicable law to cooperate (at the sole cost and expense of the Borrower) with the Underwriter so as to enable the Underwriter to comply with the requirements of Rule 15c2-12 ("*Rule 15c2-12*") under the Securities Exchange Act of 1934, as amended (the "*1934 Act*"), and any other rules of the Securities and Exchange Commission (the "*SEC*") and the Municipal Securities Rulemaking Board (the "*MSRB*"), in connection with the offer and sale of the Bonds.

5.3 The Issuer and the Borrower hereby make the following representations in subsection (a) and (b) respectively:

(a) The Issuer hereby certifies and agrees that the information in the Preliminary Official Statement as of its date and the Official Statement under the captions “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer” has been “deemed final” by the Issuer as of its date, except for final information as to the offering prices, interest rates, selling compensation, amount of proceeds, delivery dates, other terms depending on such factors, and other information permitted to be omitted under part (b)(1) of Rule 15c2-12.

(b) The Borrower hereby certifies and agrees that the Preliminary Official Statement and the Official Statement have been “deemed final” by the Borrower as of their dates, except for final information as to the offering prices, interest rates, selling compensation, amount of proceeds, delivery dates, other terms depending on such factors, and other information permitted to be omitted under part (b)(1) of Rule 15c2-12.

5.4 The Issuer and the Borrower hereby make the following representations in subsection (a) and (b), respectively:

(a) The Issuer hereby represents that the information in the Preliminary Official Statement and the Official Statement under the captions “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer” is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(b) The Borrower hereby represents that the information in the Preliminary Official Statement and the Official Statement is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

5.5 The Issuer and the Borrower will, at the expense of the Borrower, supply to the Underwriter the Official Statement, in such quantity as may be requested by the Underwriter no later than the earlier of (i) seven (7) business days after the date of this Purchase Contract or (ii) one (1) business day prior to the Closing Date, in order to permit the Underwriter to comply with Rule 15c2-12, and the applicable rules of the MSRB, with respect to distribution of the Official Statement. The Borrower shall provide to the Underwriter the Official Statement, including any amendments thereto, in word-searchable PDF format as described in the MSRB’s Rule G-32 no later than one (1) business day prior to the Closing Date to enable the Underwriter to comply with MSRB Rule G-32.

5.6 During the period commencing on the date of this Purchase Contract and ending on the earlier of (a) 90 days from the End of the Underwriting Period or (b) the time when the Official Statement is available to any person from the MSRB, but in no case less than 25 days following the End of the Underwriting Period (the “*Update Period*”), if any event shall occur which would cause the Official Statement to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, and in the judgment of the Underwriter, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Issuer (to the extent of the provisions referred to in Section 5.4(a) hereof) and the Borrower will, at the expense of the Borrower, prepare or cooperate in the preparation of such supplement or amendment to the Official Statement in a form approved by the Underwriter and furnish or cooperate in the furnishing to the Underwriter (at the sole expense of the Borrower) a reasonable number of copies of an amendment of, or a supplement to the Official Statement

so that, as supplemented or amended, it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading. If the Official Statement is so supplemented or amended prior to the Closing, the approval by the Underwriter of a supplement or amendment to the Official Statement shall not preclude the Underwriter from thereafter terminating this Purchase Contract in accordance with the provisions of Section 12(c) hereof. The “*End of the Underwriting Period*” means the later of the delivery of the Bonds by the Issuer to the Underwriter or when the Underwriter no longer retains (directly or as a syndicate member) an unsold balance of the Bonds for sale to the public; provided, that the “*End of the Underwriting Period*” shall be deemed to be the Closing Date, unless the Underwriter otherwise notifies the Issuer and the Borrower in writing prior to such date that there is an unsold balance of the Bonds, in which case the End of the Underwriting Period shall be deemed to be extended for 30 days. The deemed End of the Underwriting Period may be extended for two additional periods of 30 days each upon receipt of an additional written notification from the Underwriter containing the same information as required in the initial written notice.

5.7 If, during the Update Period, the Issuer becomes aware of any event relating to the information concerning the Issuer under the captions “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer” of the Official Statement which would cause such portions of the Official Statement to contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, the Issuer will promptly notify the Underwriter of such event.

5.8 The Issuer shall promptly advise the Underwriter, during the Update Period, of any action, suit, proceeding, inquiry or investigation against the Issuer, of which the Issuer has actual knowledge, seeking to prohibit, restrain or otherwise affect the use of the Preliminary Official Statement or the Official Statement in connection with the offering, sale or distribution of the Bonds.

5.9 If, during the Update Period, the Borrower becomes aware of any event which would cause the Preliminary Official Statement or the Official Statement to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, the Borrower will promptly notify the Underwriter and the Issuer of such event.

5.10 The Borrower shall promptly advise the Underwriter, during the Update Period, of any action, suit, proceeding, inquiry or investigation against the Borrower, of which they receive written or actual notice, seeking to prohibit, restrain or otherwise affect the use of the Preliminary Official Statement or the Official Statement in connection with the offering, sale or distribution of the Bonds.

5.11 The Borrower represents and warrants to the Underwriter and the Issuer that neither the Borrower nor any affiliates thereof are in default under any undertakings with respect to continuing disclosure requirements designed to comply with Rule 15c2-12 in connection with any issue of municipal securities.

Section 6. Representations of the Issuer.

6.1 In addition to the representations contained in Section 5 herein, the Issuer hereby makes the following representations to the Underwriter:

(a) The Issuer is a public instrumentality and a political subdivision of the State of California State(the “State”), and has full power and authority under the Act to adopt the Bond Resolution and to enter into and to perform its obligations under the Issuer Documents; and when

executed and delivered by the respective parties thereto, the Issuer Documents will constitute the legal, valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitation on legal remedies against units of government of the State;

(b) By official action of the Issuer prior to or concurrently with the acceptance hereof, the Issuer has approved and authorized the distribution of the Preliminary Official Statement and the Official Statement and authorized and approved the execution and delivery of the Issuer Documents and the consummation by the Issuer of the transactions contemplated thereby;

(c) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending, or threatened against the Issuer seeking to restrain or enjoin the sale or issuance of the Bonds, or in any way contesting or affecting any proceedings of the Issuer taken concerning the sale thereof, the pledge or application of any moneys or security provided for the payment of the Bonds, in any way contesting the validity or enforceability of the Issuer Documents or contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or the existence or powers of the Issuer relating to the sale of the Bonds;

(d) The execution and delivery by the Issuer of the Issuer Documents and compliance with the provisions on the Issuer's part contained therein will neither (i) conflict with or constitute a material breach of or default under any law, administrative regulation, judgment or decree to which the Issuer is subject, (ii) conflict with any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or is otherwise subject, nor (iii) result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the Issuer under the terms of any such law, administrative regulation, judgment, decree, loan agreement, financing agreement, indenture, bond, security, note, resolution, agreement or other instrument, except as provided by the Issuer Documents;

(e) Except as may be required under Blue Sky or other securities laws of any state and for filings to be made with the Internal Revenue Service on Form 8038, to the Issuer's knowledge, there is no consent, approval, authorization or other order of, or filing with, or certification by, any state court, or state or federal governmental agency, or public body of any state required for the execution and delivery of the Issuer Documents or the consummation by the Issuer of the transactions on its part contemplated herein or therein, which has not been duly obtained or made on or prior to the date hereof;

(f) Upon delivery of the Bonds, the Issuer will have good right, full power and lawful authority to pledge and assign the Trust Estate described in the Indenture to the Trustee as provided in the Indenture and the Bond Resolution;

(g) The Issuer has complied in all material respects with the Bond Resolution and the Issuer Documents; and

(h) The Bonds, when delivered in accordance with the Indenture and paid for by the Underwriter on the Closing Date as provided herein, will be validly issued and outstanding special, limited obligations of the Issuer entitled to all the benefits and security of the Indenture.

6.2 The execution and delivery of this Purchase Contract by the Issuer shall constitute a representation by the Issuer to the Underwriter that the representations and agreements contained in this Section are true as of the date hereof; provided, however, that as to information furnished by the Borrower pursuant to this Purchase Contract, the Issuer is relying solely on such information in making the Issuer's representations and agreements, and as to all matters of law the Issuer is relying on the advice of Bond Counsel; and provided further, that no member, officer, agent or employee of the Issuer shall be individually liable for the breach of any representation, or agreement contained herein.

6.3 It is understood that the representations and covenants of the Issuer contained in this Section 6 and elsewhere in this Purchase Contract shall not create any general obligation or liability of the Issuer, and that any obligation or liability of the Issuer hereunder or under the Issuer Documents is payable solely out of the Trust Estate established under the Indenture. It is further understood and agreed that the Issuer makes no representations, except as set forth in paragraph 5.4(a) above, as to the Official Statement, or as to (i) the financial condition, results of operation, business or prospects of the Borrower or the Project, (ii) any statements (financial or otherwise), representations, documents or certification provided or to be provided by the Borrower in connection with the offer or sale of the Bonds, or (iii) the correctness, completeness or accuracy of such statements, representations, documents or certifications.

Section 7. Representations and Warranties of the Borrower.

7.1 In addition to the representations and warranties made in Section 5 herein, the Borrower hereby makes the following representations and warranties to the Underwriter and the Issuer, all of which will continue in effect subsequent to the purchase of the Bonds:

(a) The Borrower is a limited partnership duly organized and existing under and pursuant to the laws of the State and is qualified to own the Project and conduct its business in the State.

(b) The Borrower has, and as of the Closing Date will have, full legal right, power and authority to (i) execute and deliver the Borrower Documents, (ii) assist in the preparation, distribution and use of the Preliminary Official Statement and the Official Statement, and (iii) otherwise consummate the transactions contemplated by the Borrower Documents.

(c) The Borrower has duly authorized the (i) execution and delivery of the Borrower Documents, (ii) performance by the Borrower of the obligations contained in the Borrower Documents, (iii) preparation of the Preliminary Official Statement and the Official Statement, and (iv) consummation by the Borrower of all of the transactions contemplated by the Borrower Documents.

(d) The Borrower Documents are, and, when executed and delivered by the Borrower and the other parties thereto, will be, the legal, valid and binding obligations of the Borrower, enforceable in accordance with their respective terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(e) All consents, approvals, orders or authorizations of, notices to, or filings, registrations or declarations with any governmental authority, board, agency, commission or body having jurisdiction which are required on behalf of the Borrower for the execution and delivery by the Borrower of the Borrower Documents or the consummation by the Borrower of the transactions contemplated hereby or thereby, have been obtained or will be obtained prior to Closing.

(f) The execution and delivery by the Borrower of the Borrower Documents and the consummation by the Borrower of the transactions contemplated hereby and thereby are not prohibited by, do not violate any provision of, and will not result in the breach of or default under (i) the organizational documents of the Borrower, (ii) any applicable law, rule, regulation, judgment, decree, order or other requirement to which the Borrower is subject, or (iii) any contract, indenture, agreement, mortgage, lease, note, commitment or other obligation or instrument to which the Borrower is a party or by which the Borrower or its properties are bound.

(g) There is no legal action, suit, proceeding, investigation or inquiry at law or in equity, before or by any court, agency, arbitrator, public board or body or other entity or person, pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any partner or member of the Borrower, in their respective capacities as such, nor, to the knowledge of the Borrower, any basis therefor, (i) which would restrain or enjoin the issuance or delivery of the Bonds, the use of the Preliminary Official Statement or the Official Statement in the marketing of the Bonds or the collection of revenues pledged under or pursuant to the Borrower Documents or (ii) which would in any way contest or affect the organization or existence of the Borrower or the entitlement of any officer of the Borrower to its position or (iii) which would contest or have a material and adverse effect upon (A) the due performance by the Borrower of the transactions contemplated by the Preliminary Official Statement, the Official Statement or the Borrower Documents, (B) the validity or enforceability of the Bonds, the Borrower Documents or any other agreement or instrument to which the Borrower is a party and that is used or contemplated for use in the consummation of the transactions contemplated hereby and thereby, (C) the exclusion from gross income for federal income tax purposes of the interest on the Bonds or (D) the financial condition or operations of the Borrower, (iv) which contests in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or (v) which questions the power or authority of the Borrower to carry out the transactions on its part contemplated by the Preliminary Official Statement, the Official Statement and the Borrower Documents, or the power of the Borrower to own or operate the Project. The Borrower is not subject to any judgment, decree or order entered in any lawsuit or proceeding brought against it that would have such an effect.

(h) On the Closing Date, the Borrower shall not have granted any interests in or rights or options to sell the Bonds to any other party.

(i) All permits (including building permits), licenses and authorizations necessary for the ownership and operation of its Project in the manner contemplated by the Preliminary Official Statement, the Official Statement and each of the Borrower Documents have been obtained or will be obtained, and said ownership and operation are not in conflict with any zoning or similar ordinance applicable to the Project. The Project conforms to all material environmental regulations.

(j) None of the Borrower, any guarantor of the Borrower or any “related person” to the Borrower within the meaning of Section 147 of the Code has acquired or shall acquire, pursuant to any arrangement, formal or informal, any Bonds.

(k) The Borrower has not taken or omitted to take on or prior to the date hereof any action that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(l) On the Closing Date, each of the representations and warranties of the Borrower contained in the Borrower Documents and all other documents executed by the Borrower in connection with the Bonds shall be true, correct and complete in all material respects.

(m) As of the Closing Date, the Borrower will not be in material default under any document, instrument or commitment to which the Borrower is a party or to which any of its property is subject which default would or could reasonably be expected to adversely affect the ability of the Borrower to carry out its obligations under the Borrower Documents. As of the Closing Date, the Borrower will be in compliance with all of its obligations under the Tax Regulatory Agreement.

(n) The Borrower is in compliance with all of its prior continuing disclosure undertakings entered into pursuant to Rule 15c2-12, if any.

7.2 Each of the representations and warranties set forth in this Section 7 will survive the Closing.

7.3 Any certificate signed by any officer of the Borrower and delivered to the Underwriter in connection with the delivery of the Bonds will be deemed to be a representation and warranty by the Borrower to the Underwriter as to the statements made therein.

Section 8. Covenants of the Issuer.

The Issuer hereby makes the following covenants with the Underwriter:

(a) Prior to the Closing, the Issuer will not supplement or amend the Official Statement or cause the Official Statement to be supplemented or amended without providing reasonable notice of such proposed supplement or amendment to the Underwriter. Neither the receipt by the Underwriter of notice of a proposed supplement or amendment nor the consent by the Underwriter to such supplement or amendment shall abrogate the Underwriter's rights under Section 12(c) hereof.

(b) Prior to the Closing, the Issuer will not amend, terminate or rescind, and will not agree to any amendment, termination or rescission of the Issuer Documents without the prior written consent of the Underwriter.

(c) Prior to the Closing, except as provided in the Issuer Documents, the Issuer will not create, assume or guarantee any indebtedness payable from, or pledge or otherwise encumber, the revenues, assets, properties, funds or interests which will be pledged pursuant to the Indenture, including, without limitation, the Bonds or the Issuer Documents.

(d) The Issuer will not take any action which will in any way cause the proceeds of the Bonds to be applied in a manner other than as provided in the Indenture and described in the Official Statement or which would cause the interest on the Bonds to be includable in the gross income of the holders thereof for federal income tax purposes.

(e) Prior to the Closing, the Issuer will obtain all governmental consents, approvals, orders or authorizations of any governmental authority or agency that would constitute a condition precedent to the performance by it of its obligations under the Issuer Documents and the Bonds.

(f) The Issuer will reasonably cooperate with the Underwriter upon request, without cost to the Issuer, in the qualification of the Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriter may designate; provided that the foregoing shall not require the Issuer to expend its own funds, execute

a general or special consent to service of process or to qualify as a foreign corporation in connection with such qualification in any foreign jurisdiction.

(g) The Issuer will not adopt any amendment of or supplement to the Official Statement to which, after having been furnished a copy, the Underwriter shall reasonably object in writing and if any event relating to or affecting the Issuer or the Borrower shall occur as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement so that it does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, the Issuer shall cause to be forthwith prepared and furnished (at the sole expense of the Borrower) to the Underwriter a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Underwriter) that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 9. Covenants of the Borrower.

The Borrower hereby makes the following covenants with the Underwriter and the Issuer:

(a) The Borrower will not supplement or amend the Official Statement or cause the Official Statement to be supplemented or amended without providing reasonable notice of such proposed supplement or amendment to the Underwriter and the Issuer. It is understood pursuant to Section 12(c) that, in the event there arises an event or condition which, in the reasonable judgment of the Underwriter, requires the Official Statement to be amended or supplemented or has a material and adverse effect upon the marketability of the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds, the Underwriter shall have the right, pursuant to Section 12(c) hereof, to terminate this Purchase Contract without liability. Neither the receipt by the Underwriter of notice of a proposed supplement or amendment nor the consent by the Underwriter to such supplement or amendment shall abrogate the Underwriter's rights under Section 12(c) hereof.

(b) The Borrower will not adopt any amendment of or supplement to the Official Statement to which, after having been furnished a copy, the Underwriter shall reasonably object in writing and if any event relating to or affecting the Issuer or the Borrower shall occur as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in light of the circumstances existing at the time it is delivered to the Underwriter, the Borrower shall cause to be forthwith prepared and furnished (at the sole expense of the Borrower) to the Underwriter a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Issuer and the Underwriter) that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(c) Prior to the Closing, the Borrower will not amend, terminate or rescind, and will not agree to any amendment, termination or rescission of the Borrower Documents without the prior written consent of the Underwriter.

(d) Prior to the Closing, the Borrower will not create, assume or guarantee any indebtedness payable from, or pledge or otherwise encumber, the revenues, assets, properties, funds or interests which will be pledged pursuant to the Indenture, including, without limitation, the Bonds, the Financing Documents or any indebtedness allowed under the loan from the Funding Lender.

(e) The Borrower will cooperate with the Issuer to cause the Bonds to be delivered to the address and at the time specified by the Underwriter in conjunction with the Closing.

(f) The Borrower will not take or omit to take any action which will in any way cause the proceeds of the Bonds, or other moneys on deposit in any fund or account in connection with the Bonds, to be applied in a manner other than as provided in the Indenture and described in the Preliminary Official Statement or the Official Statement and will not take or omit to take any action which would cause the interest on the Bonds to be includable in the gross income of the holders thereof for federal income tax purposes.

(g) The Borrower will cooperate with the Underwriter in the qualification of the Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriter may designate.

(h) The Borrower agrees to cause the necessary amount to be paid to the Trustee and/or the escrow agent on the Closing Date to pay costs of issuance.

(i) The Borrower agrees to provide the Underwriter, at the Borrower's expense, a reasonable number of additional copies of the Financing Documents as the Underwriter shall request.

Section 10. Conditions of Closing.

10.1 The obligations of the Underwriter to consummate at the Closing the transactions contemplated hereby are subject to receipt by the Underwriter of the items described in Section 10.2 hereof and to the satisfaction of the following conditions:

(a) The Underwriter will not have discovered any material error, misstatement or omission in the representations and warranties made in this Purchase Contract, which representations and warranties will be deemed to have been made again at and as of the time of the Closing and will then be true in all material respects.

(b) The Issuer and the Borrower will have performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by such respective parties at or prior to Closing.

(c) The Bonds, the Financing Documents and the Official Statement shall each have been executed and delivered by each of the parties thereto, shall be in full force and effect on and as of the Closing Date and shall not have been amended, modified or supplemented prior to the Closing except as may have been agreed to in writing by the Underwriter and no event of default shall exist under any such documents.

(d) The Underwriter will have received orders for all of the Bonds (or such amount of the Bonds as is acceptable to the Underwriter) and (a) such orders have not been withdrawn at the time of the Closing and (b) the market price or marketability, at the initial offering price set forth

in the Official Statement, of the Bonds shall not have been adversely affected, in the reasonable judgment of the Underwriter.

(e) The Borrower shall have entered into the Continuing Disclosure Agreement containing covenants meeting the requirements of Rule 15c2-12 under the 1934 Act.

(f) The Issuer shall have received the executed Issue Price Certificate of the Underwriter, substantially in the form attached to this Purchase Contract as Exhibit E.

10.2 In addition to the conditions set forth in Section 10.1, the obligations of the Underwriter to consummate at the Closing the transactions contemplated hereby are subject to receipt by the Underwriter of the following items:

(a) An approving opinion of Bond Counsel, dated the Closing Date, relating to the validity of the Bonds and the tax-exempt status of the Bonds, substantially in the form attached to the Official Statement as Appendix F, and a letter of such counsel, addressed to the Underwriter and the Issuer, to the effect that such opinion may be relied upon, together with a supplemental opinion of Bond Counsel, satisfactory in form and substance to the Underwriter and the Issuer, dated the Closing Date, substantially in the form attached hereto as Exhibit B.

(b) An opinion of counsel to the Borrower, dated the Closing Date, satisfactory in form and substance to the Underwriter, the Trustee, Bond Counsel and the Issuer and in substantially the form attached hereto as Exhibit C.

(c) An opinion of Tiber Hudson LLC, counsel to the Underwriter, satisfactory in form and substance to the Underwriter.

(d) A certificate of the Issuer, dated the Closing Date and signed by an authorized official or officer of the Issuer, to the effect that (i) each of the Issuer's representations contained herein and in all other Issuer Documents, which representations will be deemed to have been made again at and as of the time of Closing, are true and correct in all material respects; (ii) the Issuer has performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by it at or prior to the Closing; and (iii) the information contained in the Preliminary Official Statement and the Official Statement under the captions "THE ISSUER" and "ABSENCE OF LITIGATION – The Issuer" is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(e) Evidence that a public hearing has been duly held and the issuance of the Bonds has been duly approved as required by the Code.

(f) A certificate of the Issuer, dated the Closing Date and signed by an authorized officer of the Issuer, in form and substance satisfactory to the Issuer, the Underwriter and Bond Counsel, respecting certain tax matters as may be reasonably required by Bond Counsel to enable it to give its opinion.

(g) A certificate of the Borrower, dated the Closing Date and signed by its authorized representative, to the effect that:

(i) each of the Borrower's representations and warranties contained herein and in all Borrower Documents, which representations and warranties will be deemed to have been made again at and as of the time of Closing, are true and correct in all material respects;

(ii) the Borrower has performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by it at or prior to the Closing;

(iii) since the date of the Official Statement and except as set forth therein, there has not been any material adverse change in the Borrower's operations, financial or otherwise;

(iv) the information contained in the Preliminary Official Statement and the Official Statement is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading;

(v) there is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any of its affiliates, nor, to the best knowledge of the Borrower, is there any basis therefor, wherein an unfavorable decision, ruling or finding would, in any way, adversely affect the transactions contemplated by the Loan Agreement or the operation and management of the Project, or that might result in any material adverse change in the business, operations, properties, assets, liabilities or condition (financial or other) of the Borrower or that affects the information in the Preliminary Official Statement and the Official Statement; and

(vi) such other matters as the Underwriter may reasonably request.

(h) A certificate of the Borrower dated the Closing Date and signed by its authorized representative, in form and substance satisfactory to the Underwriter and Bond Counsel, respecting certain tax matters as may be reasonably required by Bond Counsel to enable it to give its opinion.

(i) A certificate of the Trustee, dated the Closing Date and signed by an authorized officer of the Trustee, in form and substance satisfactory to the Underwriter.

(j) The Borrower's 15c2-12 Certificate, substantially in the form attached hereto as Exhibit D, duly executed by the Borrower.

(k) Certified copies of the organizational documents of the Borrower and copies of the resolutions or actions of its partners (if applicable) authorizing the execution and delivery of the Borrower Documents.

(l) The Financing Documents (or certified copies thereof) duly executed and delivered by the respective parties thereto, with such amendments, modifications or supplements as may have been agreed to by the Issuer, Bond Counsel and the Underwriter.

(m) Written evidence satisfactory to the Underwriter that Moody's Investors Service, Inc. (the "Rating Agency") has issued a rating of "[Aaa][Aaa/VMIG 1][AA+]" for the Bonds and such rating shall be in effect on the Closing Date.

(n) Such additional legal opinions, certificates, instruments and other documents as the Underwriter, the Issuer or Bond Counsel may reasonably deem necessary to evidence the truth and accuracy as of the Closing Date of the respective representations and warranties of the Issuer and the Borrower herein contained and of the Official Statement, and to evidence compliance by the Issuer and the Borrower with this Purchase Contract and all applicable legal requirements, and the due performance and satisfaction by the Issuer and the Borrower at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Issuer and the Borrower.

10.3 If any of the conditions set forth in Section 10.1 or 10.2 hereof have not been met on the Closing Date, the Underwriter may, at its sole option, terminate this Purchase Contract or proceed to Closing upon waiving any rights under this Purchase Contract with respect to any such condition. If this Purchase Contract is terminated pursuant to this Section 10, no party will have any rights or obligations to any other, except as provided in Section 13 hereof.

Section 11. Actions and Events at the Closing.

The following events will take place at the Closing:

(a) The Issuer will cause the Trustee to deliver the Bonds to the Underwriter. The Bonds so delivered will be in the form required by the Indenture, duly authenticated by the Trustee, and will be fully registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York.

(b) The Issuer and the Borrower, as applicable, will deliver or cause to be delivered to the Underwriter at the offices of Bond Counsel, or at such other place or places as the Issuer, the Borrower and the Underwriter may mutually agree upon, the materials described in Section 10.1 and Section 10.2 hereof.

(c) The Underwriter will deliver to the Trustee, for the account of the Issuer, a wire, payable in immediately available funds, in an amount equal to the purchase price of the Bonds as set forth in Exhibit A hereto.

Section 12. Termination of Agreement.

The Underwriter may terminate this Purchase Contract, without liability therefor, by notifying the Issuer and the Borrower at any time prior to the Closing, if:

(a) Legislation is enacted or introduced in the Congress or recommended to the Congress for passage by the President of the United States, or favorably reported for passage to either house of the Congress of the United States by a committee of such house to which such legislation has been referred for consideration, or a decision is rendered by a court established under Article III of the Constitution of the United States or by the Tax Court of the United States, or an order, ruling, regulation (final, temporary or proposed), press release, statement or other form of notice or official statement is issued or made: (i) by or on behalf of the President, the Treasury Department of the United States or the Internal Revenue Service with the purpose or effect, directly or indirectly, of imposing federal income taxation upon such interest as would be received by the

owners of the Bonds, or (ii) by or on behalf of the SEC, or any other governmental entity having jurisdiction of the subject matter, to the effect that obligations of the general character of the Bonds or any arrangements underlying the Bonds, are not exempt from registration under the 1933 Act, or that the Indenture is not exempt from qualification under the Trust Indenture Act of 1939, as amended;

(b) The declaration of a general banking moratorium by federal, New York or State authorities, or general suspension of trading in securities on the New York Stock Exchange any other national securities exchange, or the establishment by the New York Stock Exchange, by the SEC, by any federal or state agency or by the decision of any court, of any limitation on prices for such trading, or any outbreak or escalation of hostilities or occurrence of any other national or international calamity or crisis, or escalation of such calamity or crisis, the effect of which on the financial markets of the United States shall be such as to make it impracticable for the Underwriter to proceed with the purchase and offering of the Bonds;

(c) Any event or condition which, in the reasonable judgment of the Underwriter, (i) renders untrue any statement of a material fact in the Official Statement, and the Issuer and the Borrower do not agree to supplement or amend the Official Statement to correct the deficiency, or (ii) causes the Official Statement to omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, and the Issuer and the Borrower do not agree to supplement or amend the Official Statement to correct the deficiency, or (iii) has a material adverse effect upon the marketability of the Bonds, or (iv) would materially and adversely affect the ability of the Underwriter to enforce contracts for the sale of the Bonds;

(d) The imposition by the New York Stock Exchange or other national securities exchange, or any governmental entity, of any restrictions not now in force with respect to any of the Bonds or obligations of the general character of the Bonds or securities generally, or the increase of any such restrictions now in force, including those relating to the extension of credit by, or the charge to the net capital requirements of the Underwriter;

(e) An order, decree or injunction of any court of competent jurisdiction, or order, filing, regulation or official statement by the SEC, or any other governmental entity having jurisdiction of the subject matter, issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds or the issuance, offering or sale of the Bonds or any arrangements underlying the Bonds, as contemplated hereby or by the Preliminary Official Statement or the Official Statement, is or would be in violation of the federal securities laws as then in effect;

(f) The rating on the Bonds shall have been downgraded or withdrawn by the Rating Agency; or

(g) A material disruption in commercial banking, securities settlement, payment, or clearance services shall have occurred.

Section 13. Fees and Expenses.

13.1 The Borrower shall pay to the Underwriter a fee in the amount of \$ _____ plus \$ _____ for certain fees and expenses (the "Underwriter's Fee"), payable in immediately available funds on the Closing Date from which the Underwriter will pay certain expenses. The Underwriter's Fee shall not include the fee of the Underwriter's counsel. The Borrower acknowledges that it has had an opportunity,

in consultation with such advisors as it may deem appropriate, if any, to evaluate and consider the fees and expenses being incurred in connection with the issuance of the Bonds. The Borrower has agreed to pay the Underwriter's Fee set forth in this Section 13.1, and inclusive in the expense component of the Underwriter's Fee are actual expenses incurred or paid for by the Underwriter on behalf of the Borrower in connection with the marketing, issuance, and delivery of the Bonds, including, but not limited to, advertising expenses, the costs of any preliminary and final blue sky memoranda, CUSIP fees, and transportation, lodging, and meals for the Borrower's employees and representatives, if any.

13.2 The Borrower shall pay the costs of issuance of the Bonds, including all expenses incident to the performance of the Underwriter's and the Issuer's obligations hereunder, including, but not limited to, (i) the cost of the preparation, printing or other reproduction of this Purchase Contract, the Preliminary Official Statement and the Official Statement, as either may be supplemented or amended, the Indenture and the other Financing Documents in reasonable quantities for distribution; (ii) the cost of engraving, reproducing and signing the definitive Bonds; (iii) the reasonable fees and disbursements of all applicable legal counsel, including Bond Counsel, counsel to the Issuer, counsel to the Trustee (if any), and counsel to the Underwriter; (iv) the initial fees and costs of paying the Trustee and all paying agents, transfer agents and registrars; (v) the fees and expenses of the Issuer; (vi) CUSIP fees; (vii) the cost of qualifying the Bonds for sale in various states chosen by the Underwriter and the cost of preparing or printing any Preliminary Blue Sky Survey to be used in connection with such sale; (viii) the fees and expenses of the experts retained by the Borrower with respect to the acquisition, rehabilitation and financing of the Project; (ix) the fees of the Rating Agency in connection with the rating of the Bonds; (x) normal travel costs, including reasonable transportation and lodging; (xi) ordinary and reasonable meals hosted by the Underwriter that are directly related to the offering contemplated by this Purchase Contract; and (xii) all other applicable fees of professionals hired in conjunction with the issuance of the Bonds. Notwithstanding anything to the contrary, in the event the transaction contemplated hereby does not close, the Borrower shall pay all fees and expenses incurred in connection with the transaction.

13.3 In the event that the Issuer, the Borrower or the Underwriter shall have paid obligations of the other as set forth in this Section, appropriate adjustments will promptly be made.

13.4 In addition to the provisions set forth in Section 14 hereto, the Borrower shall indemnify the Issuer and the Underwriter with respect to the foregoing costs and expenses in the event that the purchase provided for herein is not consummated.

Section 14. Indemnification.

14.1 The Borrower will indemnify and hold harmless the Issuer and the Underwriter, and each of their officers, directors, employees, agents, officials, members, commissioners, board members and each person who "controls" (as such term is used in Section 15 of the 1933 Act and Section 20 of the 1934 Act) the Issuer and the Underwriter (each referred to individually as an "*Indemnified Party*" and collectively as the "*Indemnified Parties*") against any losses, claims, expenses (including, without limitation, to the extent permitted by law, reasonable attorneys' fees and expenses actually incurred), damages or liabilities, causes of action (whether in contract, tort or otherwise), suits, claims, demands and judgments of any kind, character and nature (collectively referred to herein as the "*Liabilities*"), joint or several, to which the Indemnified Parties may be threatened or become subject, caused by or directly or indirectly arising from or in any way relating to (i) the Bonds, the Project, the loan of the proceeds of the Bonds, this Purchase Contract or any document related to the Bonds, the Project or the loan of the proceeds of the Bonds or any transaction or agreement, written or oral, pertaining to the foregoing, (ii) any untrue statement or alleged untrue statement of any material fact contained in the Preliminary Official Statement or the Official Statement, or any supplement or amendment thereto, or (iii) any omission or alleged omission to state in the Preliminary Official Statement or the Official Statement a material fact necessary to be stated therein

in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading. This indemnification provision shall not be construed as a limitation on any other liability which the Borrower may otherwise have to any indemnified person, provided that in no event shall the Borrower be obligated for double indemnification, in that the Borrower shall not be required to indemnify an Indemnified Party more than once with respect to a specific indemnification obligation arising as the result of a specific event. Notwithstanding the foregoing, the Borrower shall not be required to indemnify the Indemnified Parties for the gross negligence or willful misconduct of the Indemnified Parties.

14.2 The indemnity agreements in paragraph 14.1 of this Section 14 shall be in addition to any liability which the Borrower may otherwise have hereunder or under the other Borrower Documents, and shall extend on the same terms and conditions to each member, principal, official, officer, commissioner, board member, attorney or employee of the Borrower and to each person, if any, who “controls” (as such term is used in Section 15 of the 1933 Act and Section 20 of the 1934 Act) the Borrower.

14.3 Promptly after receipt by an Indemnified Party under paragraph 14.1 of this Section of notice of the commencement of any action against such Indemnified Party in respect of which indemnity or reimbursement may be sought against the Borrower under any such paragraph, such Indemnified Party will notify the Borrower in writing of the commencement thereof; provided that any delay or failure to give such notification shall be of no effect except to the extent that the Borrower is prejudiced thereby.

14.4 In case any action, claim or proceeding, as to which the Borrower is to provide indemnification hereunder, shall be brought against the Indemnified Party and the Indemnified Party notifies the Borrower of the commencement thereof, the Borrower may, or if so requested by the Indemnified Party shall, participate therein or assume the defense thereof, with counsel reasonably satisfactory to the Indemnified Party; provided that, except as provided below, the Borrower shall not be liable for the expenses of more than one separate counsel representing the Indemnified Parties in the action, claim or proceeding.

14.5 If the Borrower shall not have employed counsel to have charge of the defense of the action, claim or proceeding, or if any Indemnified Party shall have concluded reasonably that there may be a defense available to it or to any other Indemnified Party which is different from or in addition to those available to the Borrower or to any other Indemnified Party (hereinafter referred to as a “separate defense”), (i) the Borrower shall not have the right to direct the defense of the action, claim or proceeding on behalf of the Indemnified Party, and (ii) reasonable legal and other expenses incurred by the Indemnified Party (including without limitation, to the extent permitted by law, reasonable attorney’s fees and expenses actually incurred) shall be borne by the Borrower; provided, that the Borrower shall not be liable for the expenses of more than one additional separate counsel for each Indemnified Party with respect to such separate defenses. For the purpose of this paragraph, an Indemnified Party shall be deemed to have concluded reasonably that a separate defense is available to it or any other Indemnified Party if (a) such Indemnified Party shall have requested an unqualified written opinion from Independent Counsel to the effect that a separate defense exists, and such Independent Counsel shall have delivered such opinion to the Indemnified Party within ten (10) days after such request or (b) the Borrower agrees that a separate defense is so available. For purposes of this paragraph, Independent Counsel shall mean any attorney, or firm or association of attorneys, duly admitted to practice law before the supreme court of any state and not a full-time employee of any Indemnified Party. Nothing contained in this paragraph 14.5 will preclude any Indemnified Party, at its own expense, from retaining additional counsel to represent such party in any action with respect to which indemnity may be sought from the Borrower hereunder.

14.6 The Borrower agrees to reimburse any Indemnified Party for any reasonable expense (including reasonable fees and expenses of counsel) incurred as a result of producing documents, presenting testimony or evidence, or preparing to present testimony or evidence (based upon time expended by an

Indemnified Party at its then current time charges), in connection with any court or administrative proceeding (including any investigation which may be preliminary thereto) arising out of or relating to any public distribution of the Bonds. The Borrower will not be required to reimburse any Indemnified Party if such court or administrative hearing arises out of the gross negligence of, willful misconduct or breach of, this Purchase Contract by an Indemnified Party.

14.7 In order to provide for just and equitable contribution in circumstances in which the indemnity provided for in paragraph 14.1 or 14.2 of this Section 14 is for any reason held to be unavailable, the Borrower and the Indemnified Party shall contribute proportionately to the aggregate Liabilities to which the Borrower and the Indemnified Party may be subject, so that the Indemnified Party is responsible for that portion represented by the percentage that the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds bears to the aggregate offering price of the Bonds, with the Borrower responsible for the balance; provided, however, that in no case shall the Indemnified Party be responsible for any amount in excess of the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds; and provided, further, that the foregoing limitation on an Indemnified Party's liability or responsibility shall not be applicable if the indemnity provided for in paragraph 14.1 or 14.2 is unavailable or inapplicable due to the gross negligence or willful misconduct of any Indemnified Party. No person guilty of fraudulent misrepresentation (within Section 10(b) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such misrepresentation.

14.8 The Indemnified Parties, other than the Underwriter and the Issuer, shall be considered to be third-party beneficiaries of this Purchase Contract for purposes of this Section 14. The provisions of this Section 14 will be in addition to all liability which the Borrower may otherwise have and shall survive any termination and cancellation of this Purchase Contract, the offering and sale of the Bonds and the payment or provisions for payment of the Bonds.

14.9 Notwithstanding anything to the contrary in this Purchase Contract, the Issuer may employ its own counsel (whether one or more separate counsel) in any manner it deems appropriate and the Borrower shall indemnify the Issuer for fees and expenses of such counsel.

Section 15. Limitation of Liability.

Notwithstanding any provision herein to the contrary, any member, officer, director, partner, agent, commissioner, board members or employee of the Issuer, the Underwriter or the Borrower, including any person executing this Purchase Contract, shall not bear any liability as a result of any failure of the Issuer, the Underwriter or the Borrower to perform the obligations of each, respectively, set forth in this Purchase Contract.

Section 16. Miscellaneous.

16.1 All notices, demands and formal actions hereunder will be in writing and mailed, telecopied or delivered to the following address or such other address as either of the parties shall specify:

If to the Underwriter:	Lument Securities, LLC
	3111 Camino Del Rio N, Suite 100
	San Diego, CA 92108
	Attention: Nicholas A. Hamilton

Housing Authority of the City of San Diego
1122 Broadway, Suite 300
San Diego, CA 92101
Attention: Executive Director

Bernardo Family Housing, L.P.
13520 Evening Creek Drive North, Suite 160
San Diego, CA 92128
Attention: []

16.3 This Purchase Contract may not be assigned by any of the parties hereto prior to the Closing.

16.5 This Purchase Contract will be construed in accordance with and governed by the internal laws of the State, without regard to conflict of law principles of the State.

16.6 This Purchase Contract may be executed in several counterparts (including counterparts exchanged by email in PDF format), each of which will be regarded as an original and all of which will constitute one and the same document.

Section 17. Survival of Certain Representations and Obligations.

The respective agreements, covenants, representations, warranties and other statements of the Issuer and the Borrower and each of their respective officers set forth in or made pursuant to this Purchase Contract shall survive delivery of and payment for the Bonds and shall remain in full force and effect, regardless of any investigation, or statements as to the results thereof, made by or on behalf of the Underwriter.

If the foregoing is in accordance with your understanding, please sign and return to us two counterparts hereof and, upon the acceptance hereof by the Issuer and the Borrower, this Purchase Contract and such acceptance shall constitute the binding agreement among us as to the matters set forth above.

Very truly yours,

LUMENT SECURITIES, LLC

By:

Nicholas A. Hamilton
Senior Managing Director

[Signatures continue on following page]

[Issuer's signature page to Purchase Contract]

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

By: _____
Name:
Title:

[Signatures continue on following page]

[Borrower's signature page to Purchase Contract]

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as Affirmed
Housing Partners,
its Manager

By: _____
James P. Silverwood
President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood
Executive Director

EXHIBIT A

TERMS OF BONDS

**Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

<u>Dated Date</u>	<u>Initial Mandatory Tender Date</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Price</u>
October __, 2023	_____ 1, 20__	_____ 1, 20__	\$42,476,000	____%	____%

EXHIBIT B

PROPOSED FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

October __, 2023

Lument Securities, LLC
San Diego, California

\$42,476,000
Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B

Ladies and Gentlemen:

This opinion is being rendered to you pursuant to the Bond Purchase Agreement (the “Bond Purchase Agreement”), dated October __, 2023, among the Housing Authority of the City of San Diego (the “Issuer”), the Underwriter named therein (the “Underwriter”) and Bernardo Family Housing, L.P. (the “Borrower”), relating to the sale by the Issuer of the above-captioned bonds (the “Bonds”) which are being issued pursuant to a Trust Indenture (the “Indenture”), dated as of October 1, 2023, by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee.

We have acted as Bond Counsel in connection with the issuance and sale of the Bonds, and in that capacity we have participated in various conferences with representatives of and counsel for the Underwriter, representatives of and counsel for the Borrower, and representatives of and counsel for the Issuer relating to the preparation of the Official Statement, dated October __, 2023 (the “Official Statement”). In addition, we have participated in the preparation of the Indenture. We have also examined the documents and other items referred to in our opinion of even date herewith relating to the Bonds.

Based on and subject to the foregoing, and in reliance thereon, we are of the opinion that:

1. The Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended.
2. The statements contained in the Official Statement (except as to any statistical and financial data included in the Official Statement and except for the information relating to The Depository Trust Company, its Participants and its book-entry only system, as to which we do not express an opinion) under the captions “THE BONDS,” “TAX MATTERS,” “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE TRUST INDENTURE,” “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT” and “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE TAX REGULATORY AGREEMENT,” insofar as such statements contained under such captions purport to summarize certain provisions of the Bonds, the Indenture, the Loan Agreement, the Tax Regulatory Agreement, and certain aspects of our firm’s opinion relating to the federal and the State of California tax implications of certain aspects of the Bonds present an accurate summary of such matters.
3. The Bond Purchase Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due execution and delivery by the other parties thereto, constitutes a valid, legal and

binding special obligation of the Issuer enforceable in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights or contractual obligations generally and no opinion is being rendered as to the availability of any particular remedy thereunder.

This letter is furnished by us solely for your benefit and may not be relied upon by any other persons. This letter is not to be used, circulated, quoted, or otherwise referred to or relied upon for any other purpose or by any other person. This letter is not intended to be relied upon by the holders of the Bonds.

Very truly yours,

EXHIBIT C

FORM OF OPINION OF COUNSEL TO THE BORROWER

October __, 2023

Lument Securities, LLC
San Diego, California

Housing Authority of the City of San Diego
San Diego, California

\$42,476,000
Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B

Ladies and Gentlemen:

We have acted as counsel to Bernardo Family Housing, L.P. (the “Borrower”), in connection with the issuance of the above-captioned bonds (the “Bonds”) by the Housing Authority of the City of San Diego (the “Issuer”).

Capitalized terms used but not defined herein have the meanings assigned to them in the Trust Indenture dated as of October 1, 2023, between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), or the hereinafter-defined Bond Purchase Agreement.

In our capacity as such counsel, in rendering the opinions set forth below, we have examined, among other things, originals or copies, certified or otherwise identified to our satisfaction, of the following documents: (i) the Preliminary Official Statement, dated October __, 2023, of the Issuer relating to the Bonds (the “Preliminary Official Statement”); (ii) the Official Statement, dated October __, 2023, of the Issuer relating to the Bonds (the “Official Statement”); (iii) the Regulatory Agreement and Declaration of Restrictive Covenants, among the Issuer, the Trustee and the Borrower, dated as of October 1, 2023; (iv) the Loan Agreement, dated as of October 1, 2023, between the Issuer and the Borrower; (v) the Bond Purchase Agreement, dated October __, 2023, among the Issuer, the Underwriter named therein and the Borrower (the “Bond Purchase Agreement”); (vi) the Continuing Disclosure Agreement, dated as of October 1, 2023, between the Borrower and the Dissemination Agent named therein; (vii) the Remarketing Agreement, dated as of October 1, 2023, between the Borrower and the Remarketing Agent named therein; (viii) the promissory note, dated the Closing Date, executed by the Borrower; (ix) the Tax Certificate and Agreement of the Borrower, dated the Closing Date, executed by the Borrower; (x) the Disbursement Agreement, dated as of October 1, 2023, between the Borrower and Citibank, N.A. and (xi) such other documents, certificates and instruments as we have deemed necessary for the purposes of reaching the opinion expressed herein. We have also relied as to matters of fact upon a certificate of the Borrower and examined certain other certificates and documents.

In such examination, we have assumed the genuineness of all signatures (other than those relating to the Borrower), the authenticity of all documents submitted to us as originals, and the conformity to the original document of all documents submitted to us as photostatic or certified copies. We have assumed due authorization, execution and delivery of all documents referenced herein by the parties thereto other than the Borrower and that each of such parties has full power, authority and legal right to execute and deliver each such instrument.

Based upon and subject to the foregoing, we are of the opinion that, as of the date hereof:

(i) The Borrower (a) is a limited partnership validly existing under the laws of the State of California (the “State”), (b) is in good standing and duly qualified to transact business in the State, and (c) has full power and authority to execute and deliver the documents listed above numbered (iii) through (x) (the “Financing Documents”) and the Official Statement and to perform its obligations under each respective agreement.

(ii) The Financing Documents and the Official Statement have each been duly authorized, executed and delivered by the Borrower and the Finance Documents constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as the enforcement thereof may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization and similar laws (including fraudulent conveyance laws) affecting the enforcement of creditors’ rights and remedies generally in effect from time to time, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(iii) The execution and delivery of the Financing Documents and the performance by the Borrower of the terms of the respective agreements do not conflict with or violate any other document, instrument, decree, indenture or agreement by which the Borrower is bound.

(iv) No approval, authorization or other action by, or filing with, the State or any agency thereof, is required in connection with the execution and delivery by the Borrower of the Bond Purchase Agreement.

(v) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before any court or public body pending or, to the best of our knowledge, threatened, to challenge the right, power or authority of the Borrower to acquire, own and operate the Project or to perform its obligations under the Bond Purchase Agreement or the other Financing Documents.

(vi) The information in the Preliminary Official Statement and the Official Statement does not contain an untrue statement of fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading as of the date hereof.

We express no opinion as to any matter whatsoever, relating to the accuracy or completeness of any financial accounting or projection information furnished to any party, the accuracy or completeness of any representation made by our clients, the financial status of our clients, the ability of our clients to meet their obligations under any of the above-referenced agreements or any other related document.

Very truly yours,

EXHIBIT D

FORM OF BORROWER'S RULE 15c2-12 CERTIFICATE

\$42,476,000

**Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

The undersigned hereby certifies and represents to Lument Securities, LLC (the "Underwriter") that the undersigned is authorized to execute and deliver this certificate on behalf of Bernardo Family Housing, L.P., a California limited partnership (the "Borrower"), and hereby further certifies to the Underwriter as follows:

(a) This certificate is delivered to enable the Underwriter to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") in connection with the issuance and sale of the above captioned securities (the "Bonds").

(b) In connection with the issuance and sale of the Bonds, there has been prepared a Preliminary Official Statement, dated October __, 2023, relating to the Bonds (the "Preliminary Official Statement") setting forth information concerning the Bonds and the Borrower.

(c) As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), accreted values, yield to maturity, selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters and the identity of the Underwriter(s), all with respect to the issuance and sale of the Bonds.

(d) The Preliminary Official Statement is, as of the date thereof, deemed final within the meaning of the Rule, except for Permitted Omissions.

(e) The section of the Preliminary Official Statement entitled "UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE" describes the agreement the Borrower expects to make for the benefit of the Bondholders in the Continuing Disclosure Agreement dated as of October 1, 2023, executed by the Borrower and U.S. Bank Trust Company, National Association, as dissemination agent, by which the Borrower will undertake to provide continuing disclosure in accordance with the Rule.

Dated: October __, 2023

[Remainder of page intentionally left blank]

[Signature page to Rule 15c2-12 Certificate]

IN WITNESS WHEREOF, I have hereunto set my hand as of the date set forth above.

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as Affirmed
Housing Partners,
its Manager

By: _____
James P. Silverwood
President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood
Executive Director

EXHIBIT E

FORM OF ISSUE PRICE CERTIFICATE

\$42,476,000

**Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

The undersigned, on behalf of Lument Securities, LLC (the “Underwriter”), on behalf of itself, hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Bonds”).

1. Sale of the Bonds. As of the date of this certificate, for each Maturity of the Bonds, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Exhibit A attached to the Bond Purchase Agreement dated October __, 2023 among the Underwriter, Bernardo Family Housing, L.P., a California limited partnership (the “Borrower”), and the Housing Authority of the City of San Diego (the “Issuer”).

2. Defined Terms.

(a) “*Issuer*” 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.

(b) “*Maturity*” means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(c) “*Public*” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than the Underwriter or a related party to the Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(d) “*Underwriter*” means (i) Lument Securities, LLC, (ii) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (iii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (ii) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriter’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer and the Borrower with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Orrick, Herrington & Sutcliffe LLP, San Francisco, California, Bond Counsel, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue

Service Form 8038, and other federal income tax advice that it may give to the Issuer and the Borrower from time to time relating to the Bonds.

Dated: October __, 2023

[Underwriter's signature page to Issue Price Certificate]

Dated as of the date hereof.

LUMENT SECURITIES, LLC

By: _____
Nicholas A. Hamilton
Senior Managing Director

COLLATERAL FUNDS AGREEMENT

This COLLATERAL FUNDS AGREEMENT (this “Agreement”) is made as of October [], 2023, among **BERNARDO FAMILY HOUSING, L.P.**, a California limited partnership (the “Borrower”), 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 (the “Issuer”), **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association (the “Trustee”), and **BANK OF AMERICA, N.A.**, a national banking association (the “Construction Lender”). All of the foregoing parties are each referred to as a “Party” and collectively referred to herein as the “Parties”.

RECITALS

A. Borrower has acquired a leasehold interest in certain real property located in San Diego, California, as further described on **Exhibit A** of the Construction Loan Deed of Trust (defined below) (the “Property”). The Borrower intends to construct certain improvements on the Property which will include one building that will contain 100 affordable rental housing units for low-income families including one manager’s unit and commercial space, all in accordance with the plans and specifications and the construction contract approved by the Parties (the “Project”).

B. In order to finance the costs of acquiring, developing, constructing and equipping the Project and certain other costs related solely thereto:

(i) Issuer has issued its Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B, in the principal amount of \$[42,500,000] (the “Bonds”) pursuant to a Trust Indenture dated as of October 1, 2023 (as amended, restated, supplemented or otherwise modified, the “Indenture”) between the Issuer and the Trustee. On or about the date of this Agreement, the Bonds will be publically offered and sold to one or more investors pursuant to that certain Bond Purchase Agreement by and among the Issuer, the Borrower, and Lument Securities, LLC, as bond underwriter (the “Bond Purchase Agreement”). The sale proceeds of the Bonds (the “Bond Proceeds”) will be deposited with and held by the Trustee in the “Bond Fund” (as defined in the Indenture and referred to herein as the “Bond Proceeds Fund”). Pursuant to the Indenture, there will be a sub-account established under the Project Fund (as defined in the Indenture) referred to herein as the “Account.” Subject to the terms and conditions of the Indenture and that certain Loan Agreement dated as of October 1, 2023, by and between the Issuer and the Borrower (as amended, restated, supplemented or otherwise modified, the “Bond Loan Agreement”), the Bond Proceeds will be used to finance the development, construction, and equipping of the Project. As used herein, the term “Bond Documents” means collectively, the Bonds, the Indenture, the Bond Loan Agreement, and any and all other agreements, documents and/or instruments which evidence, secure, guaranty or otherwise govern any or all of the Bonds, as amended, restated, supplemented or otherwise modified. For purposes of this Agreement, the term “Bond Loan” means the disbursement of Bond Proceeds to or for the Borrower’s account pursuant to the Bond Loan Agreement. Repayment of the Bonds are secured by (i) undisbursed Bond Proceeds in the Bond Proceeds Fund, (ii) cash proceeds of the Construction Loan (defined below) on deposit with the Trustee in the “Collateral Fund” (as defined in the Indenture and referred to herein as the “Collateral Fund”), (iii) the Bond Loan Agreement (except for Reserved Rights of the Issuer, as defined in the Indenture), and (iv) additional revenues and bank accounts as set forth in the Indenture. The Bond Loan is not secured by a lien on the Property.

(ii) The Bonds are tax-exempt obligations of the Issuer and will result in an automatic allocation of federal low income housing tax credits for the Project (the “Federal Tax Credits”). Borrower has syndicated the Federal Tax Credits (the “Syndication”) and has issued a 99% partnership interest in Borrower to Bank of America, N.A., a national banking association (the “Investor”), for a total capital contribution by Investor of approximately \$[] (the “Federal Tax Credit Proceeds”), subject to

adjustment pursuant to the Partnership Agreement (defined below). The Federal Tax Credit Proceeds are to be made available to Borrower in accordance with the terms and conditions of that certain [Second Amended and Restated Agreement of Limited Partnership] of Borrower (including the documents executed and delivered in connection therewith and attached as exhibits thereto) dated as of even date herewith (as the same may from time to time be amended, restated, supplemented or otherwise modified, the "Partnership Agreement") by and among the Investor, Banc of America CDC Special Holding Company, Inc., a North Carolina corporation, AHG Rancho Bernardo, LLC, a California limited liability company (the "Administrative General Partner"), and CFAH Housing LLC, a California limited liability company (the "Managing General Partner" and together with the Administrative General Partner, the "General Partner"). Investor has agreed to fund the Federal Tax Credit Proceeds subject to the terms of, and in the amounts and at times set forth in, the Partnership Agreement, which provides, in part, that approximately \$[] of the Federal Tax Credit Proceeds (the "Initial Capital Contribution") shall be paid by Investor to Borrower concurrently with the closing of the Bonds and the Construction Loan. The Managing General Partner has additionally applied for and received an allocation of state low-income housing tax credits for the Project (the "State Tax Credits") and has made an election to certificate such State Tax Credits. The Managing General Partner will sell the State Tax Credits to Bank of America, N.A., a national banking association (in such capacity, the "State Tax Credit Buyer") for an aggregate purchase price of approximately \$[] (the "State Tax Credit Proceeds"), subject to adjustment pursuant to the California State Low Income Housing Tax Credit Purchase and Sale Agreement dated as of even date herewith between the Managing General Partner and the State Tax Credit Buyer (the "State Tax Credit PSA"). State Tax Credit Buyer has agreed to fund installments of the State Tax Credit Proceeds to Managing General Partner subject to the terms of and in the amounts and at times set forth in, the State Tax Credit PSA, which provides, in part, that approximately \$[] of the State Tax Credit Proceeds (the "Initial Installment") shall be paid by State Tax Credit Buyer to Managing General Partner concurrently with the closing of the Bonds and the Construction Loan. Managing General Partner has agreed to loan (the "State Tax Credit Loan") the State Tax Credit Proceeds to the Borrower concurrently with the receipt of such State Tax Credit Proceeds from the State Tax Credit Buyer under the State Tax Credit PSA.

(iii) Because not all of the Federal Tax Credit Proceeds and State Tax Credit Proceeds will be available, as needed, to fund Project costs during construction, the Borrower has requested that the Construction Lender make a taxable construction loan in the aggregate principal amount of up to \$[] (the "Construction Loan"). The proceeds of the Construction Loan are to be disbursed to or for the account of Borrower in accordance with the terms and conditions of that certain Construction Loan Agreement executed by Borrower and Construction Lender and dated as of even date herewith (as the same may from time to time be amended, supplemented, restated or otherwise modified, the "Construction Loan Agreement"). Borrower's obligations under the Construction Loan are evidenced by that certain Promissory Note (Cash Collateral) dated as of even date herewith in the original principal amount of \$[] made by Borrower to the order of Construction Lender (as the same may from time to time be amended, supplemented, restated or otherwise modified, the "Construction Loan Note") and such obligations are secured by a first-priority Construction Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing from Borrower for the benefit of Construction Lender encumbering the Project (as the same may from time to time be amended, supplemented, restated or otherwise modified, the "Construction Loan Deed of Trust"), a Guaranty Agreement, and such other documents as Construction Lender deems necessary to secure the Construction Loan. The Construction Loan Agreement, the Construction Loan Note, the Guaranty Agreement, the Construction Loan Deed of Trust, and all other documents evidencing or securing the Construction Loan, as the same may from time to time be amended, supplemented, restated or otherwise modified, are collectively referred to herein as the "Construction Loan Documents." Pursuant to the Construction Loan Documents, all proceeds of the Construction Loan evidenced by the Construction Loan Note (the "Construction Loan Cash Collateral Proceeds") will be disbursed to Trustee for deposit into the Collateral Fund.

(iv) As a condition to making the Construction Loan, the Construction Lender requires that the Initial Capital Contribution, the portion of the State Tax Credit Loan corresponding to the Initial Installment, and \$[] of proceeds from the [] loan are disbursed to Borrower and used on approved Project costs prior to the first disbursement of the Construction Loan following the closing date. To the extent there are funds from such sources in excess of such approved Project costs on the closing date, if not deposited in the Borrower's Deposit Account (as defined in the Construction Loan Agreement), Construction Lender requires such proceeds to be deposited with the Trustee in the Account so the Borrower can requisition such funds in one or more subsequent draw requests to be approved by the Construction Lender. Upon the Construction Lender's approval of such draw request(s), the Trustee shall release such approved proceeds from the Account to the Borrower for use on the approved Project costs.

(v) Upon approval of draw requests in accordance with this Agreement and the Construction Loan Documents, Construction Lender shall advance the requisitioned amount of Construction Loan Cash Collateral Proceeds to Trustee to be deposited by Trustee into the Collateral Fund; upon the Trustee's deposit of such requisitioned Construction Loan Cash Collateral Proceeds in the Collateral Fund and subject to the terms and conditions of the Indenture and the Bond Loan Agreement, the Trustee will promptly release, pursuant to Section 5.02 of the Indenture, a like amount of funds on deposit in the Bond Proceeds Fund to the Borrower to fund Project costs approved by the Construction Lender.

C. Issuer, Trustee, Construction Lender, and Borrower desire to set forth the manner and method of disbursing proceeds on deposit in the Bond Proceeds Fund, the Collateral Fund, and the Account.

D. The Issuer and the Construction Lender are sometimes hereinafter collectively referred to as the "Creditors" and individually as "Creditor"; the Bond Loan and the Construction Loan are sometimes hereinafter collectively referred to as the "Loans" and individually as a "Loan"; the Bond Documents and the Construction Loan Documents are sometimes hereinafter collectively referred to as the "Loan Documents."

E. Terms not otherwise defined herein shall have the meanings given to them in the Indenture.

AGREEMENTS

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The recitals set forth above are incorporated by reference, and each Creditor represents that, with respect to the recitals relating to the loan to be provided to or by that Creditor, the recitals are true and accurate in every material respect.

2. Representations. Each Party represents that, with respect to itself (but not the other Parties):

(a) It is duly organized, validly existing, and, in the case of such Party except the Issuer, is in good standing under the laws of the applicable jurisdiction of its formation.

(b) It has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement constitutes the valid and legally binding obligation of such Party enforceable in accordance with its terms and conditions.

(c) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will: (1) violate any applicable law to which it is subject or any provision of its organizational or governing documents; or (2) conflict with, result in a breach of, constitute

a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which it a party or by which it is bound or to which any of its assets is subject, except where the violation, conflict, breach, default, acceleration, termination, modification, cancellation, or failure to give notice would not have a material adverse effect on the business, financial condition, operations, or results of operations of such Party or on the ability of the parties hereto to consummate the transactions contemplated by this Agreement.

3. Loan Administration. The Construction Lender and its successors and assigns shall have the sole right to administer and monitor the Construction Loan and its Construction Loan Documents in accordance with its agreements with Borrower. The Issuer and Trustee and their respective successors and assigns shall have the sole right to administer and monitor the Bond Loan and its Bond Loan Documents in accordance with its agreements with Borrower.

4. Disbursement of Proceeds.

(a) Total Construction Costs and Sources of Funds. The Parties acknowledge that the total construction costs of the Project, including site construction, the Construction Contract, and the construction contingency, is approximately \$[_____] (the “Total Construction Cost”), as more particularly set forth in the draw schedule attached as Exhibit A (the “Draw Schedule”) and the budget attached as Exhibit B (the “Budget”). The Total Construction Cost shall be funded at the times and in the approximate amounts set forth in the Draw Schedule and consistent with the Budget, as modified from time to time with the prior written consent of the Creditors, if and to the extent such consent may be required under the Loan Documents, and which consent, if required, shall not be unreasonably withheld, delayed or conditioned. Disbursements of the Loans and the Subordinated Loans (as defined in the Construction Loan Agreement) shall be made substantially in accordance with the Draw Schedule, the Budget and the Loan Documents, except as the Loan Documents may be superseded or modified by the terms of this Agreement. Disbursements of the General Partner Equity and the Federal Tax Credit Proceeds shall be made in substantially accordance with the Draw Schedule, the Budget and the Partnership Agreement.

(b) Specific Uses of Loans.

(i) The proceeds of the Bond Loan shall be used to finance the Project in accordance with the Bond Documents. In particular, it is understood and agreed by the Parties that an aggregate of \$[_____] of the proceeds of the Bond Loan shall be deposited by Trustee in the Bond Proceeds Fund on the closing date in accordance with the terms of the Bond Documents and this Agreement. Upon the Trustee’s receipt of Construction Loan Cash Collateral Proceeds for deposit into the Collateral Fund, as set forth below, the Trustee will, pursuant to Section 5.02 of the Indenture, promptly release a like amount of funds on deposit in the Bond Proceeds Fund to the Borrower to fund Project costs approved by the Construction Lender.

(ii) The proceeds of the Construction Loan shall be used to finance the Project in accordance with the terms and conditions of the Construction Loan Documents. In particular, it is understood and agreed by the Parties that all of the Construction Loan Cash Collateral Proceeds, as advanced by Construction Lender in accordance with the terms and conditions of the Construction Loan Documents, will be disbursed by Construction Lender to Trustee for deposit in the Collateral Fund pursuant to Section 5.02 of the Indenture, and that Trustee shall thereafter release to the Borrower a like amount of funds on deposit in the Bond Proceeds Fund in accordance with Section 5.02 of the Indenture and this Agreement to fund Project costs pursuant to Draw Requests approved in accordance with the terms and conditions of the Construction Loan Documents.

(iii) For avoidance of doubt, once all of the Construction Loan proceeds have been deposited into the Collateral Fund, there will be \$[] in the Collateral Fund and \$0 in the Bond Proceeds Fund.

(c) Funding from Account. Borrower shall cause Investor to contribute the Federal Tax Credit Proceeds in such amounts and at such times as shall be required under the Partnership Agreement. All capital contributions of Federal Tax Credit Proceeds by Investor (except proceeds spent on Project costs approved by Construction Lender on the closing date) shall be disbursed to Construction Lender for deposit into the Borrower's Deposit Account or to the Trustee for deposit into the Account and if deposited into the Account, disbursed by Trustee in accordance with the terms and conditions of the Bond Loan Agreement and the Construction Loan Documents, but only after Construction Lender approves any such disbursement. Borrower shall cause Managing General Partner to advance the proceeds of the State Tax Credit Loan in such amounts and at such times as shall be required under its loan documents. All State Tax Credit Loan proceeds corresponding to the Initial Installment shall be disbursed to Trustee for deposit into the Account and disbursed by Trustee in accordance with the terms and conditions of the Bond Loan Agreement and the Construction Loan Documents, but only after Construction Lender approves any such disbursement.

(d) Manner of Disbursement of Loans.

(i) Borrower shall submit each request for a disbursement of Bond Loan proceeds, Construction Loan proceeds, and/or subordinate loan proceeds, together with all supporting invoices and other documentation (each a "Draw Request"), to the applicable Creditor in accordance with the terms of the Draw Schedule and such Creditor's Loan Documents. Any Draw Request for amounts on deposit in the Account shall be submitted to Construction Lender for review and approval as provided in Section 4(c) above. Concurrently with the submission of a Draw Request to the Construction Lender, Borrower shall provide a copy to the Issuer and Trustee for their concurrent review. Each Draw Request for draws on the Construction Loan shall be in the form attached to the Construction Loan Agreement as Schedule 2. If a Draw Request is approved by Construction Lender and Construction Loan Cash Collateral Proceeds are being requisitioned, Construction Lender will within three (3) Business Days' wire the applicable Construction Loan Cash Collateral Proceeds to Trustee. For any Construction Loan Cash Collateral Proceeds wired to Trustee, upon receipt, Trustee shall deposit such funds in the Collateral Fund and disburse a like amount of funds on deposit in the Bond Proceeds Fund to Borrower for the purposes set forth in the Draw Request approved by the Construction Lender.

(ii) Each Creditor shall promptly determine for itself whether all conditions precedent to any disbursement pursuant to a Draw Request, as set forth under its Loan Documents, have been satisfied, and whether the requested disbursement shall be made. Subject to any retainage requirements contained in its Loan Documents, upon determining that all applicable conditions precedent have been satisfied, such Creditor shall then disburse the amount of the approved Draw Request, as applicable, in the manner provided in its Loan Documents.

(iii) The Issuer agrees that if the Issuer has not objected in writing to any disbursement from the Bond Proceeds Fund within five Business Days of receipt by the Issuer with a copy to the Trustee of a request for approval of such disbursement, the Issuer shall be deemed to have approved such disbursement. Furthermore, if the Issuer and a Creditor disagree as to whether a particular disbursement from the Bond Proceeds Fund shall be approved or disapproved, they shall meet and confer in good faith, upon the request of either of them in an effort to resolve the matter, which meeting may be by telephonic or electronic means, or may be at a personal meeting. If they fail to agree upon the approval or disapproval of such a disbursement following such good faith efforts, and the Trustee is provided written

notice from a Creditor of such failure to agree, such Creditor can approve the disbursement and the Trustee shall pay it from the Bond Proceeds Fund.

5. Equity Account. Notwithstanding any provision in the Construction Loan Documents or the Bond Documents to the contrary and until such time as the Construction Loan has been paid in full, the Parties acknowledge and agree that all deposits required to be made to the “Borrower’s Deposit Account” (as defined in the Construction Loan Agreement) shall be deposited to the Account of the Borrower Funds Account and disbursed by Trustee in accordance with the instructions of the Construction Lender. The Parties acknowledge and agree that the determination as to whether Borrower is obligated to make deposits to the Account shall be made by the Construction Lender in accordance with Section [4.3] of the Construction Loan Agreement.

6. Addresses for Notice. Any notices to any Creditor, Trustee, or Borrower under this Agreement shall be in writing and shall be deemed to be delivered when hand delivered (receipt acknowledged), the next Business Day when delivered by overnight courier, the third Business Day when delivered by certified mail, postage prepaid, return receipt requested (or when delivery is refused) as follows, unless an address is changed by written notice hereunder:

If to the Issuer:	Housing Authority of the City of San Diego 1122 Broadway, Suite 300 San Diego, CA 92101 Attention: Executive Director
If to Trustee:	U.S. Bank Trust Company, National Association 633 West 5th Street, 24th Floor Los Angeles, CA 90071 Attention: Global Corporate Trust Ref: [_____] Telephone: (213) 615-6032
If to Construction Lender:	Bank of America, N.A. Dallas Infomart 1950 N. Stemmons Fwy, Suite 5049 Dallas, TX 75207 Mailcode: TX2-160-05-33 Attention: Construction Servicing (Real Estate) Loan Administration Manager
With copies to:	Buchalter, a Professional Corporation 1000 Wilshire Boulevard, Suite 1500 Los Angeles, California 90017 Attention: Michael A. Williamson, Esq. Re: Skyline (B0965-0723) Email: mwilliamson@buchalter.com
If to Borrower:	Bernardo Family Housing, L.P. c/o Affirmed Housing Group, Inc. 13520 Evening Creek Dr., Suite 160 San Diego, CA 92128 Attention: James Silverwood, President

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

And to: Bank of America, N.A.
100 Federal St.
Mail Code: MA5-100-004-11
Boston, MA 02110
Attention: Asset Management

And to: Buchalter, a Professional Corporation
1000 Wilshire Blvd., Suite 1500
Los Angeles, CA 90017
Attention: Michael A. Williamson, Esq.
Re: Skyline (B0965-0723)

7. Conflicts with Other Agreements. If there is any conflict or inconsistency between the provisions of this Agreement and the provisions contained in any other existing agreement relating to the Project among any of the Parties, or between any of the Creditors and Borrower, the provisions of this Agreement shall prevail, provided however, the provisions of the Indenture shall prevail over the provisions of this Agreement with respect to the parties to the Indenture.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without choice of law provisions thereof.

9. Captions. Section headings are inserted in the Agreement for convenience and reference only and shall be disregarded in interpreting any of its provisions.

10. Counterparts. This Agreement may be executed in any number of counterparts and by different Parties in separate counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which taken together shall constitute one instrument. The exchange of copies of this Agreement by facsimile or PDF transmission shall constitute effective execution and delivery of this Agreement and such exhibits as to the Parties and may be used in lieu of the original instrument for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

11. Illegality. If any provision or remedy set forth in this Agreement for any reason is held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision or remedy of this Agreement, which shall be construed as if the invalid, illegal, or unenforceable provision or remedy had never been set forth in this Agreement, but only to the extent of the invalidity, illegality, or unenforceability.

12. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their heirs, personal representatives, successors, and assigns.

13. No Third-Party Beneficiary. No person not a Party hereto shall have any rights hereunder, except for the holders of the Bonds.

14. Servicing, Administration and Monitoring of Agreements. Except as otherwise expressly provided herein, the Issuer, Trustee, and Construction Lender shall have the sole and exclusive right to service, administer and monitor their respective Loans in accordance with its customary credit and servicing standards and their respective Loan Documents with the Borrower.

15. Termination. This Agreement shall terminate automatically upon the closing and funding of the Permanent Loan and repayment of the Construction Loan in full; provided that Construction Lender has no further obligation or commitment to make any advance under the Construction Loan.

16. The Trustee. The Trustee shall have no obligation to ascertain or inquire as to the performance by any other Party of its obligations under this Agreement or the Construction Loan Documents or the breach of or default by any other Party of its obligations under this Agreement or the Construction Loan Documents. The Trustee shall be afforded all of the rights, powers, immunities and indemnities set forth in the Indenture as if such rights, powers, immunities, and indemnities were specifically set out in this Agreement.

17. Notices of Default; Notice and Cure Rights.

(a) The Construction Lender and Trustee shall each, promptly after having actual knowledge, notify the other of any Event of Default or Default under the Bond Documents or the Construction Loan Documents, any such notice (a “Default Notice”) to be given simultaneously with the notice concerning such Event of Default or Default given to the Borrower. Failure of one party to send a Default Notice to another shall not prevent the exercise of a Creditor’s rights and remedies under their loan documents, subject to the provisions of this Section 17 and Section 18 below.

(b) Construction Lender shall have the right, but not the obligation, to cure any default under the Bond Documents within sixty (60) days following the date of such notice; provided, however that the Issuer and/or Trustee shall be entitled, during such sixty (60) day period, to continue to pursue its rights and remedies under the Bond Documents, subject to the provisions of this Section 17 and Section 18 below. All amounts paid by Construction Lender in accordance with the Construction Loan Documents to cure a default under the Bond Documents shall be deemed to have been advanced by Construction Lender pursuant to, and shall be secured by, the Construction Loan Agreement and the Construction Loan Deed of Trust.

(c) Trustee agrees that, without Construction Lender’s prior written consent, it will not exercise any other rights or remedies it may have under the Bond Documents, including, but not limited to accelerating the Bond Loan and foreclosing on its cash collateral or exercising any other rights or remedies thereunder unless and until it has given Construction Lender at least sixty (60) days prior written notice (such sixty (60) day period is concurrent with the sixty (60) day period in subsection (b) above); during such sixty (60) day period, however, Issuer and Trustee shall be entitled to exercise and enforce all other rights and remedies available to such parties under the Bond Documents and/or under applicable laws, including without limitation, rights at law or in equity (including without limitation, specific performance) to enforce covenants and agreements of Borrower relating to income, rent, or affordability restrictions contained in the Regulatory Agreement executed in connection with the Bonds.

(d) Issuer shall have the right, but not the obligation, to cure any default under the Construction Loan Documents within sixty (60) days following the date of a Default Notice or the date on which Issuer otherwise acquires actual knowledge of such default under the Construction Loan Documents; provided, however, that Construction Lender shall be entitled during such sixty (60) day period to continue to pursue its remedies under the Construction Loan Documents. Majority Owner Representative shall have up to ninety (90) days from the date of the Default Notice to cure a non-monetary default if during such ninety (90) day period Borrower or Issuer keeps current all payments required by the Construction Loan

Documents. In the event that such a non-monetary default creates an unacceptable level of risk relative to the Property, or Construction Lender's secured position relative to the Property, as determined by Construction Lender in its sole discretion, then Construction Lender may exercise during such ninety (90) day period all available rights and remedies to protect and preserve the Property and the rents, revenues and other proceeds from the Property. All amounts paid by Issuer or Trustee to Construction Lender to cure a default under the Construction Loan Documents shall be deemed to have been advanced pursuant to, and shall be secured by, the Bond Loan Agreement.

18. Bondholder's Collateral. Prior to the repayment in full of the Construction Loan, it is acknowledged and agreed that Borrower has granted Trustee, as trustee, a security interest in the cash on deposit in the Bond Proceeds Account, the Collateral Fund, and the other revenues and accounts more particularly set forth in the Indenture (the "Bondholder's Collateral"). For avoidance of doubt, Construction Lender disclaims any security interest in the Bondholder's Collateral, and in the event the Construction Lender were to exercise remedies under the Construction Loan Documents, Construction Lender is not entitled to the proceeds of the Bondholder's Collateral. However, it is anticipated that the Bondholder's Collateral may be used to repay the Construction Loan upon the stabilization of the Project. Therefore, so long as the Construction Loan is outstanding, the Issuer agrees to not instruct the Trustee to foreclose on its security interest in the Bondholder's Collateral prior to the date Construction Lender has taken title to the Property following foreclosure of the Construction Loan Deed of Trust or a deed-in-lieu.

[Signatures Begin on Next Page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered as of the day and year first written above

BORROWER:

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood, President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood, Executive Director

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered as of the day and year first written above

ISSUER:

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered as of the day and year first written above

TRUSTEE:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
a national banking association, as Trustee

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered as of the day and year first written above

CONSTRUCTION LENDER:

BANK OF AMERICA, N.A.,
a national banking association

By: _____
Name: _____
Title: _____

EXHIBIT A

DRAW SCHEDULE

[Attached]

EXHIBIT B

BUDGET

[Attached]

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

and

BERNARDO FAMILY HOUSING, L.P.

LOAN AGREEMENT

Relating to

[\$42,476,918]

**Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

Dated as of October 1, 2023

The interest of the Housing Authority of the City of San Diego (the “Issuer”) in this Loan Agreement has been assigned pursuant to the Trust Indenture (the “Indenture”), dated as of October 1, 2023 between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”) (except for Reserved Rights of the Issuer, as such term is defined in the Indenture), and is subject to the security interest of the Trustee thereunder.

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LOAN AGREEMENT

THIS LOAN AGREEMENT (this “**Loan Agreement**” or “**Agreement**”) is entered into as of October 1, 2023, between the **HOUSING AUTHORITY OF THE CITY OF SAN DIEGO**, (together with its successors and assigns, the “**Issuer**”), a public body corporate and politic, organized and existing under the laws of the State of California (the “**State**”), and **BERNARDO FAMILY HOUSING, L.P.**, a State of California limited partnership (the “**Borrower**”).

RECITALS

A. Pursuant to the provisions of Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code, as amended (the “**Act**”), the Issuer is authorized to issue revenue bonds to provide financing for the acquisition, construction/rehabilitation and development of residential housing for persons of low and moderate income.

B. The Borrower has requested the Issuer to issue its \$[42,476,918] Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B (the “**Bonds**”), the proceeds of which will be utilized to make a loan to the Borrower for purposes of funding a portion of the costs of the acquisition, demolition, construction and equipping of a 100-unit (including one manager’s unit) multifamily rental housing development located in the City of San Diego to be known as SkyLINE (formerly known as Rancho Bernardo Transit Village) (the “**Project**”).

C. Pursuant to and in accordance with the Act, the Issuer desires to provide funds to finance a portion of the acquisition, demolition, construction and equipping of the Project by issuing the Bonds, pursuant to a Trust Indenture by and between the Issuer and U.S. Bank Trust Company, National Association, as Trustee, of even date herewith (the “**Indenture**”).

D. The proceeds of the Bonds will be used to make a loan to the Borrower (the “**Loan**”) which will be evidenced by this Loan Agreement and a promissory note dated the date of delivery of the Bonds (the “**Note**”) from the Borrower to the Issuer.

E. Bank of America, N.A., a national banking association (the “**Mortgage Lender**”) has agreed to provide a construction bridge loan (the “**Mortgage Loan**”) to the Borrower, the proceeds of which shall be advanced pursuant to the Mortgage Loan Documents and used to finance a portion of the costs of the acquisition, construction and equipping of the Project. The Mortgage Lender will administer the Mortgage Loan during the Construction Phase in accordance with the Mortgage Loan Documents.

F. Citibank, N.A. (“**Citi**”), has entered into a Forward Commitment Agreement with the Borrower and the Mortgage Lender dated as of [_____] 1, 2023] (the “**Citi Forward Commitment**”), whereby Citi has committed, subject to the satisfaction on or before the Termination Date (as defined in the Citi Forward Commitment) of the Conditions to Conversion set forth in the Citi Forward Commitment, to facilitate the financing of the Project in the Permanent Phase.

G. If the Conditions to Conversion are satisfied on or before the Termination Date, Conversion will occur on the Conversion Date and, on such Conversion Date, (i) the Bonds shall

be subject to mandatory tender in accordance with the Indenture, (ii) the purchase price of the Bonds shall be paid with amounts on deposit in the Collateral Fund (and other Eligible Funds held under the Indenture), (iii) a portion of the principal amount of the Bonds shall be cancelled such that the principal amount outstanding equals the Permanent Loan Amount (as determined by Citi at such time), (iv) the Bonds shall be removed from the Book-Entry System and converted to a physical Governmental Lender Note (in the form attached to the Funding Loan Agreement) which shall be purchased by Citi, (v) the Funding Loan Agreement attached to the Indenture as Appendix C and the Borrower Loan Agreement attached to the Indenture as Appendix D shall be delivered by the respective parties and become effective and shall supersede the Indenture and this Loan Agreement, respectively, (vi) the proceeds of the Citi Purchase Price, along with other funds of the Borrower, shall be deposited into the Mortgage Loan Prepayment Fund, and (vii) the Mortgage Loan shall be paid in full with amounts on deposit in the Mortgage Loan Prepayment Fund and all security related to the Mortgage Loan shall be released or assigned to Citi. If the Conditions to Conversion are not satisfied on or before the Termination Date, the Loan will not convert from the Construction Phase to the Permanent Phase, and Citi will not have any obligation with respect to the purchase of the Governmental Lender Note.

H. The Issuer has expressly determined and hereby confirms that the issuance of the Bonds will accomplish a valid public purpose of the Issuer by enabling the Issuer to require the Borrower to comply with the provisions of this Loan Agreement with respect to the Project and the Tax Regulatory Agreement, dated as of the same date as this Loan Agreement.

AGREEMENTS

NOW THEREFOR, the parties hereto, intending to be legally bound hereby, and for and in consideration of the premises and the mutual covenants hereinafter contained, do hereby covenant, agree and bind themselves as follows; *provided* that any obligation of the Issuer created by or arising out of this Loan Agreement shall never constitute a debt or a pledge of the faith and credit or the taxing power of the City or the State, but shall be payable solely out of the Trust Estate (as defined in the Indenture), anything herein contained to the contrary by implication or otherwise notwithstanding.

ARTICLE I DEFINITIONS

Section 1.01 *Definitions.*

All capitalized, undefined terms used herein shall have the same meanings as used in Article I of the Indenture.

Section 1.02 *Uses of Phrases.*

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words “Bond,” “Bondholder,” “Holder,” “Owner,” “registered Holder” and “person” shall include the plural as well as the singular number, and the word “person” shall include corporations and associations, including public bodies, as well as persons. Any percentage of Bonds, specified herein for any purpose, is to be figured on the unpaid principal amount thereof then Outstanding. All references

herein to specific sections of the Code refer to such sections of the Code and all successor or replacement provisions thereto.

ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.01 *Representations, Covenants and Warranties of the Issuer.*

The Issuer represents, covenants and warrants the following, as of the date hereof:

(a) The Issuer is a public body, corporate and politic, organized and existing under the laws of the State. Under the provisions of the Act, the Issuer is authorized to enter into this Loan Agreement and the Indenture, and the transactions contemplated hereunder and thereunder and to carry out its obligations hereunder and thereunder. Under the Issuer Authorizing Resolution, the Issuer has been duly authorized to execute and deliver the Issuer Documents and to issue and sell the Bonds.

(b) The Issuer will not pledge the amounts derived from this Loan Agreement other than as contemplated by the Indenture.

(c) The Issuer has determined that financing the Project by the issuance of the Bonds will achieve the public purposes of the Act.

(d) No member or director of the Issuer, nor any other official or employee of the Issuer, has any interest, financial, employment or other, in the Borrower, the Project or in the transactions contemplated hereby.

(e) To the best knowledge of the Issuer, there is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of the Issuer, threatened against the Issuer by or before any court, governmental agency or public board or body, which (i) affects or questions the existence or the title to office of any member of the Issuer; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any of the Issuer Documents, or the issuance, execution or delivery of the Bonds; (iii) affects or questions the validity or enforceability of any of the Issuer Documents or the Bonds; (iv) questions the exclusion from gross income for federal income taxation of interest on the Bonds; or (v) questions the power or authority of the Issuer to perform its obligations under any of the Issuer Documents or the Bonds or to carry out the transactions contemplated by any of the Issuer Documents or the Bonds.

(f) The Issuer makes no representation or warranty, express or implied, that the proceeds of the Bonds will be sufficient to finance the construction and equipping of the Project or that the Project will be adequate or sufficient for the Borrower's intended purposes.

Section 2.02 *Representations, Covenants and Warranties of the Borrower and the General Partner.*

The Borrower and the General Partner, as applicable, represent, covenant and warrant that:

(a) Good Standing; Single-Purpose Covenants.

1. The Borrower (i) is a limited partnership duly organized and existing in good standing under the laws of the State, (ii) has the power to own its property and to carry on its business as now being conducted and as contemplated by this Loan Agreement and the Tax Certificate, and (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the character of the properties owned by it therein or in which the transaction of its business makes such qualification necessary, including, but not limited to, the State. The Borrower's business and purpose shall consist solely of the ownership, development, operation and management of the Project (subject to the Ground Lease) and such other lawful activities as are incidental, necessary or appropriate thereto. The Borrower shall not incur any indebtedness other than Project indebtedness approved by the Issuer, normal trade accounts payable in the ordinary course of the Borrower's business and deferred developer fee loans, or unsecured partner loans in accordance with Borrower's Partnership Agreement. The Borrower shall not assume or guaranty any other person's indebtedness or obligations. The Borrower shall not dissolve or liquidate, in whole or in part, consolidate or merge with or into any other entity or convey, transfer or lease its property and assets substantially as an entirety to any entity. The Borrower shall not institute or consent to any bankruptcy, insolvency or reorganization proceedings with respect to it, consent to the appointment of a receiver or similar official with respect to it, make any assignment for the benefit of its creditors or admit in writing its inability to pay its debts generally as they become due.

The Borrower shall: maintain books and records and bank accounts separate from those of any other person; conduct its business in its own name and use separate stationery, invoices and checks; maintain its assets in such a manner that it is not costly or difficult to segregate and identify such assets; observe all organizational formalities and hold itself out to creditors and the public as a legal entity separate and distinct from any other entity; prepare separate tax returns and financial statements, or if part of a consolidated group, then be shown thereon as a separate member of such group; allocate and charge fairly and reasonably any common employee or overhead shared with affiliates; and transact all business with affiliates on an arm's-length basis and pursuant to enforceable agreements. The Borrower shall not commingle its assets or funds with those of any other person.

2. The Administrative General Partner (i) is a limited liability company duly organized and existing in good standing under the laws of the State, (ii) has the power to own its property and to carry on its business as now being conducted and as contemplated by this Loan Agreement, and the Tax Certificate, and (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the character of the properties owned by it therein or in which the transaction of its business makes such qualification necessary, including, but not limited to, the State. The Managing General Partner (i) is a limited liability company duly organized and existing in good standing under the laws of the State, (ii) has the power to own its property and to carry on its business as now being conducted and as contemplated by this Loan Agreement, and the Tax Certificate, and (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the character of the properties owned by it therein or in which the transaction of its business makes such qualification necessary, including, but not limited to, the State. The Administrative General Partner's business and purpose shall consist solely of acting as the Administrative General Partner of the Borrower. The Administrative General Partner shall not incur any indebtedness other than such obligations under the Project documents, the Borrower's Partnership Agreement and related documents, the Borrower's Project indebtedness approved by the Issuer and normal

trade accounts payable in the ordinary course of its and the Borrower's business and shall not assume or guaranty any other person's indebtedness or obligations. The General Partner shall not dissolve or liquidate, in whole or in part, consolidate or merge with or into any other entity or convey, transfer or lease its property and assets substantially as an entirety to any entity. The General Partner shall not, with respect to itself or the Borrower, institute or consent to any bankruptcy, insolvency or reorganization proceedings, consent to the appointment of a receiver or similar official, make or consent to any assignment for the benefit of creditors or admit in writing its or the Borrower's inability to pay debts generally as they become due.

The General Partner shall: maintain books and records and bank accounts separate from those of any other person; conduct its business in its own name and use separate stationery, invoices and checks; maintain its assets in such a manner that it is not costly or difficult to segregate and identify such assets; observe all organizational formalities and hold itself out to creditors and the public as a legal entity separate and distinct from any other entity; prepare separate tax returns and financial statements, or if part of a consolidated group, then be shown thereon as a separate member of such group; allocate and charge fairly and reasonably any common employee or overhead shared with affiliates; and transact all business with affiliates using reasonable and customary terms pursuant to enforceable agreements. The General Partner shall not commingle its assets or funds with those of any other person.

(b) Authority. The Borrower and the General Partner have full power and authority to (i) execute and deliver the Borrower Documents and Mortgage Loan Documents and (ii) incur the obligations provided for herein and therein, all of which have been duly authorized by all proper and necessary corporate action. All consents or approvals of any public authority which are required as a condition to the validity of this Loan Agreement, the Tax Certificate, the Note, the Bond Purchase Agreement, and the Tax Regulatory Agreement have been obtained.

(c) Binding Agreements. The Borrower Documents and Mortgage Loan Documents have been properly executed by a duly authorized member or partner of the Borrower and the General Partner (as applicable) and constitute valid and legally binding obligations of the Borrower, and are fully enforceable against the Borrower in accordance with their respective terms, subject to bankruptcy, insolvency or other laws affecting creditors' rights generally, and with respect to certain remedies which require, or may require, enforcement by a court of equity, such principles of equity as the court having jurisdiction may impose.

(d) Litigation. There is no litigation or proceeding pending or, to the knowledge of the Borrower, threatened against the Borrower, the General Partner or the Project before any court or administrative agency which, if determined adversely to the Borrower, will materially adversely affect the Borrower or the Project, or the authority of the Borrower to enter into or perform under the Borrower Documents and Mortgage Loan Documents.

(e) Conflicts; Defaults. There is (i) no provision of the Borrower's or the General Partner's organizational documents or resolutions of the Borrower and no provision of any existing mortgage, indenture, contract or agreement binding on the Borrower or the General Partner or affecting any of the Borrower's property and (ii) to the Borrower's or the General Partner's knowledge, no provision of law or order of court binding upon the Borrower or the General Partner or affecting any of the Borrower's property, in either case which would conflict with or in any way prevent the execution, delivery, or performance of the terms of the Borrower Documents and

Mortgage Loan Documents, or which would be in default or violated as a result of such execution, delivery or performance. The Borrower is not in material default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which it is a party.

(f) Title to Project. The Borrower has or will have on the Closing Date good and marketable interest in the land constituting the site of the Project, subject to the Ground Lease, free and clear of any liens or encumbrances, other than the Permitted Encumbrances. The Borrower possesses, and will at all times possess, all franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in respect of the foregoing, adequate for the conduct of its business substantially as now conducted or as it is intended to be conducted with respect to the Project, without known conflict with any rights of others.

(g) Indenture. The Indenture has been submitted to the Borrower for its examination, and the Borrower acknowledges, by execution of this Loan Agreement, that it has reviewed the Indenture, and it hereby approves the Indenture. The Borrower agrees to perform fully and faithfully all the duties and obligations which the Issuer has covenanted and agreed to in the Indenture to cause the Borrower to perform all the Borrower's Obligations which the Borrower or the Issuer is required by the Indenture to perform. The foregoing shall not apply to any duty or undertaking of the Issuer which, by its nature, cannot be delegated or assigned.

(h) Events Affecting Tax Exemption. The Borrower has not taken or permitted to be taken any action that would impair the exclusion from gross income for federal income tax purposes of the interest payable on the Bonds, and the Borrower has never been advised that the interest is or will be subject to inclusion in gross income. As of the Closing Date, the Borrower is in compliance with all requirements contained in the Tax Certificate, and the representations set forth in the Tax Certificate pertaining to the Borrower and the Project are true and accurate in all material respects. Notwithstanding the above, if the Borrower becomes aware of any situation, event or condition which would result in the interest on the Bonds being included in gross income for federal income tax purposes, the Borrower shall promptly give written notice thereof to the Issuer and the Trustee.

(i) Compliance with Laws. The Project is of the type authorized and permitted by the Act and will, from the Closing Date forward, be operated in compliance with the provisions of the Act and the provisions of the Code applicable thereto. The Borrower will use due diligence to cause the Project to be operated in accordance with the Act and all other applicable laws, rulings, regulations and ordinances of the State and the departments, agencies and political subdivisions thereof. The Borrower has obtained or will cause to be timely obtained all requisite approvals of the State and of other federal and local governmental bodies required for the operation of the Project.

(j) No Material Misstatements. The representations and warranties of the Borrower contained in the Borrower Documents and Mortgage Loan Documents (including, without limitation, any information furnished by the Borrower in connection with the preparation of any materials related to the issuance or delivery of the Bonds on the Closing Date), contain no material misstatement of fact or omit to state a material fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading. The representations and warranties of the Borrower and the statements, information and descriptions

contained in the Official Statement and in the Borrower's closing certificates, as of the Closing Date, are true, correct and complete in all material respects, do not contain any untrue statement or misleading statement of material fact, and do not omit to state a material fact necessary to make the certifications, representations, warranties, statements, information and descriptions contained therein, in the light of the circumstances under which they were made, not misleading. The estimates and assumptions contained in this Loan Agreement and in any certificate of the Borrower delivered as of the Closing Date are reasonable and based on the most accurate information available to the Borrower.

(k) Interest of Member or Agent of Issuer. To the knowledge of the Borrower, no member or agent of the Issuer has been or is in any manner interested, directly or indirectly, in that person's own name or in the name of any other persons, in the loan of the bond proceeds, the Bonds, the 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 Documents.

(l) Arbitrage Bonds. No money on deposit or to be deposited in any fund or account in connection with the Bonds, whether or not such money was or is to be derived from other sources, has been or will be used by or under the direction of the Borrower in any manner which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(m) Tax Returns. The Borrower has filed or caused to be filed all required federal, state and local tax returns and has paid all taxes as shown on such returns as such taxes have become due. No claims have been assessed and are unpaid with respect to such taxes.

(n) No Reliance on Issuer. The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it or the Issuer is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project; and that it has not relied on the Issuer for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Issuer in any manner except to issue the Bonds.

(o) Fees. The Borrower shall pay all fees, including the Issuer Fee, as provided under the Note and in this Loan Agreement.

(p) Place of Business of Borrower. The Borrower has a place of business in the State.

(q) Name of Borrower. The Borrower filed Articles of Organization with the State of California and since its date of filings has done business only under the name of "Bernardo Family Housing, L.P."

(r) Governmental Requirements. To the Borrower's knowledge, no violation of any Governmental Requirement exists with respect to the Project, the Borrower, or any other asset of the Borrower, the Project conforms in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of Governmental Authorities having

jurisdiction over the Project, all necessary utilities are available to the Project, and the Borrower has obtained or will obtain all requisite zoning approvals necessary with respect to the Project.

(s) Condemnation. No condemnation, eminent domain or similar proceeding is pending, or to the knowledge of the Borrower, threatened, with respect to the Project or any portion thereof.

(t) Governmental Approvals. The Borrower has obtained, or will obtain and has maintained as currently in full force and effect, or will be in full force and effect, all consents, and permits, licenses, accreditations, certifications and other approvals (governmental or otherwise) that:

(i) would constitute a condition precedent to, or the absence of which would materially adversely affect, the enforceability of and the performance by the Borrower of its obligations hereunder; and

(ii) are necessary for the acquisition, construction, financing and operation of the Project.

Section 2.03 Additional Representations, Warranties and Undertakings of the Borrower and the General Partner.

The Borrower and the General Partner, as applicable, make the following additional representations as the basis for their covenants and agreements herein:

(a) The execution and delivery of the Borrower Documents and Mortgage Loan Documents, and the consummation of the transactions herein and therein contemplated, including the application of the proceeds of the Bonds as so contemplated, will not conflict with, or constitute a breach of, or default by it under its formation and governance documents, or any statute, indenture, mortgage, deed of trust, lease, note, loan agreement or other agreement or instrument to which it is a party or by which it or its properties are bound, and will not constitute a violation of any order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its activities or properties. Additionally, the Borrower is not in breach, default or violation of any applicable statute, indenture, mortgage, deed of trust, note, loan agreement or other agreement or instrument which would allow the obligee or obligees thereof to take any action which would preclude performance under the Borrower Documents by the Borrower.

(b) There are no actions, suits or proceedings of any type whatsoever pending or, to Borrower's or General Partner's knowledge, threatened against or affecting the Borrower, the General Partner or its assets, properties or operations which, if determined adversely to it or its interests, could have a material adverse effect upon its financial condition, assets, properties or operations and it is not in default with respect to any order or decree of any court or any order, regulation or decree of any federal, state, municipal or governmental agency, which default would materially and adversely affect its financial condition, assets, properties or operations, or the completion of the construction of the Project.

(c) Neither any information, exhibit or report furnished to the Issuer by the Borrower in connection with the negotiation of the Borrower Documents nor any of the foregoing

representations contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) The Borrower shall pay all fees, costs and expenses required to be paid by the Borrower under the terms of this Loan Agreement.

(e) None of the moneys in the Project Fund will be disbursed for or be used to pay any cost, or to reimburse the Issuer or the Borrower for any cost, which is not permitted by the Act, the Code, the Loan Agreement or the Indenture.

All representations of the Borrower contained herein and in any certificate or other instrument delivered by the Borrower pursuant to the Borrower Documents or in connection with the transaction contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Bonds.

Section 2.04 *Tax-Exempt Status of the Bonds.*

The Borrower hereby represents, warrants and agrees that the Tax Certificate executed and delivered by the Borrower concurrently with the issuance and delivery of the Bonds is true, accurate and complete in all material respects as of the date on which executed and delivered.

Section 2.05 *Notice of Determination of Taxability.*

Promptly after the Borrower first becomes aware of any investigation relating to the tax status of the Bonds, or a Determination of Taxability, the Borrower shall give written notice thereof to the Issuer and the Trustee at the address of each party listed in Article I of the Indenture.

Section 2.06 *Conversion.*

The Borrower acknowledges and agrees that the Loan is subject to Conversion as provided for in Section 2.12 of the Indenture.

ARTICLE III CONSTRUCTION OF THE PROJECT; ISSUANCE OF THE BONDS

Section 3.01 *Agreement to Construct the Project.*

The Borrower agrees to make all contracts and do all things necessary for the construction of the Project. The Borrower further agrees that it will construct the Project with all reasonable dispatch and use its best efforts to construct the Project to be completed by the Completion Date, or as soon thereafter as may be practicable, delays caused by *force majeure* as defined in Section 7.01 hereof only excepted; but if for any reason such construction is not completed by said Completion Date there shall be no resulting liability on the part of the Borrower or the Issuer and no diminution in or postponement of the payments required in Section 4.02 hereof to be paid by the Borrower.

Section 3.02 *Agreement to Issue, Sell and Deliver the Bonds; Deposit of Bond Proceeds.*

In order to provide funds for the payment of the Costs of the Project, the Issuer, concurrently with the execution of this Loan Agreement, will issue, sell, and deliver the Bonds and deposit the proceeds thereof with the Trustee, which amounts shall be immediately deposited as set forth in the Indenture.

Section 3.03 *Disbursements from the Project Fund.*

In the Indenture, the Issuer has authorized and directed the Trustee to make disbursements from the Project Fund to pay Costs of the Project upon satisfaction of the requirements of the Indenture. The Trustee is directed in the Indenture to make disbursements from the Project Fund as provided in the Indenture, and pursuant to the receipt of a Requisition in substantially the form attached to the Indenture as Appendix B.

The Borrower's right to request disbursements from the Project Fund is limited to the principal amount of the Loan and conditioned upon the deposit of Eligible Funds into the Collateral Fund as set forth in the Indenture.

Section 3.04 *Furnishing Documents to the Trustee.*

The Borrower agrees to cause such Requisitions to be delivered to the Trustee as may be necessary to effect payments out of the Project Fund in accordance with Section 3.03 hereof.

Section 3.05 *Establishment of Completion Date.*

(a) The Borrower Representative shall evidence completion of the Project and the actual date of completion to the Issuer and the Trustee (with copies to the Investor Limited Partner and Mortgage Lender) by an executed Completion Certificate. The Completion Certificate shall be executed by the Borrower Representative and shall state to the best information and belief of the Borrower, after due inquiry, that, except for amounts retained (subject to the provisions of this Section 3.05) by the Trustee at the Issuer's or the Borrower's direction and amount retained under the Mortgage Loan for any costs not then due and payable or costs due and payable, the payment of which is being diligently contested in good faith, construction of the Project has been substantially completed in material compliance with all applicable laws, regulations and agreements, and all costs of labor, services, materials and supplies used in the Project have been paid or provisions have been made for their payment, all equipment necessary for the operation of the Project has been purchased, installed and paid for, is suitable and sufficient for its intended purposes, and is fully operable, all costs and expenses incurred in connection with the Project have been paid except for amounts not yet due and payable or being diligently contested in good faith by the Borrower, and the multifamily units in the Project are suitable and sufficient for its intended purposes. Notwithstanding the foregoing, the Completion Certificate shall further state that it is given without prejudice to any rights of the Borrower against third parties which exist at the date of the Completion Certificate or which may subsequently come into being. The Completion Certificate shall be furnished by the Borrower to the Issuer and the Trustee (with copies to the Investor Limited Partner and Mortgage Lender) promptly following the completion of the Project.

(b) Any amount (exclusive of amounts retained by the Trustee in the Project Fund for payment of Costs of the Project not then due and payable) of proceeds of the Bonds remaining in the Project Fund upon the Completion Date shall be transferred by the Trustee into the Bond Fund and used by the Trustee (i) to pay the principal of and interest on the Bonds or (ii) for any other purpose *provided* that the Trustee is furnished with an opinion of Bond Counsel to the effect that such use is lawful under the Act and will not cause interest on the Bonds to be included in gross income for federal income tax purposes. Until used for one or more of the foregoing purposes, such segregated amount may be invested as permitted by the Indenture *provided* that prior to any such investment the Trustee is provided with an opinion of Bond Counsel to the effect that such investment will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 3.06 Borrower Required to Pay in the Event Project Fund Is Insufficient.

In the event the moneys in the Project Fund are not sufficient to pay the Costs of the Project in full, the Borrower agrees to complete the Project and to pay that portion of the Costs of the Project in excess of the moneys available therefore in the Project Fund. The Issuer does not make any warranty, either express or implied, that the moneys paid into the Project Fund and available for payment of the Costs of the Project will be sufficient to pay all of the Costs of the Project. The Borrower agrees that if after exhaustion of the moneys in the Project Fund, the Borrower shall pay any portion of the Costs of the Project pursuant to the provisions of this Section, the Borrower shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Bonds, nor shall the Borrower be entitled to any diminution of the amounts payable under this Loan Agreement.

Section 3.07 Special Arbitrage Certifications.

The Borrower and the Issuer covenant (i) not to take any action or fail to take any action which would cause the interest on any of the Bonds to be or become includable in the gross income of the Holders for federal income tax purposes and (ii) not to cause or direct any moneys on deposit in any fund or account to be used in a manner that would cause the Bonds to be classified as “arbitrage bonds” within the meaning of Section 148 of the Code. The Borrower certifies and covenants to and for the benefit of the Issuer and the Holders of the Bonds that so long as there are any Bonds Outstanding, moneys on deposit in any fund or account in connection with the Bonds, whether such moneys were derived from the proceeds of the sale of the Bonds or from any other sources, will not be used in a manner that will cause the Bonds to be classified as “arbitrage bonds” within the meaning of Section 148 of the Code.

Section 3.08 Rebate Calculations and Payments.

Within thirty (30) days after the end of each Bond Year and within twenty (20) days after payment in full of the Bonds, or at such other times as required by the Tax Certificate, the Borrower shall cause the Rebate Analyst to calculate the Rebate Amount as of the end of that Bond Year or the date of such payment and the Rebate Analyst shall notify the Trustee and the Borrower and the Investor Limited Partner of that amount. If the amount then on deposit in the Rebate Fund created under the Indenture is less than the Rebate Amount (taking into account the amount or amounts, if any, previously paid to the United States), the Borrower shall, within thirty (30) days after the date of the aforesaid calculation (or such earlier time if required by the Tax Certificate), deposit or

cause to be deposited to the credit of the Rebate Fund an amount sufficient to cause the Rebate Fund to contain an amount equal to the Rebate Amount. The obligation of the Borrower to make or cause to be made such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Indenture or the termination of this Loan Agreement. The Borrower shall obtain such records of the computations made pursuant to this Section as are required under Section 148(f) of the Code and shall retain such records for at least six (6) years after the maturity or retirement of the Bonds.

Section 3.09 *Rebate Analyst.*

In accordance with Section 3.08 hereof, the Rebate Analyst shall perform any calculations required under Section 4.06 of the Indenture at the sole expense of the Borrower. In the event the Issuer does not select a Rebate Analyst when any such calculation is required, the Borrower, with the consent of the Issuer, shall appoint a Rebate Analyst, the expense of which shall be borne by the Borrower, and the Borrower shall give prompt notice in writing to the Trustee of such appointment. The Borrower further covenants that, during the term of the Bonds, in the event the Borrower sells or otherwise disposes of the Project, it will require that the transferee execute a covenant similar to that in this Section in the sale or other documents concerning the disposition and will require such transferee to include such a covenant in future transfer documents. The special covenants of the Borrower in this Section shall survive the defeasance or payment in full of the Bonds notwithstanding any other provision of this Loan Agreement until the requirements for payment of any Rebate Amount has been fully satisfied.

ARTICLE IV LOAN PROVISIONS

Section 4.01 *Loan of Proceeds.*

The Issuer agrees, upon the terms and conditions contained in this Loan Agreement and the Indenture, to lend to the Borrower the proceeds received by the Issuer from the sale of the Bonds. Such proceeds shall be disbursed to or on behalf of the Borrower as provided in Section 3.03 hereof.

Section 4.02 *Amounts Payable.*

(a) The Borrower hereby covenants and agrees to repay the Loan on or before any date that any payment of interest or principal is required to be made in respect of the Bonds pursuant to the Indenture, until the principal of and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, in immediately available funds, a sum which, together with any other moneys available for such payment in any account of the Bond Fund, will enable the Trustee to pay the amount payable on such date as principal of (whether at maturity or acceleration or otherwise) and interest on the Bonds as provided in the Indenture. Payments by the Trustee of principal of and interest on the Bonds from amounts in the Bond Fund shall be credited against the Borrower's obligation to pay principal and interest on the Loan. The Borrower also covenants and agrees to pay any additional interest, taxes or penalties that may be due as a result of a Determination of Taxability.

It is understood and agreed that all payments of principal and interest payable by the Borrower under subsection (a) of this Section 4.02 are assigned by the Issuer to the Trustee for the benefit of the Holders of the Bonds (excluding amounts on deposit in the Rebate Fund). The Borrower consents to such assignment.

(b) In the event the Borrower should fail to make any of the payments required in this Section 4.02, the item or installment so in default shall continue as an obligation of the Borrower until the amount in default shall have been fully paid, and the Borrower agrees to pay the same with interest thereon, to the extent permitted by law, from the date when such payment was due, at the rate of interest borne by the Bonds.

Section 4.03 *Fees and Expenses.*

On the Closing Date, the Borrower agrees to cause to be deposited amounts into the Costs of Issuance Fund as required under the Indenture, to pay: the Issuer Fee, rating agency fees, the portion of the Trustee's Fee due and payable on the Closing Date and the fee of the Rebate Analyst (including the reasonable fees and expenses of their respective counsel actually incurred) in connection with the issuance of the Bonds and the performance of their duties in connection with the transactions contemplated hereby, including, without limitation, all costs of recording and filing, to the extent such fees and expenses are not otherwise paid from the Costs of Issuance Fund in accordance with Section 4.07 of the Indenture. Following the Closing Date, all fees, charges, costs and expenses, including counsel fees and expenses, of the parties involved in the financing of the Project, including the Issuer Fee, the Trustee's Fee, the Remarketing Agent's Fee and the fees of the Rebate Analyst, shall be paid by the Borrower (i) directly to the parties entitled thereto for their own account, or (ii) to the Trustee for deposit to the funds and accounts established under the Indenture if otherwise required thereunder, as and when such amounts become due and payable. The Borrower will also pay any reasonable expenses actually incurred in connection with any redemption, underwriting or remarketing of the Bonds or amendments or modifications to the Documents. Specifically, and without limiting the foregoing, the Borrower agrees to pay to the Issuer, the Trustee or to any payee designated by the Issuer, within thirty (30) days after receipt of request for payment thereof, all reasonable expenses of the Issuer and the Trustee actually incurred and related to the Project and the financing thereof which are not paid from the funds held under the Indenture, including, without limitation, reasonable legal fees and expenses incurred in connection with the enforcement or amendment of any documents relating to the Project or the Bonds or in connection with questions or other matters arising under such documents.

The obligations of the Borrower under this Section shall survive the termination of this Loan Agreement and the payment and performance of all of the other obligations of the Borrower hereunder and under the other Borrower Documents, including the Tax Regulatory Agreement.

Section 4.04 *Obligations of the Borrower Unconditional.*

The obligations of the Borrower to make the payments required under this Loan Agreement, and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, irrespective of any defense or any right of notice, setoff, recoupment or counterclaim it might otherwise have against the Issuer, the Trustee or any other person. Subject to termination as provided herein, the Borrower (i) will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for under this Loan Agreement, (ii) will

perform and observe all of its other agreements contained in this Loan Agreement and (iii) will not terminate this Loan Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, or change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of either, any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Loan Agreement, whether express or implied, or any failure of the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Indenture, whether express or implied.

Section 4.05 *Remarketing of Bonds.*

The Borrower is hereby granted the right to (i) request a remarketing of the Bonds in the manner and to the extent set forth in Section 3.03 of the Indenture and (ii) with the written consent of the Remarketing Agent (which consent shall not be unreasonably withheld), designate the length of the Remarketing Period and the related Mandatory Tender Date in the manner and to the extent set forth in Sections 3.01 and 3.03 of the Indenture. Notice of any such Remarketing Period and the related Mandatory Tender Date also shall be delivered to the Issuer, the Investor Limited Partner, the Mortgage Lender and the Trustee not later than fifteen (15) days prior to the Mandatory Tender Date.

Section 4.06 *Mortgage Loan to Borrower; Eligible Funds.*

Contemporaneously with the issuance of the Bonds, it is expected that the Borrower shall proceed with obtaining the Mortgage Loan from the Mortgage Lender. In particular, the Borrower will promptly take all necessary actions on its part to close the Mortgage Loan.

In consideration of and as a condition to the disbursement of Bond proceeds in the Project Fund to pay Project Costs, and to secure the Borrower's obligation to make Loan Payments, the Borrower shall cause Mortgage Lender to, from time to time, deliver Eligible Funds to the Trustee for deposit into the Collateral Fund to enable the Trustee to disburse an equal amount of Bond proceeds from the Project Fund, as approved by the Mortgage Lender in connection with a completed and fully executed Requisition, in substantially the form attached to the Indenture as Appendix B.

ARTICLE V SPECIAL COVENANTS

Section 5.01 *No Warranty of Condition or Suitability by Issuer.*

THE ISSUER MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY AS TO THE PROJECT OR THE CONDITION THEREOF, OR THAT THE PROJECT WILL BE SUITABLE FOR THE PURPOSES OR NEEDS OF THE BORROWER. THE ISSUER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY THAT THE BORROWER WILL HAVE QUIET AND

PEACEFUL POSSESSION OF THE PROJECT. THE ISSUER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY WITH RESPECT TO THE MERCHANTABILITY, CONDITION OR WORKMANSHIP OF ANY PART OF THE PROJECT OR ITS SUITABILITY FOR THE BORROWER'S PURPOSES.

Section 5.02 *Access to the Project.*

The Borrower agrees that the Issuer, the Trustee and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect the Project and the construction thereof at all reasonable times upon prior written notice. The Borrower acknowledges that the Issuer shall monitor the construction of the Project. The Issuer, the Trustee and their duly authorized agents shall also be permitted, at all reasonable times upon prior written notice, to examine the books, accounts, contracts, documents, and other papers of the Borrower with respect to the Project which shall all be maintained by the Borrower in reasonable condition and for audit.

Section 5.03 *Further Assurances and Corrective Instruments.*

The Issuer 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 for carrying out the expressed intention of this Loan Agreement.

Section 5.04 *Issuer and Borrower Representatives.*

Whenever under the provisions of this Loan Agreement the approval of the Issuer or the Borrower is required or the Issuer or the Borrower is required to take some action at the request of the other, such approval or such request shall be given in writing both for the Issuer by a duly authorized representative of the Issuer and for the Borrower by a Borrower Representative. The Trustee shall be authorized to act on any such approval or request pursuant to the Indenture.

Section 5.05 *Financing Statements.*

The Borrower shall, or shall cause to be filed any and all financing statements, or any amendments thereof or continuation statements thereto, to perfect the security interests granted in the Indenture, in the manner prescribed in the Indenture. The Borrower shall pay all costs of filing such instruments and any fees and expenses (including reasonable attorney's fees) associated therewith.

Section 5.06 *Borrower Receipt of Insurance or Condemnation Proceeds.*

[In the event the Borrower receives any proceeds of insurance or any condemnation awards with respect to the Project, the Borrower shall promptly upon receipt remit all such insurance proceeds or condemnation awards to the Mortgage Lender to the extent required by the Mortgage Loan Documents. Such proceeds shall be used to either reduce the indebtedness evidenced by the Mortgage Loan Documents or to repair or restore the loss caused to the Project pursuant to the terms and conditions of the Mortgage Loan Documents.]

Section 5.07 *Borrower's Obligations Upon Tender of Bonds.*

If any tendered Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available in the Collateral Fund, the Negative Arbitrage Account of the Bond Fund, or the Project Fund as provided in Section 3.01(e) of the Indenture for the purpose of paying the purchase price of such Bond, the Borrower will cause to be paid to the Trustee by the applicable times provided in the Indenture, an amount equal to the amount by which the principal amount of all Bonds tendered and not remarketed, together with interest accrued to the Mandatory Tender Date, exceeds the amount otherwise available pursuant to Section 3.01(e) of the Indenture.

Section 5.08 *Option to Terminate.*

The Borrower shall have the option to cancel or terminate this Loan Agreement at any time when (a) the Indenture shall have been released in accordance with its provisions, and (b) sufficient money or security acceptable to the Issuer and the Trustee are on deposit with the Trustee or the Issuer, or both, to meet all Loan Payments due or to become due through the date on which the last of the Bonds is then scheduled to be retired or redeemed and (c) the Mortgage Loan shall be repaid in full. Such option shall be exercised by the Borrower, with approval of the Investor Limited Partner, giving the Issuer and the Trustee five (5) days' notice in writing of such cancellation or termination and such cancellation or termination shall become effective at the end of such notice period. The provisions of this Section shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

Section 5.09 *[Prepayment.* Provided no Event of Default shall have occurred or be continuing, at any time the Bonds are subject to optional redemption in accordance with applicable provisions of the Indenture, the Borrower may prepay the Loan by directing the Issuer in writing to direct the Trustee to call Bonds for optional redemption in whole or in part in accordance with the applicable provisions of Section 3.05 of the Indenture providing for optional redemption at the price stated in the Indenture, from amounts held in the Collateral Fund, the Project Fund and the Bond Fund provided such amounts are sufficient to pay the redemption price of the Bonds in full].

ARTICLE VI
RESTRICTION ON TRANSFER; ASSIGNMENT, SELLING, LEASING;
INDEMNIFICATION

Section 6.01 *Restriction on Transfer; Removal of General Partner.*

(a) Except as otherwise provided for herein, the Borrower will not, directly or indirectly, by operation of law or otherwise, sell, assign, grant a deed of trust, pledge, hypothecate, transfer or otherwise dispose of the Project or any interest in the Project, and will not encumber, alienate, hypothecate, grant a security interest in or grant any other ownership or control interest whatsoever in the Project, in the leases or in the rents, issues and profits therefrom.

(b) No interest in the Borrower and no membership interest in the General Partner may be sold, conveyed, transferred, assigned, pledged or otherwise transferred, in whole or in part, directly or indirectly, by operation of law or otherwise other than the transfer of partnership interests after the parties have paid all installments of the equity contribution required to be delivered to the Trustee pursuant to the Partnership Agreement.

(c) Notwithstanding anything contained in the subsections above and subject to subsection (l) hereof, each of the following transactions are hereby deemed to be expressly permitted hereunder:

(i) Issuance of partnership interests in the Borrower equal to 99% of the profits, losses, credits, distributions and other interests in the Borrower to the Investor Limited Partner;

(ii) The transfer by the Investor Limited Partner of the partnership interests in the Borrower to any other entity which is an Affiliate of the Investor Limited Partner or which is controlled by or under common control with the Investor Limited Partner or an Affiliate;

(iii) The transfer by the Investor Limited Partner of the partnership interests in the Borrower to any other entity which is not an Affiliate of the Investor Limited Partner or which is not controlled by the Investor Limited Partner with the prior written consent of the Issuer in its sole and absolute discretion, after thirty (30) days written notice to the Issuer of the intent to transfer;

(iv) The pledge and encumbrance of the interests of the Investor Limited Partner to or for the benefit of any financial institution which enables the Investor Limited Partner to make its capital contributions to the Borrower and any subsequent realization by any such lender upon the interests of the Investor Limited Partner in the Borrower;

(v) Following the occurrence of an Event of Default or in accordance with Subparagraph (k) of this Section, the removal of a General Partner by the Investor Limited Partner or by a General Partner pursuant to the terms of the Partnership Agreement of the Borrower and the replacement of such General Partner with an affiliate of Administrative General Partner, a Managing General Partner approved by the Investor Limited Partner and General Partner, or the Investor Limited Partners or an Affiliate of the Investor Limited Partner;

(vi) A change in the beneficial partnership of the Investor Limited Partner, so long as each such entity remains controlled or under common control with [Bank of America, N.A.] or an Affiliate thereof; and

(vii) The Borrower may amend the Partnership Agreement to effect the transfers and removals permitted under this paragraph (c).

Except as otherwise provided, the Borrower shall provide written notice to the Issuer and the Trustee of any transfer or amendment pursuant to this paragraph (e) at least fifteen (15) days prior to such transfer. In the event of any conflict between this Section 6.01 and the terms of the Tax Regulatory Agreement, the Tax Regulatory Agreement shall control.

(d) The Borrower will not become a party to any merger or consolidation, or agree to effect any asset acquisition or stock acquisition.

(e) The Borrower will not convert the ownership of the Project into condominium or cooperative housing corporation form of ownership other than a limited equity cooperative that is a qualified cooperative housing corporation as defined in Section 143(k)(9) of the Code.

(f) The Borrower will not seek the dissolution or winding up, in whole or in part, of the Borrower or voluntarily file, or consent to the filing of, a petition for bankruptcy, reorganization, or assignment for the benefit of creditors or similar proceedings.

(g) The Borrower will not enter into any arrangement, directly or indirectly, whereby the Borrower shall sell or transfer any property owned by it in order then or thereafter to lease such property or lease other property that the Borrower intends to use for substantially the same purpose as the property being sold or transferred without the prior written consent of the Issuer in its sole and absolute discretion.

(h) The Borrower will not take any action that would adversely affect the exclusion of interest on the Bonds from gross income, for purposes of federal income taxation nor omit or fail to take any action required to maintain the exclusion of interest on the Bonds from gross income, for purposes of federal income taxation.

(i) This Loan Agreement may not be sold, transferred or otherwise disposed of by the Borrower without the prior written consent of the Issuer (which consent shall be within the reasonable discretion of the Issuer), subject to each of the following conditions:

(i) No such assignment will relieve the Borrower from primary liability for any of its obligations hereunder (unless the Issuer agrees in writing to release the Borrower) and in the event of any such assignment, the Borrower will continue to remain primarily liable for payment of its obligations hereunder and for performance and observance of the other covenants and agreements on its part herein provided.

(ii) No such assignment will, in the opinion of Bond Counsel (all such expenses related to such opinion shall be paid by the Borrower), impair the excludability of interest on the Bonds from gross income for purposes of federal income taxation.

(iii) The assignee will assume in writing the obligations of the Borrower hereunder to the extent of the interest assigned in a form acceptable to the Issuer (the “**Assumption Agreement**”).

(iv) Prior to any such assignment, the Borrower will, furnish or cause to be furnished to the Issuer and the Trustee an executed original of the Assumption Agreement.

(j) The Borrower shall maintain its existence, not dissolve or sell, transfer or otherwise dispose of all or substantially all of its assets and not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it; *provided* that it may do so if the surviving, resulting or transferee entity is other than the Borrower, it assumes in writing all of the obligations of the Borrower under the Borrower Documents and Mortgage Loan Documents and it has a net worth equal to or greater than that of the Borrower immediately prior to such consolidation, merger, sale or transfer. The Borrower shall not permit one or more other entities to consolidate with or merge into it; or take any action or allow any action to be taken to

terminate the existence of the Borrower except as provided herein. No sale, assignment or transfer of title to the Project, except as may be otherwise required by the Mortgage Lender, shall be made unless (a) the Mortgage Lender consents to such assignment or transfer, (b) the transferee or assignee, as the case may be, assumes all the duties of the Borrower under the Borrower Documents and Mortgage Loan Documents, *provided* that such assumption may contain an exculpation of the assignee from personal liability with respect to any obligation hereunder, except the Borrower's obligation to indemnify the Issuer and the Trustee and reimburse the Issuer and the Trustee for the fees and expenses of the Issuer and the Trustee, and (c) no Event of Default as certified in writing to the Issuer and the Trustee by the Borrower shall have occurred and be continuing under the Indenture or this Loan Agreement. The Issuer shall consent to any such assignment or transfer if (i) the Mortgage Lender notifies it in writing that the aforesaid condition (a) is satisfied, (ii) the Issuer and the Trustee receives an Opinion of Bond Counsel to the effect that such transfer or assignment would not adversely affect the federal tax status of the Bonds, and (iii) the Trustee receives written confirmation from the Rating Agency that such transfer or assignment will not result in a withdrawal or reduction in any rating on the Outstanding Bonds by the Rating Agency (if the Bonds are then rated by the Rating Agency). Upon the assumption of the duties of the Borrower by an assignee as provided herein, the outgoing Borrower shall be released from all executory obligations so assumed; *provided, however*, the Borrower shall not be released from its obligation to pay or reimburse the fees and expenses of the Issuer and the Trustee and to indemnify the Trustee and the Issuer without the express written consent of the Trustee and the Issuer, as applicable, which consent shall not be unreasonably withheld. Nothing contained in this Section shall be construed to supersede any provisions regarding assignment and transfer of the Project contained in the Mortgage Loan Documents.

(k) Nothing contained in this Section shall be construed to supersede any provisions regarding assignment and transfer of the Project contained in the Mortgage Loan Documents. Notwithstanding anything to the contrary contained herein or in any other Borrower Documents or the Mortgage Loan Documents, and subject to the consent of the Mortgage Lender if required by the Mortgage Loan Documents, the following shall be permitted and shall not require the prior written approval of the Issuer or the Trustee, (a) the removal of the General Partner of the Borrower in accordance with the Borrower Documents and Mortgage Loan Documents and the replacement thereof with the Investor Limited Partner or any of its Affiliates, (b) the transfer of ownership interests in the Investor Limited Partner, (c) upon the expiration of the tax credit compliance period, the transfer of the interests of the Investor Limited Partner in the Borrower to the Borrower's General Partner or any of its Affiliates, and (d) any amendment to the Borrower Documents or Mortgage Loan Documents to memorialize the transfers or removal described above. The parties agree that this section shall control to the extent of any conflict in any Borrower Documents or Mortgage Loan Documents.

Section 6.02 *Indemnification by Borrower and General Partner.*

(a) The Borrower and the General Partner (the “**Indemnitors**”) hereby agree to indemnify and save harmless the Issuer and the Trustee from and against all liabilities, obligations, suits, actions, claims, judgments, demands, damages, penalties, fines, assessments, losses, expenses, fees (including all fees of attorneys, auditors, and consultants), taxes (including rebate to the United States) but exclusive of income taxes on fees earned by the Trustee, contributions, and costs of every kind and nature (including litigation and court costs, amounts paid in settlement

by or with the approval of the Borrower and amounts paid to discharge judgments) (collectively, “**Claims**”) incurred by, asserted or imposed against an Indemnified Party (hereinafter defined), the Indemnitors or any other person directly or indirectly resulting from or arising out of or relating to (but excluding such Claims arising from the willful misconduct of the Issuer or the negligence or willful misconduct of the Trustee):

- (i) the issuance, offering, sale, delivery or remarketing of the Bonds;
- (ii) the design, construction, installation, operation, use, occupancy, maintenance, repair, management or ownership of the Project;
- (iii) the enforcement of (a) the provisions of this Loan Agreement, the other Borrower Documents and Mortgage Loan Documents and any other document executed by the Borrower in connection with issuance of the Bonds and the making of the Loan and (b) the obligations of the Borrower imposed hereby or thereby;
- (iv) any untruthful, 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 the Borrower Documents and Mortgage Loan Documents or any certificate delivered pursuant thereto, and any representation, or warranty of the Borrower, or any information provided by the Borrower that contains or contained any untrue or misleading statement of fact or omits or omitted to state any material fact necessary to make the statements made therein not misleading in light of the circumstances under which they were made;
- (v) any breach or alleged breach (except in the case of a breach alleged by the Issuer or the Trustee and such alleged breach is not found by a court of competent jurisdiction) by the Borrower of the covenants contained herein;
- (vi) any injury to or death of any person or damage to property in or upon the Project or growing out of or connected with the repair, management, ownership, operation, use, non-use, maintenance, construction, design, installation, condition or occupancy of the Project or any part thereof, including any and all acts or operations relating to any construction, operation, use, non-use, design, management, ownership, condition, occupancy, maintenance, installation or repair performed by the Borrower in connection with the Project;
- (vii) violation or breach of any agreement, covenant, representation, warranty or condition of this Loan Agreement or the Note (except, with respect to the Trustee, in the case of a breach alleged by the Trustee and such alleged breach is not found by a court of competent jurisdiction) or the Note, except by the Issuer or the Trustee;
- (viii) any Determination of Taxability with respect to the Bonds, including, but not limited to, the fees and expenses of the Issuer or the Trustee and their counsel with respect to such Determination of Taxability in responding to any inquiry or audit by the Internal Revenue Service;

(ix) the deposit, storage, disposal, burial, dumping, injecting, spilling, leaking, or other placement or release in on or from the Project of Hazardous Materials or the violation or alleged violation of any Hazardous Materials Law or official interpretation thereof in connection with the Project or the land on which it is located arising out of or as a result of events prior to the later of the full and final payment of the Bonds or the date of a transfer by the Borrower of all of its interests in the Project, as applicable;

(x) 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 Project or the Bonds, commenced or threatened against the Project or an Indemnified Party;

(xi) any action, suit, claim, demand or proceeding contesting or affecting title to the Project;

(xii) any suit, action, administrative proceeding, enforcement action, or governmental or private action of any kind whatsoever commenced against the Project or an Indemnified Party that might adversely affect the validity or enforceability of the Bonds, the Borrower Documents and Mortgage Loan Documents, or the performance by the Borrower or by any Indemnified Party of their respective obligations under the Borrower Documents and Mortgage Loan Documents, the Indenture or any other document executed in connection therewith by the Borrower or any Indemnified Party; and

(xiii) information provided by the Borrower or required and failed to be furnished by the Borrower relating to the Borrower or the Project, including, without limitation, information provided by the Borrower for inclusion in the preliminary or final Official Statement or any other offering document used in connection with the sale of the Bonds, any information furnished, or required and failed to be furnished, by the Borrower in accordance with Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (if applicable), any information furnished by the Borrower for, and included in, or used as a basis for preparation of, any certifications, information statements or reports furnished by the Issuer, any other information or certification obtained from the Borrower to assure the exclusion of the interest on the Bonds from gross income of the Holders thereof for federal income tax purposes, and the transactions contemplated by the Indenture, the Bonds, and the Borrower Documents and Mortgage Loan Documents and the carrying out by the Borrower of any of the transactions contemplated by the Bonds, the Indenture and the Borrower Documents and Mortgage Loan Documents.

All references to the Issuer and the Trustee in this Section shall be deemed to include all their respective past, present, and future officers, directors, members, employees, commissioners, and agents and their permitted successors and assigns (also referred to herein as “**Indemnified Parties**”).

The Indemnitors shall indemnify and save each Indemnified Party harmless from any such Claims (but excluding such Claims arising from the willful misconduct of the Issuer or the negligence or willful misconduct of the Trustee) and upon notice from such Indemnified Party, the Indemnitors shall defend them or either of them in any such action or proceeding as provided below.

Any Indemnified Party, after receipt of notice of the existence of a Claim in respect of which indemnity hereunder may be sought or of the commencement of any action against an Indemnified Party in respect of which indemnity hereunder may be sought, shall notify the Indemnitors in writing of the existence of such Claim or commencement of such action. The Indemnitors shall undertake promptly to defend, at their sole cost and expense, any and all Claims against an Indemnified Party in connection with any of the matters indemnified against in this Section. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought under this Loan Agreement, the Indemnitors, upon receipt by either of written notice from the Indemnified Party, shall assume the investigation and defense of the Claims, including the employment of counsel selected by the Indemnitors, subject to the approval of the Indemnified Party in such party's sole discretion. The Indemnitors shall pay all expenses related to the action or proceeding, with full power to litigate, compromise or settle the same, *provided* that the Issuer and the Trustee, as appropriate, shall have the right to review and approve or disapprove any such compromise or settlement. If (i) an Indemnified Party determines that a potential conflict of interest exists or may arise as a result of any of the Indemnitors assuming the investigation and defense of any claims, (ii) an Indemnified Party shall have been advised by counsel that there may be legal defenses available to it which are different from or additional to those available to the Indemnitors, or that a conflict exists that could affect the zealous defense of such Claims by the Indemnitors, (iii) the Indemnitors shall not have assigned the defense of such action and employed counsel therefor satisfactory to the Indemnified Party within a reasonable time after notice of commencement of such action, such Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense of the action or proceeding, and the Indemnitors shall pay the fees and expenses of such separate counsel.

(b) Notwithstanding the fact that it is the intention of the parties hereto that the Issuer shall not incur any pecuniary liability by reason of the terms of this Loan Agreement or the Note or the undertakings required of the Issuer hereunder, by reason of the issuance of the Bonds, the execution of the Indenture or the performance of any act requested of the Issuer by the Borrower, including all claims arising in connection with the violation of any statutes or regulation pertaining to the foregoing; nevertheless, if the Issuer should incur any such pecuniary liability, then in such event the Indemnitors shall indemnify and hold the Issuer harmless against all such claims (but excluding such Claims arising from the willful misconduct of the Issuer) whatsoever, by or on behalf of any person, firm or corporation or other legal entity arising out of the same or lack of any offering statement in connection with the sale, resale or remarketing of the Bonds and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from the Issuer, the Borrower shall defend the Issuer in any such action or proceeding.

(c) Failure of an Indemnified Party to provide notification to the Indemnitors required under this Section shall not operate as a waiver of the Indemnitors' indemnification obligations in this Section.

(d) The obligations of the Indemnitors under this Section are joint and several, and are in addition to and shall not be limited by the provisions of Section 8.03 hereof and shall survive the termination of this Loan Agreement.

(e) The foregoing provisions of this Section 6.02 shall not be construed to limit any indemnification provisions of the Tax Regulatory Agreement.

Section 6.03 *Issuer to Grant Security Interest to Trustee.*

The parties hereto agree that pursuant to the Indenture, the Issuer shall assign to the Trustee, in order to secure payment of the Bonds, all of the Issuer's right, title and interest in and to this Loan Agreement and the Note, except for Reserved Rights of the Issuer.

**ARTICLE VII
DEFAULTS AND REMEDIES**

Section 7.01 *Defaults Defined.*

The following shall be "Defaults" under this Loan Agreement and the term "Default" shall mean, whenever it is used in this Loan Agreement, any one or more of the following events:

(a) Failure by the Borrower to pay any amount required to be paid under subsection (a) or (b) of Section 4.02 hereof.

(b) Failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed herein other than as referred to in subsection (a) of this Section or failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed in the Borrower Tax Certificate, for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, will have been given to the Borrower and the Investor Limited Partner by the Issuer or the Trustee; *provided*, with respect to any such failure covered by this subsection (b), no event of default will be deemed to have occurred so long as a course of action adequate to remedy such failure will have been commenced within such 60-day period and will thereafter be diligently prosecuted to completion and the failure will be remedied thereby.

(c) The dissolution or liquidation of the Borrower, or the voluntary initiation by the Borrower of any proceeding under any federal or state law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Borrower of any such proceeding which shall remain undismissed for ninety (90) days, or failure by the Borrower to promptly have discharged any execution, garnishment or attachment of such consequence as would impair the ability of the Borrower to carry on its operations at the Project, or assignment by the Borrower for the benefit of creditors, or the entry by the Borrower into an agreement of composition with its creditors or the failure generally by the Borrower to pay its debts as they become due.

(d) The occurrence of an Event of Default under the Indenture (other than under Section 9.01(d) of the Indenture).

The provisions of subsection (b) of this Section are subject to the following limitation: if by reason of *force majeure* it is impossible for the Borrower in whole or in part, despite its best efforts, to carry out any of its agreements contained herein (other than its obligations contained in Article IV hereof), the Borrower shall not be deemed in Default during the continuance of such inability. Such *force majeure* event does not affect any obligations of the Borrower other than the timing of performance of such obligations. The term “*force majeure*” as used herein shall mean, without limitation, the following: acts of God; strikes or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or of any of their departments, agencies or officials, or of any civil or military authority; insurrections; riots; terrorism; landslides; earthquakes; fires; storms; droughts; floods; explosions; and events not reasonably within the control of the Borrower. The Borrower agrees, however, to use its best efforts to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreement. The settlement of strikes and other industrial disturbances shall be entirely within the discretion of the Borrower and the Borrower shall not be required to settle strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Borrower unfavorable to the Borrower.

Section 7.02 Remedies on Default.

Whenever any Default referred to in Section 7.01 hereof shall have happened and be continuing beyond the expiration of any applicable cure period, the Trustee, or the Issuer (in the event the Trustee fails to act), may take one or any combination of the following remedial steps:

(a) If the Trustee has declared the Bonds immediately due and payable pursuant to Section 9.01 of the Indenture, by written notice to the Borrower, declare an amount equal to all amounts then due and payable on the Bonds, whether by acceleration of maturity (as provided in the Indenture) or otherwise, to be immediately due and payable, whereupon the same shall become immediately due and payable; and

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement, the Note, the Tax Regulatory Agreement or any other Document in the event of default thereunder.

Any amounts collected pursuant to action taken under this Section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture.

Section 7.03 No Remedy Exclusive.

Subject to Section 9.01 of the Indenture, no remedy herein conferred upon or reserved to the Issuer or the Trustee 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 Loan Agreement, the Tax Regulatory Agreement or the Note, 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 Default shall impair any such right or power nor shall it be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee 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 required in this Article. Such rights and remedies as are given the Issuer hereunder shall also extend to the Trustee, and the Trustee and the Holders of the Bonds, subject to the provisions of the Indenture, including, but not limited to the Reserved Rights of the Issuer, shall be entitled to the benefit of all covenants and agreements herein contained.

Section 7.04 *Agreement to Pay Attorneys' Fees and Expenses.*

In the event the Borrower should cause an Event of Default to occur under any of the provisions of this Loan Agreement or under the Note, and the Issuer and/or the Trustee should employ attorneys or incur other expenses for the collection of payments required hereunder or under the Note, or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein or in the Note, the Borrower and the General Partner agree that they will on demand therefor pay to the Issuer and the Trustee, as the case may be, the fees and expenses of such attorneys and such other expenses so incurred by the Issuer and/or the Trustee. This Section 7.04 will continue in full force and effect notwithstanding the full payment of the obligations under the Agreement or the termination of this Loan Agreement for any reason.

Section 7.05 *No Additional Waiver Implied by One Waiver.*

In the event any agreement contained in this Loan Agreement should be breached by either party and thereafter waived by the other party, 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 *Right to Cure.*

Notwithstanding anything herein to the contrary, if the Borrower shall, for whatever reason, at any time fail to pay any amount or perform any act which it is obligated to pay or perform and, as a result a Default or Event of Default occurs or may occur, the Investor Limited Partner shall have the right to perform such act or pay such amount on behalf of the Borrower and thereby cure or prevent such Default or Event of Default, provided such Default or Event of Default is cured within any applicable cure period or grace period provided herein to the Borrower.

**ARTICLE VIII
MISCELLANEOUS**

Section 8.01 *Term of Agreement.*

Subject to Sections 2.12(b) and 11.07 of the Indenture, this Loan Agreement shall remain in full force and effect from the date hereof until such time as all of the Bonds and all amounts payable hereunder and under the Indenture shall have been fully paid or provision made for such payments, whichever is later, *provided* that all representations and certificates of the Borrower and the General Partner as to matters affecting the tax-exempt status of the Bonds, and the provisions of Sections 3.08, 6.02 and 7.04 hereof shall survive termination of this Loan Agreement.

Section 8.02 *Notices.*

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, addressed each party's Notice Address. A duplicate copy of each notice, certificate or other communication given hereunder by the Issuer or the Borrower shall also be given to the Trustee. The Issuer, the Borrower, the Investor Limited Partner and the Trustee may, by written notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

With regard to copies of all notices which are sent to the Borrower under the terms of the Loan Documents, the Issuer and the Trustee shall send a courtesy copy to the Investor Limited Partner at Bank of America, N.A., 100 Federal St., Mail Code: MA5-100-004-11, Boston, MA 02110, Attention: Asset Management; *provided, however*, that any failure to give a duplicate copy of any such communication shall not invalidate any Notice given hereunder.

Section 8.03 *Nonrecourse Liability of Borrower.*

From and after the date of this Loan Agreement, (i) the liability of the Borrower and its members or partners, including the General Partner and its respective members, under this Loan Agreement shall be limited to the Project Fund and the Collateral Fund, and the Issuer and the Trustee shall look exclusively thereto or to such other security as may from time to time be given or have been given for payment of the Bonds, and any judgment rendered against the Borrower or its members or partners, including the General Partner, under this Loan Agreement shall be limited to amounts held under the Project Fund and the Collateral Fund; and (ii) no deficiency or other personal judgment shall be sought or rendered against the Borrower or the General Partner or their respective members, officers, successors, transferees or assigns, in any action or proceeding arising out of this Loan Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding; *provided, however*, that nothing herein shall limit the Issuer's or the Trustee's ability to exercise any right or remedy with respect to any property pledged or granted to the Issuer or any trustee under this Loan Agreement, or both, or to exercise any right against the Borrower or the General Partner, on account of any claim for fraud and deceit, and against any other person or entity on account of any claim for fraud and deceit. Notwithstanding anything herein to the contrary, nothing in this Section shall limit the rights of indemnification against the Borrower and the General Partner pursuant to Sections 6.02 and 7.04 hereof, each of which shall be recourse obligations of the Borrower and General Partner. Furthermore, notwithstanding anything to the contrary, the Borrower and the General Partner shall be fully liable for: (1) amounts payable to the Issuer constituting Reserved Rights of the Issuer, (2) any amount due and owing as a result of any calculation or determination which may be required in connection with the Bonds for the purpose of complying with Section 148 of the Code (including rebate liability) or any applicable Treasury regulation, and (3) the indemnification and the payment obligations to the Issuer under Sections 6.02 and 7.04.

The limit on the Borrower's and the General Partner's liability set forth in this Section shall not, however, be construed, and is not intended to in any way, to (i) constitute a release, in whole or in part, of the indebtedness evidenced by this Loan Agreement; or (ii) constitute a release, in whole or in part, or an impairment of the security interest; or (iii), in case of any default or enforcement of any other right of the Issuer under this Loan Agreement, alter, limit or affect the

liability of any person or party who may now or hereafter or prior hereto guarantee, or pledge, grant or assign its assets or collateral as security for, the obligations of the Borrower under this Loan Agreement.

Notwithstanding anything contained in this Loan Agreement to the contrary, neither the Issuer nor the Trustee may assert any claim arising hereunder against the Borrower's interest in the Project, any reserve or deposit made with the Mortgage Lender, or in the rents or other income of the Project for the payment of any charge due hereunder.

The provisions of this Section shall survive the termination of this Loan Agreement.

Section 8.04 *No Pecuniary Liability of Issuer.*

No agreements or provisions contained in this Loan Agreement or any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project or any property of the Borrower financed, directly or indirectly, out of proceeds of the Bonds or the issuance, sale and delivery of the Bonds will give rise to any pecuniary liability of the Issuer (including tax and rebate liability) or its past, present or future officers, directors, employees, commissioners, agents or members of its governing body and their successors and assigns or constitute a charge against the Issuer's general credit, or obligate the Issuer financially in any way, except with respect to the Trust Estate. No failure of the Issuer to comply with any terms, covenants or agreements in this Loan Agreement or in any document executed by the Issuer in connection with the Bonds will subject the Issuer or its past, present or future officers, directors, employees, commissioners, agents and members of its governing body and their successors and assigns to any pecuniary charge or liability except to the extent that the same can be paid or recovered from the Trust Estate. Without limiting the requirement to perform its duties or exercise its rights and powers under this Loan Agreement upon receipt of appropriate indemnity or payment, none of the provisions of this Loan Agreement or the Indenture will require the Issuer to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under this Loan Agreement. Nothing in this Loan Agreement will preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant or agreement in this Loan Agreement or in the Indenture; *provided* that no costs, expenses or other monetary relief will be recoverable from the Issuer except as may be payable from the funds available under this Loan Agreement or made available under the Indenture by the Borrower and pledged to the payment of the Bonds.

No covenant, agreement or obligation contained herein or in any other financing instrument executed in connection with the Project or the making of the Loan shall be deemed to be a covenant, agreement or obligation of any past, present or future director, officer, employee, commissioner, or agent of the Issuer in his or her individual capacity so long as he or she does not act in bad faith, and no such director, officer, employee, commissioner or agent of the Issuer in his or her individual capacity shall be subject to any liability under any agreement to which the Issuer is a party or with respect to any other action taken by him or her so long as he or she does not act in bad faith.

Section 8.05 *Binding Effect.*

This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower, the Trustee, the Holders of Bonds and their respective successors and assigns.

Section 8.06 *Severability.*

In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.07 *Amounts Remaining in Funds.*

Subject to the provisions of Section 4.05 of the Indenture, it is agreed by the parties hereto that any amounts remaining in any account of the Bond Fund, the Project Fund (other than amounts on deposit in the Subordinate Loan Account of the Project Fund), the Collateral Fund or any other fund (other than the Rebate Fund) created under the Indenture upon expiration or earlier termination of this Loan Agreement, as provided in this Loan Agreement, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and the fees and expenses of the Trustee and the Issuer in accordance with the Indenture, shall belong to and be paid to the Borrower by the Trustee so long as those remaining amounts do not constitute Bond Proceeds.

Section 8.08 *Amendments, Changes and Modifications.*

Subsequent to the issuance of the Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), and except as otherwise herein expressly provided, this Loan Agreement may not be effectively amended, changed, modified, altered or terminated except by a written instrument executed by the parties hereto and with the written consent of the Trustee, and otherwise in accordance with the provisions of the Indenture, particularly Article XI of the Indenture.

Section 8.09 *Execution in Counterparts.*

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

Section 8.10 *Applicable Law.*

This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 8.11 *Captions*

The captions and headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Loan Agreement.

Section 8.12 *Mortgage Loan Documents Independent.*

Failure of the Issuer or the Borrower to comply with any of the covenants set forth in this Loan Agreement, the Indenture or the other Borrower Documents will not serve as a basis for default on the Mortgage Loan, the underlying mortgage, or any of the other Mortgage Loan Documents.

To the extent not otherwise set forth above in this Section 8.12, the provisions of Section 12.09 of the Indenture are incorporated herein by reference to the same extent as if set forth herein in full.

Section 8.13 *[Reserved].*

Section 8.14 *Use of Proceeds of the Bonds*

Notwithstanding anything contained in any of the documents executed in connection with the issuance of Bonds to the contrary, all of the proceeds of the Bonds shall, for federal income tax purposes, be (i) allocated on a pro rata basis to the building in the Project and the land on which such building is located and (ii) used exclusively to pay costs of the acquisition or construction of the Project which are includible in the aggregate basis of any building and the land on which the building is located (“Eligible Costs”) in a manner such that each building satisfies the requirements of Section 42(h)(4)(B) of the Code. No proceeds of the Bonds will be deemed or considered to have been used to pay any of the Costs of Issuance of Bonds, or to fund any reserve accounts other than a Project Fund Account to be used to pay Eligible Costs.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be executed in their respective official names and their respective official seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

**HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO**

By _____

Name:

Title:

[ISSUER SIGNATURE PAGE TO SKYLINE LOAN AGREEMENT]

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood, President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood, Executive Director

[BORROWER SIGNATURE PAGE TO SKYLINE LOAN AGREEMENT]

EXHIBIT A

PROJECT DESCRIPTION

One hundred unit (including one manager's unit) multifamily rental housing development located in the City of San Diego to be known as SkyLINE (formerly known as Rancho Bernardo Transit Village), located on the land as described in [Exhibit A] to the Security Instrument, subject to the Ground Lease.

EXHIBIT B

FORM OF PROMISSORY NOTE

PROMISSORY NOTE

\$ _____

October __, 2023

FOR VALUE RECEIVED, **BERNARDO FAMILY HOUSING, L.P.**, a State of California limited partnership (the “Borrower”), promises to pay to the **HOUSING AUTHORITY OF THE CITY OF SAN DIEGO** (the “Issuer”), or its order, the principal sum of [_____] DOLLARS (\$_____) (the “Loan”) or so much of that sum as may be advanced by the Issuer under the Loan Agreement of even date herewith executed between the Borrower and the Issuer (the “Loan Agreement”) with interest payable as set forth below.

Borrower promises to pay to the Issuer the principal sum of this Note, together with interest at the rate of [_____] % per annum (the “Initial Interest Rate”), and all assessments, taxes and premiums as follows:

One business day preceding each [_____] 1] and [_____] 1] of each year, beginning on the business day preceding [_____] 1, 2024], to and including the business day preceding the earlier of (i) the Conversion Date and (ii) [_____] 1, 20__] (the “Initial Mandatory Tender Date”), the Borrower shall pay to the Issuer interest on the outstanding principal balance of the Loan at the Initial Interest Rate and thereafter the Remarketing Rate (as defined in the Indenture).

(a) The entire principal balance of the Note, plus any accrued but unpaid interest to and including [_____] 1, 20__] (the “Maturity Date”), shall be due and payable one business day preceding the Maturity Date, unless previously called for redemption.

(b) Payments made by U.S. Bank Trust Company, National Association (the “Trustee”), as trustee for the Issuer’s Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B (the “Bonds”) to the holders of the Bonds, from funds available under the Trust Indenture for the Bonds dated as of October 1, 2023 (the “Indenture”) between the Issuer and the Trustee, will be credited against the Borrower’s obligation to pay interest and principal under this Note. The Borrower shall be obligated to pay any deficiency between amounts due under this Note and amounts paid to bondholders by the Trustee pursuant to the Indenture.

(c) If any installment of interest, principal, or any other payment due under this Note is not paid within 10 days from the date that the installment or payment is due (other than any payment due at maturity, whether by acceleration or otherwise), the Borrower promises to pay to the Issuer a “late charge” equal to 5% of the aggregate monthly payment required by this Note.

(d) This Note is secured by (i) funds deposited into the Bond Fund, the Project Fund (other than funds on deposit in the Subordinate Loan Account of the Project Fund) and the Collateral Fund created pursuant to Section 4.01 of the Indenture, and (ii) the Trust Estate (as defined in the Indenture).

(e) Upon an Event of Default, as defined in the Indenture, the unpaid principal, together with all accrued interest thereon, and all other sums due and payable shall, at the option of the holder of this Note, become immediately due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise this option in the event of any subsequent Event of Default.

(f) As to this Note and any other documents or instruments evidencing or securing the Loan (the "Loan Documents"), the Borrower and all guarantors, if any, severally waive all applicable exemption rights, whether under any state constitution, homestead laws or otherwise, and also severally waive valuation and appraisal, presentment, protest and demand, notice of protest, demand and dishonor and nonpayment of this Note, and expressly agree that the maturity of this Note, or any payment under this Note, may be extended from time to time without in any way affecting the liability of the Borrower and all guarantors.

(g) All payments due under this Note shall be made during regular business hours at the Designated Office (as defined in the Indenture) of the Trustee or at any other place that the Issuer may designate in writing, and shall be made in coin or currency of the United States of America which at the time of payment is legal tender for the payment of public or private debts.

(h) The Borrower represents and warrants that it is a limited partnership within the meaning set forth in the Government Code of the State of California, as amended (the "California Code") and further represents and warrants that the Loan evidenced by this Note was made and transacted solely for the purpose of carrying on or acquiring a business or commercial enterprise within the meaning of the California Code.

(i) Neither the Borrower, nor any member, officer or director of the Borrower, shall have any personal liability for principal or interest payments or any other payments due under this Note, except as provided in Section 8.03 of the Loan Agreement.

(j) The Borrower hereby acknowledges that, pursuant to the Indenture, the Issuer is assigning to the Trustee all of the Issuer's right, title, and interest in and to this Note and the Loan Agreement, exclusive of the Reserved Rights of the Issuer, to be held under the Indenture as part of the Trust Estate. Such assignment is being made as security for the payment of the Bonds of the Issuer. All of the terms, conditions and provisions of the Indenture are, by this reference thereto, incorporated herein as part of this Note.

It is agreed that except as provided in Section 8.03 of the Loan Agreement, the execution of this Note shall impose no personal liability on the maker or any member hereof for payment of the indebtedness evidenced hereby and in the Event of a Default, the holder of this Note shall look solely to the Bond Fund, Project Fund (other than funds on deposit in the Subordinate Loan

Account of the Project Fund), and Collateral Fund created pursuant to Section 4.01 of the Indenture, and (ii) the Trust Estate (as defined in the Indenture) in satisfaction of the indebtedness evidenced hereby and will not seek or obtain any deficiency or personal judgment against the maker hereof except such judgment or decree as may be necessary to foreclose and bar its interest in the property and all other property mortgaged, pledged, conveyed or assigned to secure payment of this Note.

Enforcement of the covenants in this Note will not result in, and neither the Issuer nor the Trustee has or shall be entitled to assert, any claim against the Borrower, the Project, the Mortgage Loan proceeds, any reserves or deposits required by the Mortgage Lender in connection with the Mortgage Loan transaction, or the rents or deposits or other income of the Project.

[Signature Page Follows]

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed and delivered on its behalf on the date first written above.

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood, President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood, Executive Director

ASSIGNMENT

The **HOUSING AUTHORITY OF THE CITY OF SAN DIEGO** (the “Issuer”), hereby irrevocably assigns, without recourse, the foregoing Note (exclusive of the Reserved Rights of the Issuer) to U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), under a Trust Indenture dated as of October 1, 2023 (the “Indenture”), with the Issuer and hereby directs Bernardo Family Housing, L.P., a California limited partnership, to make all payments of principal of, and interest thereon directly to the Trustee at its designated office in [Los Angeles, California], or at such other place as the Trustee may direct in writing. Such assignment is made as security for the payment of the Issuer’s \$_____ Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B, issued pursuant to the Indenture.

**HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO**

By _____
Name:
Title:

EXHIBIT C
CONSTRUCTION DRAW SCHEDULE
[ATTACHED]

PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, OR FOR ANY CLAIM BASED ON THE BONDS, OR OTHERWISE IN RESPECT OF THE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE, AGAINST ANY MEMBER, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE BONDS AND AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE BONDS, EXPRESSLY WAIVED AND RELEASED.

The Bonds are offered for delivery when, as and if issued and received by Lument Securities, LLC (the “Underwriter”) and subject to the approval of legality by Orrick, Herrington & Sutcliffe LLP, San Francisco, California, Bond Counsel, of certain other conditions. PFM Financial Advisors LLC will act as financial advisor to the Issuer in connection with the issuance of the Bonds. Certain legal matters will be passed upon for the Underwriter by its counsel, Tiber Hudson LLC, Washington, D.C., and for the Borrower by its counsel, Katten Muchin Rosenman LLP, Chicago, Illinois and _____. It is expected that the Bonds will be available in book-entry form through the facilities of DTC in New York, NY on or about October ___, 2023.

This cover page contains limited information for ease of reference only. It is not a summary of the Bonds or the security therefor. The entire Official Statement, including the Appendices, must be read to obtain information essential to make an informed investment decision.



LUMENT SECURITIES, LLC

Date: October ___, 2023

No broker, dealer, salesman or other person has been authorized by the Issuer, to give any information or to make any representations other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale prior to the registration or qualification under the securities laws of any such jurisdiction. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made under the Indenture shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer since the date hereof.

All quotations from and summaries and explanations of provisions of laws and documents herein do not purport to be complete and reference is made to such laws and documents for full and complete statements of their provisions. This Official Statement is not to be construed as a contract or agreement between the Issuer and the purchasers or owners of any of the Bonds. All statements made in this Official Statement involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The cover page hereof, inside front cover, and the appendices attached hereto are part of this Official Statement. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale of the Bonds shall under any circumstances create any implication that there has been no change in the affairs of the Issuer since the date hereof.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICES OF THE BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

The Underwriter has reviewed the information in this Official Statement pursuant to its responsibilities to investors under federal securities laws, but the Underwriter does not guarantee the accuracy or completeness of such information.

No registration statement relating to the Bonds has been filed with the Securities and Exchange Commission (the "Commission") or with any state securities agency. The Bonds have not been approved or disapproved by the Commission or any state securities agency, nor has the Commission or any state securities agency passed upon the accuracy or adequacy of this Official Statement. Any representation to the contrary is a criminal offense.

The order and placement of information in this Official Statement, including the Appendices, are not an indication of relevance, materiality or relative importance, and this Official Statement, including the Appendices, must be read in its entirety. The captions and headings in this Official Statement are for convenience only and in no way define, limit, or describe the scope and intent, or affect the meaning or construction, of any provision or section of this Official Statement.

CUSIP data herein are provided by CUSIP Global Services, managed by FactSet Research Systems Inc. on behalf of the American Bankers Association. CUSIP numbers have been assigned by an independent company not affiliated with the Issuer and are included solely for the convenience of the holders of the Bonds. The Issuer is not responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Bonds or as indicated above. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds as a result of various subsequent actions.

U.S. Bank Trust Company, National Association, as Trustee, has not reviewed, provided or undertaken to determine the accuracy of any of the information contained in this Official Statement and makes no representation or warranty, express or implied, as to any matters contained in this Official Statement, including, but not limited to, (i) the accuracy or completeness of such information, (ii) the validity of the Bonds, or (iii) the tax-exempt status of the Bonds.

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OFFICIAL STATEMENT

\$42,476,000*

**Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

INTRODUCTION

This Official Statement (this “Official Statement”) has been prepared in connection with the issuance of the above-captioned Bonds (the “Bonds”) by the Housing Authority of the City of San Diego (the “Issuer”), a public body corporate and politic, organized and existing under the laws of the State of California (the “State”). The Board of the Issuer has authorized the issuance of the Bonds by its duly adopted Resolution dated October __, 2023, and the Bonds are issued pursuant to a Trust Indenture dated as of October 1, 2023 (the “Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). Certain capitalized terms that are used in this Official Statement and not otherwise defined shall have the definitions ascribed to them in “APPENDIX A — DEFINITIONS OF CERTAIN TERMS” hereto.

The Bonds are to be issued pursuant to Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code, as amended (the “Act”), for the purpose of providing funds to make a loan (the “Loan”) to Bernardo Family Housing, L.P., a California limited partnership (the “Borrower”), to enable the Borrower to pay a portion of the cost of acquiring, constructing and equipping a 100-unit (including one manager’s unit) multifamily residential rental project located in San Diego, California, and to be known as SkyLINE (formerly known as Rancho Bernardo Transit Village) (the “Project”). See “PRIVATE PARTICIPANTS” and “THE PROJECT” herein.

The Loan will be made to the Borrower under a Loan Agreement dated as of October 1, 2023 (the “Loan Agreement”), by and between the Issuer and the Borrower. Pursuant to the Loan Agreement, the Borrower has agreed to make payments to the Issuer in amounts sufficient to pay the principal of and interest on the Bonds when due (the “Bond Service Charges”) to the extent that amounts otherwise available for such payment are insufficient therefor. The Loan will be evidenced by a promissory note in the principal amount of \$42,476,000* (the “Note”) from the Borrower to the Issuer and endorsed to the Trustee.

The aggregate funds and Eligible Investments on deposit in the Project Fund and the Collateral Fund will, at all times, equal the principal amount of Bonds Outstanding. Bond Service Charges will be paid from amounts on deposit in the Bond Fund, the Collateral Fund and the Project Fund, and investment earnings thereon. Amounts on deposit in the Collateral Fund, the Bond Fund and the Project Fund will be invested in Eligible Investments. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

The Bonds shall bear interest on the outstanding principal amount thereof at a rate equal to the Initial Interest Rate set forth on the cover page hereof from the date of delivery to, but not including, _____* (the “Initial Mandatory Tender Date”), payable on each _____ 1 and _____ 1, commencing _____* (each an “Interest Payment Date”).

The Bonds are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on or prior to the Initial Mandatory Tender Date, including on the Conversion Date. All Bondholders must tender their Bonds for purchase on each Mandatory Tender Date, as set forth in the Indenture. A new interest rate for the Bonds may be determined on the Initial Remarketing Date in accordance with the terms of the Indenture. If the Bonds are remarketed on the Initial Mandatory Tender Date, the terms of the Bonds after such date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Initial Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing.

* Preliminary; subject to change.

Subject to the satisfaction of certain conditions set forth in the Citi Forward Commitment among the Borrower, Bank of America, N.A., a national banking association (the "Mortgage Lender"), and Citibank, N.A., a national banking association ("Citi"), Citi has agreed to facilitate the financing of the Project in the Permanent Phase as described in the Indenture.

Brief descriptions of the Issuer, the Borrower, the Mortgage Lender, the Mortgage Loan, the Project, the Bonds, the security for the Bonds, the Indenture, the Loan Agreement and the Tax Regulatory Agreement are included in this Official Statement. The summaries herein do not purport to be complete and are qualified in their entirety by reference to such documents, agreements and programs as may be referred to herein, and the summaries herein of the Bonds are further qualified in their entirety by reference to the form of the Bonds included in the Indenture and the provisions with respect thereto included in the aforesaid documents.

THE ISSUER

The following information has been provided by the Issuer for use herein. While the information is believed to be reliable, none of the Trustee, the Underwriter, nor any of their respective counsel, members, officers or employees makes any representations as to the accuracy or sufficiency of such information.

The Issuer is 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 Issuer is authorized to issue the Bonds and to loan the proceeds thereof to the Borrower for the purpose of financing the Project. The Issuer was created on October 3, 1968 by resolution of the City Council of the City of San Diego (the "Council"). The nine members of the Council serve as members of the Issuer.

In January 1979, a seven-member commission (the "Housing Commission") took office to administer the functions of the Issuer. The Housing Commission is responsible for the development of low-income rental projects, implementation of financing to promote low-income housing production, management of many public housing projects, operation of rent subsidy programs and rehabilitation of existing housing stock.

The seven members of the board of the Housing Commission ("Commissioners") are appointed by the Mayor and approved by the Council. Eugene Mitchell currently serves as Chair of the Housing Commission. Oversight of the Housing Commission is provided by the Issuer. Two of the positions on the board of Commissioners are reserved for residents of agency-owned housing units or recipients of federal Section 8 Housing Choice Voucher rental assistance. One of these members must be 62 years of age or older. Commissioners who are residents of affordable housing or are rental assistance recipients serve for terms of two years, or until a replacement is appointed. The five remaining Commissioners serve terms of four years, or until a replacement is appointed. Currently, there is one vacancy.

THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS AND MONEY PLEDGED AND ASSIGNED UNDER THE INDENTURE. NEITHER THE ISSUER, THE CITY OF SAN DIEGO, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS 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 ISSUER HAS NO TAXING POWER.

THE MORTGAGE LOAN, DEPOSITS INTO THE COLLATERAL FUND AND DISBURSEMENT OF BOND PROCEEDS

Contemporaneously with the issuance of the Bonds, the Borrower will obtain a mortgage loan (the “Mortgage Loan”) from the Mortgage Lender. Over time, Eligible Funds, including proceeds of the Mortgage Loan, are expected to be delivered to the Trustee for deposit into the Collateral Fund established by the Trustee under the Indenture. Upon the deposit of Eligible Funds into the Collateral Fund, and subject to the other applicable provisions set forth in the Indenture and the Loan Agreement, the Trustee shall disburse a like amount of Bond proceeds from the Project Fund to or at the direction of the Mortgage Lender for purposes of paying costs of the Project, all in accordance with the Loan Agreement and the Indenture. The maximum aggregate amount of funds representing proceeds of the Mortgage Loan to be delivered to the Trustee for deposit into the Collateral Fund will be \$42,476,000*.

Bond Service Charges shall be payable as they become due, (i) in the first instance from money on deposit in the Bond Fund (excluding the Negative Arbitrage Account therein), (ii) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (iv) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund. The Indenture provides that the amount of funds disbursed from the Project Fund on any given date for payment of Qualified Project Costs shall at all times equal the amount of Eligible Funds deposited into the Collateral Fund in connection with such disbursement. Accordingly, the aggregate amount in the Collateral Fund and the Project Fund shall at all times equal 100% of the principal amount of the Bonds outstanding.

Notwithstanding any provision of the Loan Agreement or the Indenture to the contrary, the Trustee will not act upon the delivery of a certified copy of the request for disbursement of funds from the Project Fund, unless and until (i) an amount equal to or greater than the requested disbursement amount has been deposited into the Collateral Fund in accordance with the provisions of the Indenture and (ii) the Trustee has verified that the sum of the amount then held in the Collateral Fund and the amount then on deposit in the Project Fund, less the anticipated amount of the disbursement from the Project Fund, is at least equal to the then-outstanding principal amount of the Bonds. The Mortgage Lender will not deliver Eligible Funds to the Trustee for deposit into the Collateral Fund until the Trustee has first confirmed this calculation to the Mortgage Lender. Upon receipt of Eligible Funds, the Trustee shall be unconditionally and irrevocably obligated to disburse Bond proceeds in the amount of such installment of Eligible Funds to pay for Costs of the Project as set forth in the Indenture.

Amounts on deposit in the Project Fund, the Bond Fund and the Collateral Fund will be invested on the Closing Date in Eligible Investments. See “SECURITY FOR THE BONDS — Investment of Bond Fund, Project Fund and Collateral Fund; Eligible Investments” herein.

THE BONDS

Terms of Bonds Generally

The Bonds shall be issued in Authorized Denominations and shall mature on _____* (the “Maturity Date”). The Bonds are dated as of the Closing Date and shall bear interest at the Initial Interest Rate from the Closing Date, to but not including the Initial Mandatory Tender Date, payable on each Interest Payment Date, commencing _____* and on each Mandatory Tender Date.

Interest on the Bonds shall be computed on the basis of a 360-day year of 12 months of 30 days each.

The principal of and interest on any of the Bonds shall be payable in lawful money of the United States of America. Except as described below under the subcaption “Book-Entry-Only System,” (a) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the Designated Office of the Trustee or at the office, designated by the Trustee, of any Paying Agent and (b) interest on any Bond shall be paid on

* Preliminary; subject to change.

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each Interest Payment Date by check or draft which the Trustee shall cause to be mailed on that date to the Person in whose name the Bond (or one or more Predecessor Bonds) is registered at the close of business of the Regular Record Date applicable to that Interest Payment Date on the Register at the address appearing therein.

Mandatory Tender

All Outstanding Bonds shall be subject to mandatory tender by the Holders for purchase in whole and not in part on each Mandatory Tender Date. The purchase price for each such Bond shall be payable in lawful money of the United States of America by check or draft, shall equal 100% of the principal amount to be purchased and accrued interest, if any, to the Mandatory Tender Date and shall be paid in full on the applicable Mandatory Tender Date.

The Mandatory Tender Dates shall consist of (i) the earlier of (A) the Initial Mandatory Tender Date or (B) the Conversion Date, and (ii) any subsequent dates for mandatory tender of the Bonds established by the Borrower, with the consent of the Investor Limited Partner, and with the consent of the Remarketing Agent in connection with a remarketing of the Bonds pursuant to the Indenture.

While tendered Bonds are in the custody of the Trustee pending purchase pursuant to the Indenture, the tendering Holders thereof shall be deemed the owners thereof for all purposes, and interest accruing on tendered Bonds through the day preceding the applicable Mandatory Tender Date is to be paid to such tendering Holders as if such Bonds had not been tendered for purchase.

Notwithstanding anything in the Indenture to the contrary, any Bond tendered under this heading will not be purchased if such Bond matures or is redeemed on or prior to the applicable Mandatory Tender Date.

The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Local Time on the Mandatory Tender Date in the following priority: (i) amounts representing proceeds of remarketed Bonds deposited into the Remarketing Proceeds Account, to pay the principal amount, plus accrued interest, of Bonds tendered for purchase; (ii) amounts on deposit in the Collateral Fund [(and/or other Eligible Funds under the Indenture)], to pay the principal amount of Bonds tendered for purchase; (iii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund to pay the accrued interest, if any, on Bonds tendered for purchase; (iv) available interest earnings on amounts on deposit in the Project Fund to pay the accrued interest, if any, on the Bonds tendered for purchase and (v) any other Eligible Funds available or made available for such purpose at the direction of the Borrower, with the consent of the Issuer.

Bonds shall be deemed to have been tendered for purposes of this heading whether or not the Holders shall have delivered such Undelivered Bonds to the Trustee and, subject to the right of the Holders of such Undelivered Bonds to receive the purchase price of such Bonds and interest accrued thereon to the Mandatory Tender Date, such Undelivered Bonds shall be null and void. If such Undelivered Bonds are to be remarketed, the Trustee shall authenticate and deliver new Bonds in replacement thereof pursuant to the remarketing of such Undelivered Bonds.

Mandatory Tender Notice

Notice to Holders. Not less than thirty (30) days preceding a Mandatory Tender Date, the Trustee shall give written notice of mandatory tender to the Holders of the Bonds then Outstanding (with a copy to the Borrower, the Investor Limited Partner and the Remarketing Agent) by first class mail, postage prepaid, at their respective addresses appearing on the Register stating:

(i) the Mandatory Tender Date and that (a) all Outstanding Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date, (b) all Outstanding Bonds must be tendered for purchase no later than 12:00 noon Local Time on the Mandatory Tender Date and (c) Holders will not have the right to elect to retain their Bonds;

(ii) the address of the Designated Office of the Trustee at which Holders should deliver their Bonds for purchase and the date of the required delivery;

(iii) that all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date; and

(iv) any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date.

Second Notice. In the event that any Bond required to be delivered to the Trustee for payment of the purchase price of such Bond shall not have been delivered to the Trustee on or before the twentieth (20th) day following a Mandatory Tender Date, the Trustee shall mail a second notice to the Holder of the Bond at its address as shown on the Register setting forth the requirements set forth in the Indenture for delivery of the Bond to the Trustee and stating that delivery of the Bond to the Trustee (or compliance with the provisions of the Indenture concerning payment of lost, stolen or destroyed Bonds) must be accomplished as a condition to payment of the purchase price applicable to the Bond.

Neither failure to give or receive any notice described in this heading, nor the lack of timeliness of such notice or any defect in any notice (or in its content) shall affect the validity or sufficiency of any action required or provided for in this heading.

Notice delivered as required under the Indenture with respect to a mandatory tender in connection with Conversion may be rescinded and annulled on or before the tender date set forth in such notice if Conversion does not occur by the Conversion Date.

Mandatory Redemption

The Bonds are subject to mandatory redemption, in whole, on any Mandatory Tender Date other than the Conversion Date, upon the occurrence of any of the following events: (i) the Borrower has not previously elected pursuant to the Indenture and the Loan Agreement to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in the Indenture have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Local Time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. The Bonds shall be redeemed at a redemption price equal to 100% of the principal amount of such Bonds plus accrued interest to the applicable Redemption Date from funds on deposit in, or transferred from, the Bond Fund, the Collateral Fund, and the Project Fund.

Optional Redemption

The Bonds are subject to optional redemption prior to their maturity, at direction of the Borrower, either in whole or in part on any date on or after the later to occur of (i) the date that the Project is placed in service, as certified in writing by the Borrower to the Trustee, and (ii) the Initial Mandatory Tender Date, at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the Redemption Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Bond Fund, other than funds in the Negative Arbitrage Account therein, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

Book-Entry Only System

The following information on the Book-Entry System applicable to all Bonds has been supplied by DTC and none of the Issuer, the Borrower or the Underwriter make any representation, warranties or guarantees with respect to its accuracy or completeness.

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully

registered Bond certificate will be issued for each issue of the Bonds, each in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s

consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner shall give notice to elect to have its Bonds purchased or tendered, through its Participant, to the Trustee, and shall effect delivery of such Bonds by causing the Direct Participant to transfer the Participant's interest in the Bonds, on DTC's records, to the Trustee. The requirement for physical delivery of Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Bonds are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Bonds to the Trustee's DTC account.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

SECURITY AND SOURCES OF PAYMENT FOR THE BONDS

General

The Bonds will be secured by all right, title and interest of the Issuer in the Trust Estate, including, but not limited to (i) all right, title and interest of the Issuer in and to all Revenues, derived or to be derived by the Issuer or the Trustee for the account of the Issuer under the terms of the Indenture and the Loan Agreement (other than the Reserved Rights of the Issuer), together with all other Revenues received by the Trustee for the account of the Issuer arising out of or on account of the Trust Estate, (ii) all right, title and interest of the Issuer in and to the Note (other than the Reserved Rights of the Issuer) including all payments and proceeds with respect thereto or replacement thereof, (iii) all moneys (including Eligible Funds) which are at any time or from time to time on deposit in any fund or account created under the Indenture (excluding funds in the Costs of Issuance Fund (but only to the extent such moneys are not proceeds of the Bonds), the Expense Fund, the Mortgage Loan Prepayment Fund and the Rebate Fund), (iv) all right, title and interest of the Issuer in and to, and remedies under, the Loan Agreement; and (v) all funds, moneys 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 under the Indenture for the Bonds by the Issuer or by anyone on its behalf or with its written consent to the Trustee, which is authorized by the Indenture to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture (the foregoing collectively referred to as the "Trust Estate").

THE BONDS AND THE INTEREST THEREON ARE A LIMITED OBLIGATION OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE. NONE OF THE ISSUER, THE CITY OF SAN DIEGO, THE

STATE OF CALIFORNIA, NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE AND IN THE BONDS, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS 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 ISSUER HAS NO TAXING POWER.

NO MEMBER, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER OR THE CITY OF SAN DIEGO, INCLUDING ANY PERSON EXECUTING THE INDENTURE, THE LOAN AGREEMENT OR THE BONDS, SHALL BE LIABLE PERSONALLY ON THE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, OR FOR ANY CLAIM BASED ON THE BONDS, OR OTHERWISE IN RESPECT OF THE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE, AGAINST ANY MEMBER, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE BONDS AND AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE BONDS, EXPRESSLY WAIVED AND RELEASED.

Repayment of Loan

The Loan Agreement and the Note obligate the Borrower to cause to be paid to the Trustee amounts which shall be sufficient to pay Bond Service Charges coming due on each Interest Payment Date. At all times the Eligible Funds required to be deposited into the Collateral Fund and amounts on deposit in the Bond Fund and the Project Fund, if any, along with interest earnings thereon (without the need for reinvestment), will be sufficient to pay such Bond Service Charges and such amounts will be a credit against the Borrower's payment obligations under the Loan Agreement and the Note.

Investment of Bond Fund, Project Fund and Collateral Fund; Eligible Investments

On the Closing Date, all amounts on deposit in the Bond Fund and Collateral Fund will be invested in Eligible Investments. It is anticipated that all of the Bond proceeds in the Project Fund will be disbursed to pay Project Costs on and after the Closing Date and that Bond Service Charges will be paid from amounts on deposit in the Bond Fund and Collateral Fund and any investment earnings thereon.

Additional Bonds

No additional Bonds on parity with the Bonds may be issued pursuant to the Indenture.

PRIVATE PARTICIPANTS

The following information concerning the private participants has been provided by representatives of the private participants and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.

The Borrower

The Borrower is Bernardo Family Housing, L.P., a California limited partnership (the "Borrower"), a single-asset entity formed for the specific purpose of developing and owning the Project. AHG Rancho Bernardo, LLC, a California limited liability company (the "Administrative General Partner"), will own 0.99% interest. CFAH Housing

LLC, a California limited liability company (the “Managing General Partner,” and together with the Administrative General Partner, the “General Partner”), will own 0.01% interest in the Borrower. Bank of America, N.A., a national banking association, as Investor Limited Partner (the “Investor Limited Partner”), will own a 99.99% interest in the Borrower. Banc of America CDC Special Holding Company, Inc., a North Carolina corporation, as Special Limited Partner (the “Special Limited Partner”), will own 0.00% interest in the Borrower.

The Investor Limited Partner

Prior to the issuance of the Bonds, the Borrower will sell to the Investor Limited Partner a 99.99% ownership interest in the Borrower. In connection with such sale, the Investor Limited Partner is expected to fund approximately \$55,445,030* of tax credit equity to the Project, to be paid in stages during and after construction of the Project. These funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the estimates set forth herein and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

The Developer

The Developer is Affirmed Housing Group, Inc., a California corporation (the “Developer”), located in San Diego. The Developer was started in 1992 and has 31 years of experience in affordable housing, public housing and multifamily development. The Developer has developed 5,800 units in California.

Limited Assets and Obligation of Borrower, General Partner and Investor Limited Partner

The Borrower and the Administrative General Partner have no substantial assets other than the Project and do not intend to acquire any other substantial assets or to engage in any substantial business activities other than those related to the ownership of the Project.

The obligations and liabilities of the Borrower under the Loan Agreement and the Note are of a non-recourse nature and are limited to the Project and moneys derived from the operation of the Project. Neither the Borrower nor its partners have any personal liability for payments on the Note to be applied to pay the principal of and interest on the Bonds. Furthermore, no representation is made that the Borrower has substantial funds available for the Project. Accordingly, neither the Borrower’s financial statements nor those of its partners are included in this Official Statement.

The Property Manager

The Borrower has entered into a management agreement with ConAm Management (the “Property Manager”) to engage the Property Manager to manage the day-to-day operations of the Project. The Property Manager has been involved in the management of apartment complexes since 1975. The Property Manager currently manages 53,000 apartment units in 11 states.

The General Contractor

The general contractor for the Project will be HA Builder Group, LLC (the “General Contractor”). The General Contractor and its affiliated construction companies have been constructing and rehabilitating multifamily rental housing developments since 2013 and have constructed _____ projects, totaling _____ units.

The Architect

The architect for the Project is Architects Orange, LLP dba AO (the “Architect”). The Architect has been a licensed architect for 49 years and has been the principal architect for more than 250 multifamily developments with a total of more than 70,000 units.

* Preliminary; subject to change.

THE PROJECT

The following information concerning the Project has been provided by representatives of the Borrower and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.

The Project, known as Rancho Bernado Transit, consists of 100 residential apartment units in one building located at 11673-11675 George Cooke Express Drive, San Diego, CA 92127. Common amenities include: _ shaded outdoor gathering areas with built-in seating and planters, play area for children ages 2-12 and 13-17, and a community barbecue station. A detached 1,000-square-foot community room has been integrated into the design for residents to use on a third-floor deck. Additionally, indoor amenities, such as a leasing center, learning center, computer room, and two laundry rooms are conveniently located for residents to use. There are 76 parking spaces for tenant use. Unit amenities include: _living area, kitchen and bathroom and will feature energy-efficient ranges, refrigerators, dishwashers, and HVAC.

It is anticipated that construction will commence immediately upon the issuance of the Bonds and funding of the tax credit equity and will be completed in approximately 36 months. The unit type, the unit mix and approximate square footage for the units of the Project will be as follows:

Unit Type	Average Square Feet	Number of Units
1 Bedroom	557	49
2 Bedroom	827	25
3 Bedroom	1,113	25
3 Bedroom (manager unit)	1,115	<u>1</u>
TOTAL		100

Plan of Financing

The estimated sources and uses of funds for the Project are projected to be approximately as follows:

Sources of Funds:*

Bond Proceeds ¹	\$42,476,000
Federal and State Tax Credit Equity ^[2]	55,445,030
Subordinate City Loan	2,000,000
Subordinate County Loan	2,000,000
Subordinate HCD Loan	4,469,800
Deferred Developer Fee	3,880,000
Total Sources	<u>\$110,270,830</u>

Uses of Funds:*

Land/Acquisition Costs	\$131,001
Construction Costs	57,268,585
Construction Contingency	4,008,800
Soft Costs	22,025,788
Soft Cost Contingency	1,128,948
Developer Fee	6,380,000
Repayment of Bond Principal [NOTE – 50% TEST AMOUNT ONLY]	_____
Total Uses	=====

¹ Subject to the satisfaction of certain conditions, the Bonds may be subject to mandatory tender prior to the Initial Mandatory Tender Date in connection with the Conversion of the Project from the Construction Phase to the Permanent Phase. On such tender date, Bonds so tendered may be redeemed in part in an amount sufficient to reduce the outstanding principal balance thereof to \$_____ * and shall be delivered in the form of a note (the “Governmental Lender Note”) to Citibank, N.A., a national banking association.

² A portion of the tax credit equity is expected to be funded using a permanent loan from Compass for Affordable Housing, a non-profit public benefit corporation, in the approximate amount of \$15,408,048*, which loan is funded through certificated state tax credits.

All costs of issuing the Bonds, including the Underwriter’s fee, will be paid by the Borrower.

The Mortgage Loan. The Project will utilize a construction loan in the principal amount of up to \$53,987,608* (the “Mortgage Loan”). The Mortgage Loan will be secured by a senior mortgage on the Project and the obligation to repay the Mortgage Loan will be evidenced by a promissory note (the “Mortgage Note”) from the Borrower to Bank of America, N.A. (the “Mortgage Lender”). The Mortgage Note will have a term of 36 months, with the right to one six-month extension, and will bear interest at 7.66%* per annum, with no payments of principal during the term, and with all unpaid principal and interest due at maturity. The Mortgage Loan proceeds will be disbursed from time to time by the Mortgage Lender to the Trustee for deposit into the Collateral Fund to allow for a corresponding amount of Bond proceeds to be disbursed to the Project.

The Low Income Housing Tax Credit Proceeds. Prior to the issuance of the Bonds, the Borrower sold to the Investor Limited Partner a 99.99% ownership interest in the Borrower. Pursuant to the sale, the funding of the Federal and State Low Income Housing Tax Credit equity will total approximately \$55,445,030*, with approximately \$5,544,503* expected to be funded in connection with the issuance of the Bonds. The funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or

* Preliminary; subject to change.

the timing or even occurrence of the funding varying significantly from the projections set forth above and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

The Subordinate City Loan. The Project will also utilize a subordinate loan in the principal amount of \$2,000,000* (the “Subordinate City Loan”). The obligation to repay the Subordinate City Loan will be set forth in a promissory note (the “Subordinate City Loan Note”) from the Borrower to the City of San Diego and will be repayable on the terms and conditions set forth therein. The Subordinate City Loan Note will be secured by a subordinate mortgage against the Project subordinate to the Mortgage Loan. The Subordinate City Loan Note will have a term of 55 years and will bear interest at a rate of 3% per annum plus residual receipts, with annual principal and interest not otherwise paid, due at maturity.

The Subordinate County Loan. The Project will also utilize a subordinate loan in the principal amount of \$2,000,000* (the “Subordinate County Loan”). The obligation to repay the Subordinate County Loan will be set forth in a promissory note (the “Subordinate County Loan Note”) from the Borrower to the County of San Diego and will be repayable on the terms and conditions set forth therein. The Subordinate County Loan Note will be secured by a subordinate mortgage against the Project subordinate to the Mortgage Loan. The Subordinate City Loan Note will have a term of 55 years and will bear interest at a rate of 3% per annum plus residual receipts, with annual principal and interest not otherwise paid, due at maturity.

The Subordinate HCD Loan. The Project will also utilize a subordinate loan in the principal amount of \$4,469,800* (the “Subordinate HCD Loan”). The obligation to repay the Subordinate HCD Loan will be set forth in a promissory note (the “Subordinate HCD Loan Note”) from the Borrower to the Department of Community Development of the State of California and will be repayable on the terms and conditions set forth therein. The Subordinate HCD Loan Note will be secured by a subordinate mortgage against the Project [subordinate to the Mortgage Loan]. The Subordinate HCD Loan Note will have a term of ____ years and will bear interest at a rate of ____% per annum, with annual principal and interest not otherwise paid, due at maturity.

Deferred Developer Fee. The Project will utilize deferred developer fee in the anticipated amount of \$3,880,000* as a source of funding. The deferred developer fee will be repaid through surplus cash flow received from the operation of the Project.

The sources and uses of funds to be applied under the Indenture are projected to be approximately as follows:

Sources of Funds:*

Bond Proceeds	\$42,476,000
Eligible Funds	
Total	

Uses of Funds:*

Project Fund	\$42,476,000
Negative Arbitrage	
Total	

The HAP Contract

The Project will enter into an Agreement to Enter into a Housing Assistance Payments Contract (AHAP) at or before construction loan closing, and prior to occupancy will enter into a Housing Assistance Payment Contract (the “HAP Contract”) covering 30 of the 100 units at the Project. As of the conversion Date, the HAP Contract will be assigned to the Borrower.

Funding under the HAP Contract is subject to annual Congressional appropriations, as more particularly described below. The Section 8 project-based housing assistance payment program (the “Section 8 Program”) is authorized by Section 8 of the United States Housing Act of 1937, as amended, and in the case of Section 8 contracts

* Preliminary; subject to change.

is administered by local public housing authorities. Renewals of Section 8 HAP contracts are governed by the Multifamily Housing Mortgage and Assistance Restructuring Act, as amended (“MAHRA”). The Section 8 Program authorizes housing assistance payments to owners of qualified housing for the benefit of low-income families (defined generally as families whose incomes do not exceed 80% of the area median income (“AMI”) for the area as determined by HUD), and very low-income families (defined generally as families whose income do not exceed 50% of the AMI as determined by HUD). Section 8 housing assistance payments generally represent the difference between the “contract rent” for the unit approved by HUD and the eligible tenant’s contribution, which is generally 30% of income, as adjusted for family size and certain expenses, subject to a minimum rent contribution. The rents approved by HUD for the Project, as they may be adjusted from time to time with procedures set forth in MAHRA and the HAP Contract, are the “contract rents” for the Project. The HAP Contract will require the Borrower to maintain the Project in decent, safe and sanitary condition and to comply with other statutory and regulatory requirements governing the operation of the Project, use of project funds, and other matters. If the Borrower fails to comply with the terms of the HAP Contract, HUD or the contract administrator could seek to abate or terminate the payments under the HAP Contract or impose other sanctions. MAHRA requires that upon the request of the Borrower, HUD shall renew the HAP Contract under the Section 8 Program. However, because the HAP Contract is subject to receipt of annual appropriations by Congress, there is no assurance that the HAP Contract will be renewed or replaced upon its expiration. Funding for HAP contracts is appropriated by Congress on an annual basis, and there is no assurance that adequate funding will be appropriated each year during the term of the HAP Contract. Since payments received under the HAP Contract constitute a primary source of revenues for the Project, the expiration of the HAP Contract, or the failure of Congress to appropriate funds sufficient to fund the HAP Contract during each year of its term, would have a material adverse effect on the ability of the Project to generate revenues sufficient to pay the principal of and interest of the Mortgage Loan.

Project Regulation

In order to obtain low-income housing tax credits, the Project will be operated as a qualified residential rental project with 100% of the residential units in the Project occupied by [Qualifying Unit Tenants] (as defined in the Tax Regulatory Agreement) during the Qualified Project Period (as defined in the Tax Regulatory Agreement), in accordance with Section 142(d) of the Code. See “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE TAX REGULATORY AGREEMENT” herein.

In addition to the rental restrictions imposed upon the Project by the Tax Regulatory Agreement, the Project will be further encumbered by a tax credit restrictive covenant, to be executed by the Borrower in connection with the low-income housing tax credits (the “LIHTCs”) anticipated to be granted for the Project and in compliance with the requirements of Section 42 of the Code. Section 42 of the Code will restrict the income levels of 100% of the residential units in the Project (the “Tax Credit Units”). Within the Project, 30 of the Tax Credit Units shall be held available for rental to persons whose adjusted family income is equal to or less than 30% of the AMI adjusted for family size, 39 of the Tax Credit Units shall be held available for rental to persons whose adjusted family income is equal to or less than 50% of the AMI adjusted for family size and 30 of the Tax Credit Units shall be held available for rental to persons whose adjusted family income is equal to or less than 55% of the AMI adjusted for family size.

CERTAIN BONDHOLDERS’ RISKS

The purchase of the Bonds will involve a number of risks. The following is a summary, which does not purport to be comprehensive or definitive, of some of such risk factors.

General

Payment of the Bond Service Charges, and the Borrower’s obligations with respect to the Bond Service Charges, will be secured by and payable from Bond proceeds held in the Project Fund, if any, and moneys deposited into the Collateral Fund and the Bond Fund, including the Negative Arbitrage Account held in the Bond Fund. Although the Borrower will execute the Note to evidence its obligation to repay the Loan, it is not expected that any revenues from the Project or other amounts, except moneys in the Bond Fund, Project Fund, if any, and Collateral Fund, will be available to satisfy that obligation. The Indenture requires the Trustee to verify, before any disbursement of funds from the Project Fund, that the sum of the funds on deposit in the Project Fund and the Collateral Fund is at least equal to the then outstanding principal amount of the Bonds. It is expected that all of the Bond proceeds in the

Project Fund will be disbursed to pay Project Costs on and after the Closing Date. At all times funds on deposit in the Collateral Fund and Negative Arbitrage Account of the Bond Fund, and the interest earnings thereon (without the need for reinvestment), will be sufficient to pay the debt service on the Bonds.

Limited Security for Bonds

The Bonds are not secured by the Mortgage Loan. Investors should look exclusively to amounts on deposit in the Bond Fund, Project Fund, if any, and Collateral Fund under the Indenture and investment earnings on each as the source of payment of debt service on the Bonds.

Future Determination of Taxability of the Bonds

Failure of the Borrower to have complied with and to continue to comply with certain covenants contained in the Loan Agreement and the Tax Regulatory Agreement could result in interest on the Bonds being taxable retroactive to the date of original issuance of the Bonds. The Bonds are not subject to redemption upon a determination of taxability and are not subject to payment of additional interest in such an event, and neither the Issuer nor the Borrower will be liable under the Bonds, the Indenture or the Loan Agreement for any such payment of additional interest on the Bonds.

Issuer Limited Liability

The Bonds will not be insured or guaranteed by any governmental entity or by the Issuer or any member or program participant of the foregoing. The Bondholders will have no recourse to the Issuer in the event of an Event of Default on the Bonds. The Trust Estate for the Bonds will be the only source of payment on the Bonds.

Enforceability of Remedies upon an Event of Default

The remedies available to the Trustee and the owners of the Bonds upon an Event of Default under the Indenture, the Loan Agreement, the Tax Regulatory Agreement or any other document described herein are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under such documents may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified to the extent that the enforceability of certain legal rights related to the Bonds is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

Secondary Markets and Prices

No representation is made concerning the existence of any secondary market for the Bonds. The Remarketing Agent will not be obligated to repurchase any of the Bonds, nor can any assurance be given that any secondary market will develop following the completion of the offering of the Bonds. Further, there can be no assurance that the initial offering prices for the Bonds will continue for any period of time. Furthermore, the Bonds should be purchased for their projected returns only and not for any resale potential, which may or may not exist.

Eligible Investments

Proceeds of the Bonds deposited into the Project Fund and Eligible Funds received by the Trustee for deposit into the Collateral Fund are required to be invested in Eligible Investments. See “APPENDIX A — DEFINITIONS OF CERTAIN TERMS” hereto for the definition of Eligible Investments. There can be no assurance that there will not be a loss resulting from any investment held for the credit of the Project Fund or the Collateral Fund, and any failure to receive a return of the amounts so invested could affect the ability to pay the principal of and interest on the Bonds.

Rating Based on Eligible Investments

The rating on the Bonds is based on the amounts in the Project Fund, Bond Fund and the Collateral Fund being invested in Eligible Investments. If one or more of such investments fail to meet the rating standards for Eligible Investments after their acquisition and prior to maturity, such a change may result in a downgrade or withdrawal of the rating on the Bonds.

Subordination to Mortgage Loan Documents

The Indenture, the Loan Agreement, the Note, and the Tax Regulatory Agreement contain provisions regarding subordination of such documents to the Mortgage Loan Documents. No assurance can be given that such provisions will not impair the excludability of interest on the Bonds from gross income for federal income tax purposes.

Future Legislation; IRS Examination

The Project, its operation and the treatment of interest on the Bonds are subject to various laws, rules and regulations adopted by the local, State and federal governments and their agencies. There can be no assurance that relevant local, State or federal laws, rules and regulations may not be amended or modified or interpreted in the future in a manner that could adversely affect the Bonds, the trust estate created under the Indenture, the Project, or the financial condition of or ability of the Borrower to comply with its obligations under the various transaction documents.

In recent years, the Internal Revenue Service (“IRS”) has increased the frequency and scope of its examination and other enforcement activity regarding tax exempt bonds. Currently, the primary penalty available to the IRS under the Code is a determination that interest on bonds is subject to federal income taxation. Such event could occur for a variety of reasons, including, without limitation, failure to comply with certain requirements imposed by the Code relating to investment restrictions, periodic payments of arbitrage profits to the United States of America, the timely and proper use of Bond proceeds and the facilities financed therewith and certain other matters. See “TAX MATTERS” herein. No assurance can be given that the IRS will not examine the Issuer, the Borrower, the Project or the Bonds. If the Bonds are examined, it may have an adverse impact on their price and marketability.

Potential Impact of Pandemics or Public Health Crises

The spread of the strain of a virus and resulting disease could alter the behavior of businesses and people in a manner that could have negative effects on global, state and local economies. There can be no assurances that the spread of a pandemic would not materially impact both local and national economies and, accordingly, have a materially adverse impact on the Project’s operating and financial viability. The effects of a pandemic could include, among other things, an increase in the time necessary to complete the construction and/or rehabilitation of the Project, suspension or delay of site inspections and other on-site meetings, interruption in the engagement of material participants in the Project, increase in the time necessary to conduct lease-up at the Project, and increased delinquencies and/or vacancies, all of which could impact the Borrower’s ability to make payments on the loans and result in a default and acceleration thereof.

Summary

The foregoing is intended only as a summary of certain risk factors attendant to an investment in the Bonds. In order for potential investors to identify risk factors and make an informed investment decision, potential investors should be thoroughly familiar with this entire Official Statement and the Appendices hereto.

TAX MATTERS

In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Issuer (“Bond Counsel”), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excluded from

gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “Code”), except that no opinion is expressed as to the status of interest on any Bond for any period that such Bond is held by a “substantial user” of the facilities financed or refinanced by the Bonds or by a “related person” within the meaning of Section 147(a) of the Code. Bond Counsel is of the further opinion that interest on the Bonds is not a specific preference item for purposes of the federal individual alternative minimum tax. Bond Counsel observes that, for tax years beginning after December 31, 2022, interest on the Bonds included in adjusted financial statement income of certain corporations is not excluded from the federal corporate alternative minimum tax. Bond Counsel is also of the opinion that interest on the Bonds is exempt from State of California personal income taxes. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the amount, accrual or receipt of interest on, the Bonds. A complete copy of the proposed form of opinion of Bond Counsel is set forth in APPENDIX F hereto.

To the extent the issue price of any maturity of the Bonds is less than the amount to be paid at maturity of such Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Bonds), the difference constitutes “original issue discount,” the accrual of which, to the extent properly allocable to each beneficial owner thereof, is treated as interest on the Bonds which is excluded from gross income for federal income tax purposes and State of California personal income taxes. For this purpose, the issue price of a particular maturity of the Bonds is the first price at which a substantial amount of such maturity of the Bonds is sold to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers). The original issue discount with respect to any maturity of the Bonds accrues daily over the term to maturity of such Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates). The accruing original issue discount is added to the adjusted basis of such Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such Bonds. Beneficial Owners of the Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of Beneficial Owners who do not purchase such Bonds in the original offering to the public at the first price at which a substantial amount of such Bonds is sold to the public.

Bonds purchased, whether at original issuance or otherwise, for an amount higher than their principal amount payable at maturity (or, in some cases, at their earlier call date) (“Premium Bonds”) will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of bonds, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, the amount of tax-exempt interest received, and a beneficial owner’s basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocable to such beneficial owner. Beneficial Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Bonds. The Issuer and the Borrower have made certain representations and covenanted to comply with certain restrictions, conditions and requirements designed to ensure that interest on the Bonds will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Bonds. The opinion of Bond Counsel assumes the accuracy of these representations and compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken), or events occurring (or not occurring), or any other matters coming to Bond Counsel’s attention after the date of issuance of the Bonds may adversely affect the value of, or the tax status of interest on, the Bonds. Accordingly, the opinion of Bond Counsel is not intended to, and may not, be relied upon in connection with any such actions, events or matters.

Although Bond Counsel is of the opinion that interest on the Bonds is excluded from gross income for federal income tax purposes and is exempt from State of California personal income taxes, the ownership or disposition of, or the accrual or receipt of amounts treated as interest on, the Bonds may otherwise affect a beneficial owner’s federal, state or local tax liability. The nature and extent of these other tax consequences depends upon the particular tax status of the beneficial owner or the beneficial owner’s other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

Current and future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the Bonds to be subject, directly or indirectly, in whole or in part, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent Beneficial Owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such legislative proposals or clarification of the Code or court decisions may also affect, perhaps significantly, the market price for, or marketability of, the Bonds. Prospective purchasers of the Bonds should consult their own tax advisors regarding the potential impact of any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authorities, and represents Bond Counsel's judgment as to the proper treatment of the Bonds for federal income tax purposes. It is not binding on the Internal Revenue Service ("IRS") or the courts. Furthermore, Bond Counsel cannot give and has not given any opinion or assurance about the future activities of the Issuer or the Borrower, or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the enforcement thereof by the IRS. The Issuer and the Borrower have covenanted, however, to comply with the requirements of the Code.

Bond Counsel's engagement with respect to the Bonds ends with the issuance of the Bonds, and, unless separately engaged, Bond Counsel is not obligated to defend the Issuer, the Borrower or the Beneficial Owners regarding the tax-exempt status of the Bonds in the event of an audit examination by the IRS. Under current procedures, Beneficial Owners would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which the Issuer or the Borrower legitimately disagrees, may not be practicable. Any action of the IRS, including but not limited to selection of the Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market price for, or the marketability of, the Bonds, and may cause the Issuer, the Borrower or the Beneficial Owners to incur significant expense.

Payments on the Bonds generally will be subject to U.S. information reporting and possibly to "backup withholding." Under Section 3406 of the Code and applicable U.S. Treasury Regulations issued thereunder, a non-corporate beneficial owner of Bonds may be subject to backup withholding with respect to "reportable payments," which include interest paid on the Bonds and the gross proceeds of a sale, exchange, redemption, retirement or other disposition of the Bonds. The payor will be required to deduct and withhold the prescribed amounts if (i) the payee fails to furnish a U.S. taxpayer identification number ("TIN") to the payor in the manner required, (ii) the IRS notifies the payor that the TIN furnished by the payee is incorrect, (iii) there has been a "notified payee underreporting" described in Section 3406(c) of the Code or (iv) the payee fails to certify under penalty of perjury that the payee is not subject to withholding under Section 3406(a)(1)(C) of the Code. Amounts withheld under the backup withholding rules may be refunded or credited against a beneficial owner's federal income tax liability, if any, provided that the required information is timely furnished to the IRS. Certain Beneficial Owners (including among others, corporations and certain tax-exempt organizations) are not subject to backup withholding. The failure to comply with the backup withholding rules may result in the imposition of penalties by the IRS.

UNDERWRITING

Lument Securities, LLC (the "Underwriter"), is offering the Bonds at the price set forth on the cover hereof. The initial offering price may be changed from time to time and concessions from the offering price may be allowed to dealers, banks and others. The Underwriter has agreed to purchase the Bonds at the price set forth on the cover hereof. For its services as such, the Underwriter is to be paid a fee equal to \$_____, plus \$_____ for certain fees and expenses, but not including the fees and expenses of its counsel. From its fees, the Underwriter will pay certain of its expenses relating to the offering.

The Underwriter and its respective affiliates are full-service financial institutions engaged in various activities that may include securities trading, commercial and investment banking, municipal advisory, brokerage, and asset management. In the ordinary course of business, the Underwriter and its respective affiliates may actively trade debt and, if applicable, equity securities (or related derivative securities) and provide financial instruments (which may include bank loans, credit support or interest rate swaps). The Underwriter and its respective affiliates may engage in

transactions for their own accounts involving the securities and instruments made the subject of this securities offering or other offering of the Issuer and/or Borrower. The Underwriter and its respective affiliates may make a market in credit default swaps with respect to municipal securities in the future. The Underwriter and its respective affiliates may also communicate independent investment recommendations, market color or trading ideas and publish independent research views in respect of this securities offering or other offerings of the Issuer and/or Borrower.

The Underwriter does not guarantee a secondary market for the Bonds and is not obligated to make any such market in the Bonds. No assurance can be made that such a market will develop or continue. Consequently, investors may not be able to resell Bonds should they need or wish to do so for emergency or other purposes.

In addition to serving as Underwriter, Lument Securities, LLC has been designated to serve as Remarketing Agent and will receive a fee for its remarketing services in connection with any remarketing of the Bonds on the Initial Mandatory Tender Date.

RATING

Moody's Investors Service, Inc., a Delaware corporation (the "Rating Agency"), has assigned to the Bonds the rating set forth on the cover page hereof. The rating reflects only the view of the Rating Agency at the time the rating was issued and an explanation of the significance of such rating may be obtained from the Rating Agency. The rating is not a recommendation to buy, sell or hold the Bonds. There is no assurance that any such rating will continue for any given period of time or that it will not be revised downward or withdrawn entirely by such rating agency if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal of such rating can be expected to have an adverse effect on the market price of the Bonds.

UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE

Prior to the issuance of the Bonds, the Borrower will execute and deliver a Continuing Disclosure Agreement pursuant to which the Borrower will agree to provide ongoing disclosure pursuant to the requirements of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). Financial statements and other operating data will be provided at least annually to the Municipal Securities Rulemaking Board (the "MSRB") and notices of certain events will be issued pursuant to the Rule. Information will be filed with the MSRB through its Electronic Municipal Market Access ("EMMA") system, unless otherwise directed by the MSRB. A form of the Continuing Disclosure Agreement is attached hereto as APPENDIX E.

A failure by the Borrower to comply with the Continuing Disclosure Agreement will not constitute an Event of Default under the Loan Agreement. Nevertheless, such a failure must be reported in accordance with the Rule and must be considered by a broker or dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds and their market price and the ability of the Issuer to issue and sell bonds in the future.

The Borrower has not previously been subject to the continuing disclosure requirements of the Rule.

CERTAIN LEGAL MATTERS

Certain legal matters relating to the authorization and validity of the Bonds will be subject to an approving opinion of Orrick, Herrington & Sutcliffe LLP, San Francisco, California, Bond Counsel. Certain legal matters will be passed upon for the Borrower by its counsel, Katten Muchin Rosenman LLP, Chicago, Illinois and _____, _____, and for the Underwriter by its counsel, Tiber Hudson LLC, Washington, D.C. Payment of the fees of certain counsel to the transaction is contingent upon the issuance and delivery of the Bonds as described herein.

FINANCIAL ADVISOR

PFM Financial Advisors LLC (the "Financial Advisor") is employed by the Issuer as an independent financial advisor in connection with the issuance of the Bonds. The Financial Advisor's fee for services rendered with respect to the sale of the Bonds is contingent upon the issuance and delivery of the Bonds. The Financial Advisor has not

been engaged by the Issuer to compile, create or interpret any information in this Official Statement relating to the Issuer, including (without limitation) any of the Issuer's financial and operating data, whether historical or projected. Any information contained in this Official Statement concerning the Issuer, any of its affiliates or contractors and any outside parties has not been independently verified by the Financial Advisor, and inclusion of such information is not and should not be construed as a representation by the Financial Advisor as to its accuracy or completeness or otherwise. The Financial Advisor is not a public accounting firm and has not been engaged by the Issuer to review or audit any information in this Official Statement in accordance with accounting standards.

The Financial Advisor does not assume any responsibility for the covenants and representations contained in any of the legal documents with respect to the federal income tax status of the Bonds, or the possible impact of any present, pending or future actions taken by any legislative or judicial bodies.

ABSENCE OF LITIGATION

The Issuer

There is no proceeding or litigation of any nature now pending or threatened against the Issuer restraining or enjoining the issuance, sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds, any proceedings of the Issuer taken with respect to the issuance or sale thereof, the Issuer Documents, the pledge or application of any money or security provided for the payment of the Bonds, the existence or powers of the Issuer relating to the Bonds or the title of any officers of the Issuer to their respective positions.

The Borrower

There is no legal action, suit, proceeding, investigation or inquiry at law or in equity, before or by any court, agency, arbitrator, public board or body or other entity or person, pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any member of the Borrower, in their respective capacities as such, nor, to the knowledge of the Borrower, any basis therefor, (i) which would restrain or enjoin the issuance or delivery of the Bonds, the use of this Official Statement in the marketing of the Bonds or the collection of revenues pledged under or pursuant to the Indenture or (ii) which would in any way contest or affect the organization or existence of the Borrower or the entitlement of any officer of the Borrower to its position or (iii) which would contest or have a material and adverse effect upon (A) the due performance by the Borrower of the transactions contemplated by this Official Statement, (B) the validity or enforceability of the Bonds or any other agreement or instrument to which the Borrower is a party and that is used or contemplated for use in the consummation of the transactions contemplated hereby and thereby, (C) the exclusion from gross income for federal income tax purposes of the interest on the Bonds or (D) the financial condition or operations of the Borrower, (iv) which contests in any way the completeness or accuracy of this Official Statement or (v) which questions the power or authority of the Borrower to carry out the transactions on its part contemplated by this Official Statement, or the power of the Borrower to own or operate the Project. The Borrower is not subject to any judgment, decree or order entered in any lawsuit or proceeding brought against it that would have such an effect.

ADDITIONAL INFORMATION

The summaries and explanation of, or references to, the Act, the Indenture and the Bonds included in this Official Statement do not purport to be comprehensive or definitive. Such summaries, references and descriptions are qualified in their entirety by reference to each such document, copies of which are on file with the Trustee.

The information contained in this Official Statement is subject to change without notice and no implication shall be derived therefrom or from the sale of the Bonds that there has been no change in the affairs of the Issuer from the date hereof.

This Official Statement is submitted in connection with the offering of the Bonds and may not be reproduced or used, as a whole or in part, for any other purpose. Any statements in this Official Statement involving matters of opinion or estimate, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the Issuer and the owners of any of the Bonds.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the foregoing Official Statement has been executed by the undersigned as of the date first written above.

BERNARDO FAMILY HOUSING, L.P.,

a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood
President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation,
its Manager

By: _____
Katelyn Silverwood
Executive Director

[Issuer Signature Page to Official Statement]

**HOUSING AUTHORITY OF THE CITY OF SAN
DIEGO**

By: _____
Name:
Title:

APPENDIX A

DEFINITIONS OF CERTAIN TERMS

Certain capitalized terms used in this Official Statement are defined below. The following is subject to all the terms and provisions of the Indenture, to which reference is hereby made and copies of which are available from the Issuer or the Trustee.

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

“Administrative General Partner” means AHG Rancho Bernardo, LLC, a California limited liability company.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Authorized Denomination” means a minimum of \$5,000, [or any integral multiple of \$1,000 in excess thereof].

“Authorized Issuer Representative” means the Chairman of the Issuer, the Vice Chairman of the Issuer, the Executive Director of the Issuer, the Senior Vice President of Real Estate of the San Diego Housing Commission, the Vice President of Real Estate Finance and Program Development of the San Diego Housing Commission, or the Chief Operating Officer of the San Diego Housing Commission, and such additional Person or Persons, if any, duly designated by the Issuer in writing to act on its behalf and such additional Person or Persons, if any, duly designated by the Issuer in writing to act on its behalf.

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

“Bond Counsel” means Orrick, Herrington & Sutcliffe LLP or other counsel selected by the Issuer and nationally recognized as having an expertise in connection with the exclusion of interest on obligations of states and local governmental units from the gross income of holders thereof for federal income tax purposes..

“Bond Fund” means the Bond Fund established pursuant to the Indenture.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated October ___, 2023, among the Issuer, the Borrower and Underwriter.

“Bond Service Charges” means, pursuant to the Loan Agreement, payments made by the Borrower to the Issuer in amount sufficient to pay the principal of and interest on the Bonds when due to the extent that amounts otherwise available for such payment are insufficient therefor.

“Bondholder” or “Holder of the Bonds” or “Holder” or “Owner of the Bonds” or “Owner” when used with respect to any Bond, means the person or persons in whose name such Bond is registered as the owner thereof on the books of the Issuer maintained at the Trust Office for that purpose.

“Bonds” means the Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B authorized to be issued under and in accordance with the Indenture.

“Book-Entry Form” or “Book-Entry System” means a form or system, as applicable, under which (i) the ownership of beneficial interests in the Bonds may be transferred only through a book entry and (ii) physical bond

certificates in fully registered form are registered only in the name of a Securities Depository or its nominee as holder, with the physical bond certificates “immobilized” in the custody of the Securities Depository.

“Borrower” means Bernardo Family Housing, L.P., a California limited partnership, organized and existing under the laws of the State of California, and its permitted successors and assigns.

“Borrower Documents” means the Loan Agreement, the Note, the Tax Certificate, the Tax Regulatory Agreement, the Bond Purchase Agreement, the Partnership Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement, the Guarantor Documents and any and all documents, agreements or instruments executed by the Borrower in connection with the Loan evidenced by the Loan Agreement, but excluding the Mortgage Loan Documents.

“Borrower Loan Agreement” means the Borrower Loan Agreement, the form of which is attached to the Indenture as an appendix, which Borrower Loan Agreement shall be completed, executed, and delivered and become effective on the Conversion Date.

“Borrower Representative” means a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by one of its officers, which certificate may designate an alternate or alternates.

“Borrower’s Obligations” means the obligations of the Borrower under the Loan Agreement, the Note, and the other Borrower Documents to (a) pay the principal of, and interest on the Note, when and as the same shall become due and payable (whether at the stated maturity thereof, on any payment date or by acceleration of maturity or otherwise), (b) pay all other amounts required by the Loan Agreement, the Note, and the other Borrower Documents to be paid by the Borrower to the Issuer, as and when the same shall become due and payable, and (c) timely perform, observe and comply with all of the terms, covenants, conditions, stipulations, and agreements, express or implied, which the Borrower is required by the Loan Agreement, the Note, the Tax Regulatory Agreement, and any of the other Borrower Documents, to perform or observe.

“Business Day” or “business day” means (a) a day, other than a Saturday or Sunday, on which (i) banks located in New York, New York, or in the city in which the Designated Office of the Trustee or the Underwriter is located, are not required or authorized by law or executive order to close for business, or (ii) the New York Stock Exchange is not closed, and (b) in respect of any action to be taken by the Issuer, a day described in (a) other than a California state holiday when the Issuer is authorized or required to be closed.

“Cash Flow Projection” means a cash flow projection prepared by an independent firm of certified public accountants, a financial advisory firm, a law firm or other independent third party qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds, designated by , and provided by or on behalf of, the Borrower and acceptable to the Underwriter and the Rating Agency, establishing the sufficiency of (a) the amount on deposit in the Special Funds, (b) projected investment income to accrue on amounts on deposit in the Special Funds during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower to pay Bond Service Charges due on the Bonds, the Issuer Fee, and Trustee fees and expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in the Indenture, (iii) the release of Eligible Funds from the Negative Arbitrage Account of the Bond Fund, as provided in the Indenture, (iv) the purchase, sale or exchange of Eligible Investments as provided in the Indenture (v) the optional redemption of the Bonds as provided in the Indenture and (vi) the sale or other disposition by the Trustee of Eligible Investments prior to maturity at a price below par as permitted under the Indenture; [or (v) the optional redemption of the Bonds as provided in the Indenture].

“Certificate of Occupancy” means the temporary or final certificate of occupancy, as the case may be, issued by the City of San Diego for the multifamily units in the Project, or if certificates of occupancy are not required or provided for multifamily units, then evidence of all final inspection approvals needed to occupy the multifamily units.

“Citi” means Citibank, N.A., a national banking association, and its successors and assigns.

“Citi Forward Commitment” means the Forward Commitment Agreement among the Borrower, the Mortgage Lender and Citi, pursuant to which Citi has agreed to purchase the Governmental Lender Note on the Conversion Date, subject to the terms and conditions set forth therein, as such commitment may be amended, modified or supplemented from time to time.

“Citi Purchase Price” means an amount equal to the Permanent Loan Amount to be funded by Citi on the Conversion Date.

“Closing Date” means October __, 2023, the date of delivery of the Bonds in exchange for the purchase price therefor.

“Closing Memorandum” means the closing memorandum attached to the initial Requisition delivered on the Closing Date.

“Code” means the Internal Revenue Code of 1986, including applicable final, temporary and proposed regulations and revenue rulings applicable to the Bonds.

“Collateral Fund” means the Collateral Fund established pursuant to the Indenture.

“Completion Certificate” means a certificate submitted by the Borrower Representative to the Issuer and the Trustee as provided in the Loan Agreement, a form of which is attached to the Loan Agreement as an exhibit.

“Completion Date” means the date upon which the Completion Certificate and the Certificate of Occupancy are delivered by the Borrower to [the Issuer and] the Trustee.

“Conditions to Conversion” shall have the meaning given to such term in the Citi Forward Commitment.

“Construction Draw Schedule” means the schedule of the disbursement of the proceeds of the Bonds as provided in an exhibit attached to the Loan Agreement, as the same may be amended from time to time [with the consent of the Issuer].

“Construction Phase” means the construction phase of the Loan, which time period shall commence on the Closing Date and remain in effect to, but not including, the Conversion Date.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of October 1, 2023, between the Borrower and the Dissemination Agent, as the same may be amended, restated, supplemented or modified from time to time.

“Conversion” means the conversion of the Loan from the Construction Phase to the Permanent Phase on the Conversion Date pursuant to the provisions of the Citi Forward Commitment.

“Conversion Date” means the date Citi purchases the Governmental Lender Note upon the satisfaction of the Conditions to Conversion, as such Conversion Date is specified by Citi in the Notice of Conversion; provided, however, the Conversion Date shall occur under the Indenture no earlier than _____ 1, 20__*.

“Costs” with respect to the Project shall be deemed to include all items permitted to be financed under the applicable provisions of the Code and the Act, subject to the provisions of the Indenture and of the Borrower Documents.

* Preliminary; subject to change.

“Costs of Issuance” means all fees, costs and expenses payable or reimbursable directly or indirectly by the Issuer or the Borrower and related to the authorization, issuance and sale of the Bonds.

“Costs of Issuance Fund” means the Costs of Issuance Fund established pursuant to the Indenture.

“Default” means any Default under the Loan Agreement as specified in and defined by the Indenture.

“Designated Office” of the Trustee or the Underwriter means, respectively, the office of the Trustee or the Underwriter at the respective Notice Address, or at such other address as may be specified in writing by the Trustee or the Underwriter, as applicable, in accordance with the Indenture.

“Dissemination Agent” means initially U.S. Bank Trust Company, National Association, or any dissemination agent subsequently appointed in accordance with the Continuing Disclosure Agreement.

“Documents” means and shall include (without limitation), with respect to the Bonds, the Indenture, the Loan Agreement, the Note, the Tax Regulatory Agreement, the Tax Certificate, the Guarantor Documents and any and all other documents which the Issuer, the Borrower or any other party or parties or their representatives, have executed and delivered, or may hereafter execute and deliver, to evidence or secure the Issuer’s Obligations or the Borrower’s Obligations, or any part thereof, or in connection therewith, and any and all Supplements thereto, but excluding the Mortgage Loan Documents and the Subordinate Loan Documents.

“Eligible Funds” means, as of any date of determination, any of:

(a) the proceeds of the Bonds (including any additional amount paid to the Trustee as the purchase price thereof by the Underwriter);

(b) moneys drawn on a letter of credit;

(c) moneys received by the Trustee representing advances to the Borrower of proceeds of the Mortgage Loan;

(d) remarketing proceeds of the Bonds (including any additional amount paid to the Trustee as the purchase and or remarketing price thereof by the Remarketing Agent) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer, any Affiliate of either the Borrower or the Issuer);

(e) any other amounts, including the proceeds of any refunding bonds, for which the Trustee has received an Opinion of Counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an “insider” within the meaning of the Bankruptcy Code) to the effect that (A) the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court and (B) payments of such amounts to Holders would not be avoidable as preferential payments under Section 547 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;

(f) any payments made by the Borrower and held by the Trustee for a continuous period of 123 days, provided that no Act of Bankruptcy has occurred during such period;

(g) proceeds of the Citi Purchase Price received from Citi in connection with Citi’s purchase of the Governmental Lender Note on the Conversion Date; and

(h) investment income derived from the investment of the money described in (a) through (g) above.

“Eligible Investments” means, subject to the provisions of the Indenture, any of the following investments that mature (or are redeemable at the option of the Trustee without penalty) at such time or times as to enable timely disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of the Indenture, to the extent the same are at the time legal for investment of the Issuer’s funds (written direction of the Issuer or the Borrower to invest funds shall be conclusive evidence that the directed investment is at the time a legal investment of the Issuer’s funds):

(a) Governmental Obligations; and

(b) To the extent permitted in the Indenture, shares or units in any money market mutual fund (i) which is then rated “Aaa-mf” by Moody’s (or if no fund is available at that rating category, the Highest Rating Category then available for that category of fund by Moody’s, or if Moody’s is not the Rating Agency or a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security) (including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the government of the United States of America.

“Event of Default” or “Default” means any of the events described as an Event of Default in the Indenture or the Loan Agreement.

“Expense Fund” means the Expense Fund created pursuant to the Indenture.

“Extension Payment” means the amount due, if any, in connection with the change or extension of the Mandatory Tender Date pursuant to the Indenture, and (a) which shall be determined by a Cash Flow Projection approved in writing by the Rating Agency and (b) must consist of Eligible Funds.

“Funding Loan Agreement” means the Funding Loan Agreement attached as an exhibit to the Indenture, which Funding Loan Agreement shall be executed, delivered and become effective on the Conversion Date.

“General Partner” means, collectively, the Administrative General Partner and the Managing General Partner.

“Governmental Authority” means any federal, State or local governmental or quasi-governmental entity, including, without limitation, any agency, department, commission, board, bureau, administration, service, or other instrumentality of any governmental entity.

“Governmental Lender Note” means the Governmental Lender Note, the form of which is attached as an exhibit to the Funding Loan Agreement, which Governmental Lender Note shall be executed, delivered and become effective on the Conversion Date.

“Governmental Obligations” means (a) noncallable, non-redeemable direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (b) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (a) or (b) issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity at less than par at the option of anyone other than the holder thereof.

“Guarantor” means [Guarantor].

“Guarantor Documents” means, collectively, _____, each made by the Guarantor for the benefit of the Issuer and the Trustee.

“Highest Rating Category” means, with respect to an Eligible Investment, that the Eligible Investment is rated by a Rating Agency in the highest rating given by that Rating Agency for that Rating Category, provided that such rating shall include but not be below Aaa or Aaa/VMIG-1 if rated by Moody’s or A-1+ or AA+ if rated by S&P.

“Indenture” means the Trust Indenture, dated as of October 1, 2023, by and between the Issuer and the Trustee, and any and all Supplements thereto.

“Independent” means any person not an employee or officer of the Borrower or its affiliates.

“Initial Deposit” means Eligible Funds in the amount set forth in the Indenture.

“Initial Interest Rate” means ____%.

“Initial Mandatory Tender Date” means the earlier of (i) the Conversion Date, and (ii) _____ 1, 20__*.

“Initial Remarketing Date” means the Initial Mandatory Tender Date, but only if the conditions for remarketing the Bonds on such date as provided in the Indenture are satisfied.

“Interest Payment Date” means (a) _____ 1 and _____ 1 of each year beginning _____ 1, 20__* (b) each Mandatory Tender Date and (c) each Redemption Date.

“Interest Rate” means the Initial Interest Rate to but not including the Initial Mandatory Tender Date, as applicable, and thereafter the applicable Remarketing Rate; provided, however, commencing on the Conversion Date the Interest Rate shall be as set forth in the Funding Loan Agreement.

“Investor Limited Partner” means Bank of America, N.A., a national banking association, in its capacity as investor limited partner in the Borrower, its permitted successors and assigns.

“Issuer” 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 successors and assigns.

“Issuer Documents” means the Loan Agreement, the Indenture, the Tax Regulatory Agreement, the Bond Purchase Agreement, the Tax Certificate and any and all documents, agreements or instruments executed by the Issuer in connection with the Loan.

“Issuer Fee” means the Issuer’s fees payable on the Closing Date and annually thereafter in accordance with the Tax Regulatory Agreement.

“Issuer’s Obligations” means the obligations of the Issuer under the Bonds, the Indenture, and the other Documents to which the Issuer is a party, subject in the entirety to the Indenture, to (a) pay the principal of and interest on the Bonds (including supplemental interest), when and as the same shall become due and payable (whether at the stated maturity thereof, or by acceleration of maturity or after notice of prepayment or otherwise) and, (b) timely perform, observe and comply with all of the terms, covenants, conditions, stipulations, and agreements, express or implied, which the Issuer is required, by the Bonds, the Indenture, or any of the other Documents, to perform and observe.

“Loan” means the loan by the Issuer to Borrower in the principal amount of \$42,476,000* made by the Issuer to the Borrower evidenced by the Note, described in the Loan Agreement and made in connection with the issuance of the Bonds.

“Loan Agreement” means the Loan Agreement dated as of October 1, 2023, between the Issuer and the Borrower and any and all Supplements thereto.

* Preliminary; subject to change.

“Loan Payments” means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to the provisions of the Note and the Loan Agreement.

“Local Time” means Pacific time (daylight or standard, as applicable) in the State.

“Managing General Partner” means CFAH Housing LLC, a California limited liability company.

“Mandatory Tender Date” means each date on which all Outstanding Bonds are subject to mandatory tender as set forth in the Indenture.

“Maturity Date” means ____*.

“Moody’s” means Moody’s Investors Service, Inc., a Delaware corporation, and its successors and assigns, or if it is dissolved or no longer assigns credit ratings, then any other nationally recognized statistical rating agency, acceptable to the Remarketing Agent, that assigns credit ratings.

“Mortgage Lender” means Bank of America, N.A., and any successors and assigns.

“Mortgage Loan” means the mortgage loan to be made from the Mortgage Lender to the Borrower in the principal amount of \$53,987,608* with respect to the Project, as described and provided for in the Mortgage Loan Documents.

“Mortgage Loan Documents” means the Mortgage Loan Security Instrument, the mortgage note, and all other documents required by the Mortgage Lender in connection with the Mortgage Loan.

“Mortgage Loan Prepayment Amount” means an amount necessary to prepay in full the outstanding principal amount of the Mortgage Loan, together with accrued interest to, but not including, the Conversion Date, as set forth in a payoff statement submitted by the Mortgage Lender to the Trustee on or prior to the Conversion Date.

“Mortgage Loan Prepayment Fund” means the Mortgage Loan Prepayment Fund established pursuant to the Indenture.

“Mortgage Loan Security Instrument” means the [Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated October __, 2023, executed by the Borrower for the benefit of ____, as beneficiary, securing the Mortgage Loan, as the same may be amended, supplemented or restated.

“Negative Arbitrage Account” means the Negative Arbitrage Account of the Bond Fund established pursuant to the Indenture.

“Note” means the Promissory Note, dated the Closing Date from the Borrower to the Issuer, in substantially the form attached to the Loan Agreement as an exhibit and any amendments, Supplements or modifications thereto, which Note has been assigned by the Issuer to the Trustee.

“Notice of Conversion” means a written notice to be delivered not less than ten (10) days (or such shorter period as agreed to in writing by all the notice parties) prior to the Conversion Date by Citi to the Issuer, the Trustee, the Borrower and the Mortgage Lender (i) stating that the Conditions to Conversion have been satisfied on or before the Termination Date or, if any Condition to Conversion has not been satisfied on or before the Termination Date, stating that such Condition to Conversion has been waived in writing by Citi (if a waiver is permitted and is granted by Citi, in its sole and absolute discretion) on or before the Termination Date and (ii) confirming the Conversion Date.

“Official Statement” means this Official Statement dated October __, 2023, relating to the Bonds.

“Opinion of Counsel” means an opinion from an attorney or firm of attorneys, acceptable to the addressee thereof, with experience in the matters to be covered in the opinion.

“Outstanding,” “outstanding” or “Bonds Outstanding” when used with respect to the Bonds means any Bonds theretofore authenticated and delivered under the Indenture, except:

(a) Bonds theretofore canceled by the Trustee or theretofore delivered to the Trustee for cancellation;

(b) Bonds for the payment of which moneys or obligations shall have been irrevocably deposited with the Trustee in accordance with the Indenture; or

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under the Indenture.

“Partnership Agreement” means the [Amended and Restated Agreement of Limited Partnership] of the Borrower, dated the Closing Date, as it may be amended in accordance with the Borrower Documents and the Mortgage Loan Documents.

“Permanent Loan Amount” has the meaning set forth in the Citi Forward Commitment.

“Permanent Phase” means the permanent phase of the Loan, which time period shall commence on the Conversion Date and remain in effect through the Maturity Date.

“Person” shall include an individual, association, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

“Project” means the 100-unit (including one manager’s unit) multifamily rental housing development located in San Diego, California to be known as SkyLINE (formerly known as Rancho Bernardo Transit Village), on the land described in the Security Instrument.

“Project Fund” means the Project Fund established pursuant to the Indenture.

“Qualified Project Costs” means any expenditures which (a) are incurred not more than 60 days prior to the date on which the Issuer first declared its “official intent” (within the meaning of Treasury Regulation Section 1.150-2) with respect to the Project (other than preliminary expenditures with respect to the Project in an amount not exceeding 20% of the aggregate principal amount of the Bonds); (b) are made exclusively to provide facilities and improvements that constitute part of a “qualified residential rental project” within the meaning of Section 142(d) of the Code; and (c) are properly chargeable to the Project’s capital account under general federal income tax principles or that would be so chargeable with a proper election or but for a proper election by the Borrower to deduct such expenditure. However, “Qualified Project Costs” do not include (i) issuance costs of the Bonds (within the meaning of Section 147(g) of the Code) or (ii) any fee, charge or profit payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) of the Borrower. As used in the Indenture, the term “preliminary expenditures” includes architectural, engineering, surveying, soil testing and similar costs that were incurred prior to the commencement of construction of the Project, but does not include land acquisition, site preparation and similar costs incident to commencement of construction of the Project.

“Rating Agency” means any national rating agency then maintaining a rating on the Bonds, and initially means Moody’s.

“Rebate Fund” means the Rebate Fund established pursuant to the Indenture.

“Record Date” means the 15th day of the month preceding any Interest Payment Date, or 45 days prior to any Mandatory Tender Date.

“Remarketing Agent” means Lument Securities, LLC or any successor as Remarketing Agent designated in accordance with the Indenture.

“Remarketing Agreement” means the Remarketing Agreement, dated as of October 1, 2023, by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“Remarketing Date” means the Initial Remarketing Date and, if the Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to the Indenture for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

“Remarketing Period” means the period beginning on a Remarketing Date and ending on the earlier of (i) the last day of the term for which Bonds are remarketed pursuant to the Indenture, ii) the Conversion Date or (iii) or the final Maturity Date of the Bonds.

“Remarketing Proceeds Account” means the Remarketing Proceeds Account of the Bond Fund established pursuant to the Indenture.

“Remarketing Rate” means the interest rate or rates established pursuant to the Indenture and borne by the Bonds then Outstanding from and including each Remarketing Date to, but not including, the next succeeding Remarketing Date or the final Maturity Date of the Bonds, as applicable.

“Requisition” means the written request to make a disbursement from (i) the Project Fund in substantially the form attached as an exhibit to the Indenture, submitted in the manner provided pursuant to the Indenture or (ii) the Costs of Issuance Fund in substantially the form attached as an appendix to the Indenture submitted in the manner provided pursuant to the Indenture.

“Reserved Rights of the Issuer” shall mean (a) all rights which the Issuer and its officers, officials, directors, agents and employees may have under the Indenture, the Loan Agreement and the Tax Regulatory Agreement to indemnification by the Borrower and by any other persons and to payments for expenses incurred by the Issuer itself, or its officers, officials, directors, agents or employees; (b) the right of the Issuer to give and receive notices, reports, certifications, or other information hereunder, under the Loan Agreement and under the Tax Regulatory Agreement; (c) the right of the Issuer to receive its fees and expenses, including the Issuer Fee; (d) the Issuer’s approval rights; (e) the rights of the Issuer with respect to inspections; (f) the rights of the Issuer with respect to publicity and signage; (g) the notification, indemnification and enforcement rights of the Issuer in the Loan Agreement; (h) the rights of the Issuer with respect to limited liability; (i) all rights of the Issuer to enforce the covenants and agreements and to take action for the breach of any representation or warranty of the Borrower pertaining in any manner or way, directly or indirectly, to the requirements of the Act or any requirements imposed by the Issuer with respect to the Project, or necessary to assure that interest on the Bonds is excluded from gross income for federal income tax purposes, as are set forth in any of the Documents, including any certificate or agreement executed by the Borrower; (j) all rights of the Issuer in connection with any amendment to or modification of any of the Indenture and the Loan Agreement, or the Tax Regulatory Agreement insofar as any such amendment or modification would affect the Reserved Rights of the Issuer; (k) any approval rights of the Issuer relating to rent increases as provided in the Tax Regulatory Agreement; and (l) all enforcement rights with respect to the foregoing. All of the foregoing rights of the Issuer under the Indenture, the Tax Regulatory Agreement and the Loan Agreement are reserved to the Issuer, as none of these rights under the Indenture, the Tax Regulatory Agreement or the Loan Agreement are being assigned by the Issuer to the Trustee, the Mortgage Lender or Citi.

“Revenues” means (a) the Loan Payments, (b) the Eligible Funds received by the Trustee for deposit into the Collateral Fund, (c) all other money received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all money and investments in the Bond Fund, (d) any money and investments in the Project Fund and the Collateral Fund, and (e) all income and profit from the investment of the foregoing moneys. The term “Revenues” does not include any money or investments in the Rebate Fund, the Costs of Issuance Fund (but only to the extent such moneys are not proceeds of the Bonds), the Expense Fund or the Subordinate Loan Account of the Project Fund, amounts paid as fees, reimbursement for expenses or for indemnification of the Issuer and the Trustee, or amounts paid to or collected by the Issuer in connection with any Reserved Rights of the Issuer.

“Securities Depository” means the Depository Trust Company, its successors and assigns, or any other securities depository for the Bonds designated by the Issuer or the Borrower to the Trustee in writing.

“Special Funds” means, collectively, the Bond Fund, the Collateral Fund and the Project Fund, and any accounts therein, all as established pursuant to the Indenture.

“State” means the State of California.

“Subordinate City Loan” means that certain loan to the Borrower from the City of San Diego, as Subordinate Lender, in the maximum principal amount of \$2,000,000*.

“Subordinate County Loan” means that certain loan to the Borrower from the County of San Diego, as Subordinate Lender, in the maximum principal amount of \$2,000,000*.

“Subordinate HCD Loan” means that certain loan to the Borrower from the Department of Community Development of the State of California, as Subordinate Lender, in the maximum principal amount of \$4,469,800*.

“Subordinate Lender” means, individually or collectively, as the context shall require, (a) the City of San Diego, (b) the County of San Diego, (c) the Department of Community Development of the State of California, and (d) any other lender in respect of a Subordinate Loan.

“Subordinate Loan Documents” means, individually or collectively, as the context shall require, all documents and instruments executed and delivered in connection with the Subordinate Loans.

“Subordinate Loans” means, individually or collectively as the context shall require, the Subordinate City Loan, the Subordinate County Loan, the Subordinate HCD Loan [and any other loan to the Borrower made on a subordinate basis to the Loan as approved in accordance with the Borrower Documents and the Mortgage Loan Documents.]

“Subordinate Loan Account” shall mean the Subordinate Loan Account within the Project Fund established pursuant to Section 4.01 hereof.

“Supplement” or “Supplements” means any and all extensions, renewals, modifications, amendments, supplements and substitutions.

“Tax Certificate” means the Tax Certificate and Agreement, dated the Closing Date between the Issuer and the Borrower.

“Tax Regulatory Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of October 1, 2023, by and among the Issuer, the Trustee and the Borrower relating to the Bonds, and any and all modifications thereof, amendments and Supplements thereto and substitutions therefor.

“Termination Date” means _____, 20____*, subject to extension by Citi as provided in the Citi Forward Commitment.

“Title Company” means [Corinthian Title].

“Trust Estate” means the property rights, money, securities and other amounts pledged and assigned to the Trustee under the Indenture pursuant to the Granting Clauses of the Indenture.

“Trust Office” means the trust office of the Trustee located at the address set forth in the Indenture or such other office or offices designated by the Trustee from time to time and specified to the Issuer in writing.

* Preliminary; subject to change.

“Trustee” means U.S. Bank Trust Company, National Association, a national banking association, organized and existing under the laws of the United States and authorized to conduct business in the State, and its successor or successors in the trust created by the Indenture.

“Undelivered Bond” means any Bond that is required under the Indenture to be delivered to the Remarketing Agent or the Trustee for purchase on a Mandatory Tender Date but that has not been received on the date such Bond is required to be so delivered.

“Underwriter” means Lument Securities, LLC.

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APPENDIX B

SUMMARY OF CERTAIN PROVISIONS OF THE TRUST INDENTURE

The following is a brief summary of certain provisions of the Indenture. The following summary does not purport to be complete or definitive and is subject to all the terms and provisions of the Indenture, to which reference is hereby made and copies of which are available from the Issuer or the Trustee.

Creation of Funds

The following funds and accounts will be established and maintained by the Trustee under the Indenture:

- (a) the Bond Fund, and therein the Negative Arbitrage Account and the Remarketing Proceeds Account;
- (b) the Project Fund[, and therein a Subordinate Loan Account];
- (c) the Rebate Fund;
- (d) the Costs of Issuance Fund;
- (e) the Collateral Fund;
- (f) the Mortgage Loan Prepayment Fund; and
- (g) the Expense Fund.

The Trustee may create one or more accounts or subaccounts within any fund authorized by the Indenture for the purpose of accounting for funds deposited into or held in each fund or for carrying out any of the requirements of the Indenture. The Trustee may transfer funds between accounts and subaccounts within any fund.

Funds in the Costs of Issuance Fund, the Mortgage Loan Prepayment Fund and the Rebate Fund shall not be pledged to the payment of the Bonds and shall not be part of the Trust Estate.

Deposits into and Use of Moneys in the Bond Fund

On the Closing Date, the Trustee shall deposit the Initial Deposit, if any, in the Negative Arbitrage Account of the Bond Fund; amounts on deposit in the Bond Fund are to be invested pursuant to the Indenture. Any Extension Payment received by the Trustee in connection with an extension of the Mandatory Tender Date pursuant to the Indenture shall also be deposited into the Negative Arbitrage Account. The Trustee is authorized to release funds in the Negative Arbitrage Account to the Borrower upon receipt of an updated Cash Flow Projection and a rating confirmation from the Rating Agency.

Bond Service Charges shall be payable as they become due, (i) in the first instance from money on deposit in the Bond Fund (excluding the Negative Arbitrage Account therein), (ii) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (iv) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund.

Except as otherwise provided in the Indenture, moneys in the Bond Fund shall be used solely for the payment of the principal of and interest on the Bonds when due.

Collateral Fund; Project Fund

Upon receipt, the Trustee shall deposit into the Collateral Fund all Eligible Funds received pursuant to the Loan Agreement and any other Eligible Funds received by the Trustee for deposit into the Collateral Fund. The Loan Agreement requires the Borrower to cause Eligible Funds to be delivered to the Trustee for deposit into the Collateral Fund in a principal amount equal to, and as a prerequisite to the disbursement of, the amount of Bond proceeds on deposit in the Project Fund to be disbursed by the Trustee to pay Project Costs.

Each deposit into the Collateral Fund shall constitute an irrevocable deposit solely for the benefit of the Holders, subject to the provisions of the Indenture.

The Trustee shall transfer money in the Collateral Fund as follows: (i) on a Mandatory Tender Date, to the Bond Fund, the amount necessary to pay the purchase price of the Bonds, to the extent amounts on deposit in the Remarketing Proceeds Account and the Negative Arbitrage Account of the Bond Fund are insufficient therefor; and (ii) on any Redemption Date, to the Bond Fund the amount, together with amounts on deposit in the Bond Fund, necessary to pay the principal and interest due on the Bonds on such date.

The Bonds shall not be, and shall not be deemed to be, paid or prepaid by reason of any deposit into the Collateral Fund unless and until the amount on deposit in the Collateral Fund is transferred to the Bond Fund and applied to the payment of the principal of any of the Bonds or the principal component of the redemption price of any of the Bonds, all as provided in the Indenture.

To the extent moneys are not otherwise provided to the Trustee to make the necessary interest and principal payments on each Interest Payment Date, including moneys deposited into the Bond Fund or the Collateral Fund, the Trustee shall, without further written direction, transfer from the Project Fund to the Bond Fund sufficient Eligible Funds to make such necessary interest and principal payments on each Interest Payment Date.

The Trustee shall cause to be kept and maintained adequate records pertaining to the Project Fund and all disbursements therefrom. If requested by the Issuer or the Borrower, after the Project has been completed and a certificate of payment of all costs is filed as provided in the Indenture, the Trustee shall file copies of the records pertaining to the Project Fund and disbursements therefrom with the Issuer and the Borrower.

The Borrower expects that the Project will proceed substantially in accordance with the Construction Draw Schedule. Each Requisition submitted to the Trustee shall evidence and request disbursements from the Project Fund, and/or the Costs of Issuance Fund.

Notwithstanding any other provision of the Indenture to the contrary, after the Closing Date the Trustee shall not disburse moneys from the Project Fund, other than to pay Bond Service Charges on the Bonds, unless and until the Trustee receives satisfactory evidence that Eligible Funds in an amount equal to or greater than the requested disbursement amount (the "Collateral Deposit") has been deposited in the Collateral Fund. Prior to making any disbursement, the Trustee shall verify that upon making the disbursement, the aggregate amount to be held in (i) the Collateral Fund and (ii) the Project Fund, together with projected investment earnings thereon, will be sufficient to pay Bond Service Charges on the outstanding Bonds as and when they become due. In the event that, following receipt of the Collateral Deposit, the Trustee determines that it cannot correspondingly disburse Bond proceeds to or at the direction of the Borrower, the Mortgage Lender or [OTHER COLLATERAL PROVIDER(S)], the Trustee shall immediately notify the Borrower and the Mortgage Lender or [OTHER COLLATERAL PROVIDER(S)], as applicable, of the reason for such determination and shall, immediately upon the request of the Borrower, the Mortgage Lender or [OTHER COLLATERAL PROVIDER(S)], return the subject Collateral Deposit to the party that deposited such Collateral Deposit with the Trustee.

The proceeds of the Bonds shall be allocated exclusively to pay costs that (i) are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 142(d) of the Code; and (ii) shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located, so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Bonds for the purpose of complying with

Section 42(h)(4)(B) of the Code; provided, however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Trustee nor the Issuer shall have any obligation to enforce this covenant nor shall they incur any liability to any person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders of the Bonds for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or Event of Default under the Indenture.

Upon the occurrence and continuance of an Event of Default under the Indenture because of which the principal amount for the Bonds has been declared to be due and immediately payable under the Indenture, any moneys remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund for payment of Bond Service Charges.

Mortgage Loan Prepayment Fund

On the Conversion Date, the Trustee shall deposit into the Mortgage Loan Prepayment Fund the proceeds of the Citi Purchase Price and other funds of the Borrower such that the amount in the Mortgage Loan Prepayment Fund equals the Mortgage Loan Prepayment Amount, which amount shall be used on the Conversion Date to prepay the Mortgage Loan in full.

Procedure for Making Disbursements from Project Fund

Upon the delivery to the Trustee of (i) a signed Requisition in substantially the form attached an appendix to the Indenture, (ii) Eligible Funds in an amount equal to the amount of Bond proceeds being requested for disbursement pursuant to such Requisition, as provided in the Indenture, and (iii) certification by a Borrower Representative that the Costs of the Project intended to be paid with such Bond proceeds are qualified costs pursuant to Section 142 of the Code, the Trustee shall, on such date, deposit such Eligible Funds into the Collateral Fund and disburse from the Project Fund Bond proceeds, in the amount set forth in the applicable Requisition, solely to pay Costs of the Project. To the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee shall not sell or otherwise terminate such Eligible Investments prior to their stated maturity date and instead the Trustee is hereby instructed to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Costs of the Project: (a) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the request for disbursement, to the Collateral Fund, and (b) transfer to the Project Fund a like amount of Eligible Funds on deposit in the Collateral Fund to be disbursed in accordance with the Indenture.

The Trustee shall not disburse money from the Project Fund, other than to pay interest and principal on the Bonds as otherwise permitted under the Indenture, unless and until Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited into the Collateral Fund in accordance with the Indenture; provided, however, that [upon the written request of the Borrower], the Trustee may transfer funds from the Project Fund to the Collateral Fund if the Trustee first receives an opinion of Bond Counsel substantially to the effect that such transfer will not, in and of itself, adversely affect any exclusion of interest on the Bonds from gross income for purposes of federal income taxation. In accordance with the Loan Agreement, and prior to making any disbursement from the Project Fund (except to make necessary interest and principal payments as otherwise permitted under the Indenture), the Trustee shall determine that the aggregate account balance in (a) the Collateral Fund and (b) the Project Fund (less the requested disbursement amount) is at least equal to the then-Outstanding principal amount of the Bonds.

Money in the Project Fund shall be disbursed in accordance with the provisions of the Loan Agreement and the Indenture. To the extent moneys are not otherwise provided to the Trustee to make the necessary interest and principal payments on each Interest Payment Date, including moneys deposited into the Bond Fund or the Collateral Fund, the Trustee shall, without further written direction, transfer from the Project Fund to the Bond Fund sufficient Eligible Funds to make such necessary interest and principal payments on each Interest Payment Date.

Notwithstanding anything contained in the Indenture or any of the Borrower Documents to the contrary: (a) with respect to Eligible Funds funded by the Mortgage Lender for deposit into the Collateral Fund, the Trustee shall be irrevocably and unconditionally obligated to disburse an equal amount of funds from the Project Fund to either the

Mortgage Lender, the Borrower or the Title Company pursuant to a Requisition as directed by the Mortgage Lender; and (b) with respect to Eligible Funds funded by [OTHER COLLATERAL PROVIDER(S)] for deposit into the Collateral Fund, the Trustee shall be irrevocably and unconditionally obligated to disburse an equal amount of funds from the Project Fund to either the Borrower or the Title Company as directed by [OTHER COLLATERAL PROVIDER(S)] pursuant to a Requisition. Such disbursements shall be made pursuant to a Requisition and shall not be made more frequently than once per month, unless approved by the Issuer, in its sole discretion.

Subject to the Trustee's obligation to return the Eligible Funds to the Mortgage Lender or [OTHER COLLATERAL PROVIDER(S)] as set forth above, the Trustee and the Issuer shall not, in any event, be responsible or liable to any person (other than the Borrower, but only in the case of the Trustee, and only in the event of a failure by the Trustee to make disbursements following request for disbursements in accordance with the Documents, when such failure is within the Trustee's sole control, and after receipt of written notice of such failure and a three-day opportunity to cure such failure) for the disbursement of, or failure to disburse, moneys from the Project Fund or any part thereof, and no contractor, subcontractor or material or equipment supplier or their respective successors and assigns shall have any right or claim against the Trustee or the Issuer under the Indenture.

Notwithstanding anything contained in the Indenture or any of the Borrower Documents to the contrary, if for any reason the Trustee is not able to disburse a corresponding amount of Bond proceeds from the Project Fund to or at the direction of the Mortgage Lender or [OTHER COLLATERAL PROVIDER(S)], as applicable, immediately following receipt of Eligible Funds from the Mortgage Lender or [OTHER COLLATERAL PROVIDER(S)], as applicable, for deposit into the Collateral Fund, the Trustee shall promptly wire transfer such funds back to the Mortgage Lender or [OTHER COLLATERAL PROVIDER(S)], as applicable, and not deposit same into the Collateral Fund.

[Notwithstanding anything in the Indenture, the Loan Agreement or any of the other Documents to the contrary, (i) moneys held in the Subordinate Loan Account of the Project Fund are not held for the benefit of the Owners and are not part of the Trust Estate, and (ii) moneys disbursed by the Trustee from the Subordinate Loan Account of the Project Fund shall be used only for the purposes set forth in the Subordinate Loan Documents.]

Investment of Bond Fund, Project Fund and Collateral Fund

Money in all funds or accounts including the Bond Fund, Project Fund, and Collateral Fund shall be invested and reinvested by the Trustee, and at all times held in Eligible Investments at the written direction of the Borrower as approved by the Issuer. In the absence of written direction of the Borrower, any moneys held under the Indenture shall be invested in (i) the [NAME OF MONEY MARKET FUND AVAILABLE TO TRUSTEE], or if such fund is unavailable, (ii) investments described in paragraph (b) of the definition of Eligible Investments.

At no time shall the Borrower direct that (a) any funds constituting gross proceeds of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code or (b) any funds be held other than in Eligible Investments.

Investments of money in the Bond Fund, Project Fund, and the Collateral Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide money to pay any amounts due on the Bonds as they become due on each Interest Payment Date, at stated maturity or on a Mandatory Tender Date. In addition, investment of money in the Project Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts as may be necessary to make anticipated payments from the Project Fund. Any investments in the Bond Fund, the Project Fund or the Collateral Fund that are not classified as Eligible Investments shall be invested in Governmental Obligations.

The Trustee shall sell or redeem investments credited to the Bond Fund to produce sufficient money applicable under the Indenture to and at times required for the purposes of paying any amounts due on the Bonds, and shall do so without necessity for any order on behalf of the Issuer or the Borrower and without restriction by reason of any order. An investment made from money credited to an applicable fund or account shall constitute part of that respective fund or account. All investment earnings from amounts on deposit in the Project Fund and the Collateral Fund shall be credited to and become part of the Bond Fund. All gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Project Fund and the Collateral Fund shall be credited to and become

part of the Bond Fund. Following the Closing Date, at the direction of the Borrower, the Trustee is permitted to purchase, sell or exchange Eligible Investments upon receipt of a Cash Flow Projection.

Notwithstanding anything in the Indenture to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Service Charges shall be held uninvested and (ii) Bond proceeds and the Initial Deposit to the Negative Arbitrage Account, if any, shall be held uninvested until the Trustee has purchased, sold or exchanged Eligible Investments.

Any investments may be purchased from or sold to the Trustee, or any bank, trust company or savings and loan association which is an affiliate or subsidiary of the Trustee provided that all such investments must be Eligible Investments.

The Trustee shall not be liable for losses on investments made in compliance with the provisions of the Indenture.

If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity at a price below par in connection with a mandatory tender prior to the applicable Mandatory Tender Date, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any.

Although each of the Issuer and the Borrower recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, each of the Issuer and the Borrower agrees that confirmations of Eligible Investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month. The Trustee may conclusively rely upon the Borrower's and Issuer's written instructions as to both the suitability and legality of the directed investments.

Investment of Rebate Fund

Any moneys held as part of the Rebate Fund, and not immediately required for the purposes of the Rebate Fund, shall be invested or reinvested by the Trustee, at the written direction of the Borrower Representative, in Governmental Obligations or in any money market or short-term investment fund investing in or consisting solely of and secured by Governmental Obligations, including any such fund maintained by the Trustee or an affiliate thereof having maturities consonant with the need for funds as estimated by the Borrower. All investment earnings, gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Rebate Fund shall be retained therein.

Discharge of Lien

If and when the Bonds secured by the Indenture shall become due and payable in accordance with their terms as provided in the Indenture, or otherwise, and the whole amount of the principal and the interest so due and payable upon all of the Bonds, together with all other amounts payable under the Indenture by the Issuer and all fees and expenses of the Trustee and the Issuer, shall be paid, or provision shall have been made for the payment of the same, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, upon written request of the Issuer and subject to the provisions of the Indenture, the Trustee shall turn over to the Borrower, so long as there shall have occurred no Event of Default which is uncured and continuing, any surplus in the Bond Fund and all balances remaining in any other fund created under the Indenture and shall assign and transfer to the Issuer all other property then held by the Trustee under the Indenture and shall execute such documents as may be reasonably required by the Issuer.

If and when the Trustee shall hold sufficient moneys under the Indenture, as verified to the Trustee in writing by an independent public accounting firm of national reputation or other firm similarly experienced in performing such computations, to provide for payment of the whole amount of the principal and interest due and payable and thereafter to become due and payable upon all the Bonds, together with all other amounts (exclusive of amounts in

the Rebate Fund or the Expense Fund) payable or which may thereafter become payable under the Indenture by the Issuer, notwithstanding that all the Bonds have not yet become due and payable and that consequently the right, title and interest of the Trustee in and to the Trust Estate shall not have ceased, terminated and become void pursuant to the foregoing provisions of this heading, the Trustee, on demand of the Issuer but subject to the provisions of the Indenture, shall turn over to the Borrower, so long as there shall have occurred no Event of Default which is uncured and continuing, or to such person, body or authority as may be entitled to receive the same, any surplus in the Bond Fund in excess of the amount sufficient to pay the whole amount of the principal and interest due and payable and thereafter to become due and payable upon all Bonds together with all other amounts payable or which may thereafter become payable under the Indenture by the Issuer.

All Outstanding Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed above if (a) there shall have been deposited with the Trustee (as verified to the Trustee in writing by an independent public accounting firm of national reputation or other firm similarly experienced in performing such computations) either (i) moneys in an amount which shall be sufficient, or (ii) Governmental Obligations which are not subject to redemption prior to maturity, the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the principal and interest due and to become due on such Bonds on the maturity date thereof, and (b) the Issuer shall have given the Trustee, in form satisfactory to it irrevocable instructions to give, as soon as practicable, a notice to the Holders of such Bonds and the Rating Agency that the deposit required by subclause (a) above has been made with the Trustee and that such Bonds are deemed to have been paid in accordance with this heading and stating such maturity upon which moneys are to be available for the payment of the principal of and interest on such Bonds.

Neither the securities nor moneys deposited with the Trustee pursuant to this heading nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on such Bonds; provided that any cash received from such principal or interest payments on such securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested, as directed by the Borrower, in Governmental Obligations (including any short-term investment fund rated AAA or P-1 by the Rating Agency and secured by and investing solely in Governmental Obligations) maturing at times and in amounts sufficient to pay when due the principal and interest to become due on such Bonds on and prior to such maturity dates thereof, as the case may be, and interest earned from such reinvestment shall be paid over to the Borrower, as received by the Trustee, free and clear of any trust, lien or pledge.

The release of the obligations of the Issuer under this heading shall be without prejudice to the right of the Trustee provided in the Indenture to be paid reasonable compensation for all services rendered by it under the Indenture and all its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees, incurred on behalf of the Trustee in connection with the trust created by the Indenture and the performance of its powers and duties under the Indenture, and shall not affect the obligations of the Borrower to make the payments required by the Loan Agreement or the Note.

Events of Default and Acceleration

The occurrence of any of the following events is defined as and declared to be and to constitute an “Event of Default” under the Indenture:

- (a) Any interest on any Bond is not paid on the date on which the same becomes due; or
- (b) Any principal of any Bond is not paid on the date on which the same becomes due, whether at stated maturity thereof, by acceleration or otherwise; or
- (c) An Event of Default occurs under the Loan Agreement.
- (d) The Issuer fails to duly and promptly perform, comply with, or observe any covenant, condition, agreement or provision (other than as specified in (a) or (b) of this section) contained in the Bonds or in the Indenture on the part of the Issuer to be performed, and such failure shall continue for a period of

ninety (90) days after written notice specifying such failure and requiring the same to be remedied shall have been given to the Issuer, the Borrower and the Investor Limited Partner by the Trustee, which notice may be given by the Trustee in its discretion and shall be given at the written request of the Holders of not less than 25% in principal amount of the Bonds then Outstanding; provided, however, that if such default be such that it is correctable but cannot be corrected within ninety (90) days, it shall not be an Event of Default if the Issuer, the Borrower or the Investor Limited Partner is taking appropriate corrective action to cure such failure and if such failure will not impair the security for the Loan or the Bonds.

If any Loan payment required under the Loan Agreement to avoid a default under (a) or (b) of this section shall not have been received at the close of business on the last Business Day preceding the day on which payment must be made to avoid a default under such (a) or (b), the Trustee shall use its best efforts to give telephonic notice of such default to the Borrower and the Investor Limited Partner, which telephonic notice shall be confirmed by written notice to the Borrower. If any other default shall occur under the provisions of this Section, the Trustee shall, within five (5) days after having actual knowledge of such default, use its best efforts to give written notice of such default to the Issuer, the Borrower, the Investor Limited Partner and the Holders of the Bonds. A default or an Event of Default specified in (a) through (d) above shall occur even though the Trustee fails to give the notice required by this paragraph, the giving of such notice being intended solely to aid in the enforcement of the rights of Bondholders and not in limitation of such rights.

If an Event of Default specified in (a) or (b) of this section shall occur and be continuing, the Trustee shall declare the principal of all Bonds then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Investor Limited Partner and the Borrower, and upon such declaration such principal, together with interest accrued thereon, shall become immediately due and payable at the place of payment provided therein, anything in the Indenture or in the Bonds to the contrary notwithstanding.

If an Event of Default specified in (c) or (d) of this section shall occur and be continuing, the Trustee, upon written request of the Holders of not less than 25% in principal amount of the Bonds then Outstanding shall, declare the principal of all Bonds then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Investor Limited Partner and the Borrower, and upon such declaration such principal, together with interest accrued thereon, shall become immediately due and payable at the place of payment provided therein, anything in the Indenture or in the Bonds to the contrary notwithstanding.

The Investor Limited Partner shall be entitled to cure any Event of Default under the Indenture within the time frame provided to the Borrower. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner 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.

Remedies in Addition to Acceleration

Upon the occurrence of, and during the continuance of, any Event of Default, then and in every such case the Trustee in its discretion may, and upon the written request of the Holders of not less than 51% in principal amount of the Bonds then Outstanding and receipt of satisfactory indemnity shall (in addition to its right or duty to accelerate as provided in the Indenture):

- (a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Bondholders, and require the Issuer or the Borrower to carry out any agreements with or for the benefit of the Bondholders and to perform its or their duties under the Act and the Documents;
- (b) bring suit upon the Bonds; or
- (c) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders.

Termination of Proceedings

In case any proceeding taken by the Trustee on account of any default or Event of Default shall have been discontinued or abandoned for any reason, the Default or Event of Default has been cured, or shall have been determined adversely to the Trustee, then and in every such case, the Issuer, the Trustee, the Bondholders, and the Borrower shall be restored to their former positions and rights under the Indenture, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

Right of Bondholders to Direct Proceedings

No Holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust under the Indenture, or any other remedy under the Indenture or on the Bonds, unless such Holder previously shall have given to the Trustee written notice of an Event of Default as provided in the Indenture and unless also the Holders of not less than 51% in principal amount of the Bonds then outstanding shall have made written request of the Trustee to do so, after the right to exercise such powers or rights of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted by the Indenture, or to institute such action, suit or proceeding in its or their name; nor unless there also shall have been offered to the Trustee security and satisfactory indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall not have complied with such request within a reasonable time; and such notification, request and offer of indemnity are declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the trusts of the Indenture or for any other remedy under the Indenture; it being understood and intended that no one or more Holders of the Bonds secured by the Indenture shall have any right in any manner whatever by its or their action to affect, disturb or prejudice the security of the Indenture, or to enforce any right under the Indenture or the Bonds, except in the manner provided in the Indenture and for the equal benefit of all Holders of Outstanding Bonds. For purposes of the foregoing sentence, the Trustee shall be deemed to have failed to act within a reasonable time if it fails to take action within sixty (60) days after receipt of notice and compliance with the foregoing terms and conditions, whereupon, the Holders of 51% aggregate principal amount of the Bonds may take such action in the place of the Trustee. Nothing contained in the Indenture shall, however, affect or impair the right of any Holder of Bonds to enforce the payment of the principal of and interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest, on each of the Bonds issued under the Indenture to the respective Holders of the Bonds at the time, place, from the source and in the manner in the Indenture and in such Bonds expressed.

Remedies Vested in Trustee

All rights of action under the Indenture or under any of the Bonds secured by the Indenture may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto. Any suit, action or proceeding instituted by the Trustee shall be brought in its name for the equal and ratable benefit of the Holders of the Bonds, subject to the provisions of the Indenture.

Application of Moneys

All moneys received by the Trustee pursuant to any right given or action taken under the provisions of the Indenture shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the accrued fees, expenses and advances incurred or made by the Trustee, and then to the accrued fees and expenses or other amounts due and owing to the Issuer, be deposited into the Bond Fund and all moneys so deposited into the Bond Fund during the continuance of an Event of Default (other than moneys for the payment of Bonds which have matured or otherwise become payable prior to such Event of Default or for the payment of interest due prior to such Event of Default, which moneys shall continue to be held for such payments) shall be applied as follows:

- (a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all such moneys shall be applied:

First — To the payment to the persons entitled thereto of all installments of interest then due on the Bonds, in the direct order of the maturity of the installments of such interest and, if the

amounts available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege;

Second — To the payment to the persons entitled thereto of the unpaid principal, on any of the Bonds, which shall have become due (other than Bonds which have matured or otherwise become payable prior to such Event of Default and moneys for the payment of which are held in the Bond Fund or otherwise held by the Trustee), and if the amount available shall not be sufficient to pay in full the amount of principal, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto, without any discrimination or privilege;

Third — To the payment to the persons entitled thereto of all other of the Issuer's Obligations and the Borrower's Obligations, and, if the amount available shall not be sufficient to pay such Obligations in full, then to the payment ratably, according to the amounts then due, to the persons entitled thereto without discrimination or privilege; and

Fourth — The remainder, if any, shall be paid over to the Borrower, its successors or assigns, or whomever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

(b) If the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal of and interest then due and unpaid upon the Bonds, 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, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest to the persons entitled thereto without any discrimination or privilege. Any remaining funds shall be applied in accordance with the paragraphs designated "Third" and "Fourth" of subsection (a) above.

Whenever moneys are to be applied pursuant to the provisions of this section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts or principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Amendments to Indenture and Loan Agreement Not Requiring Consent of Bondholders

The Issuer and the Trustee may, from time to time and at any time, without the consent of Bondholders, enter into agreements supplemental to the Indenture and the Loan Agreement as follows:

(i) to specify and determine any matters and things relative to Bonds which shall not materially adversely affect the interest of the Bondholders;

(ii) to cure any formal defect, omission or ambiguity in the Indenture or the Loan Agreement if such action does not materially adversely affect the rights of the Bondholders;

(iii) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with the Indenture as theretofore in effect;

(iv) to add to the covenants and agreements of the Issuer in the Indenture or the Loan Agreement other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with the Indenture or the Loan Agreement as theretofore in effect;

(v) to add to the limitations and restrictions in the Indenture or the Loan Agreement, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with the Indenture or the Loan Agreement as theretofore in effect;

(vi) to confirm, as further assurance, any pledge under and the subjection to any claim, lien or pledge created, or to be created by, the Indenture, of the Revenues or of any other moneys, securities or funds; or

(vii) to modify, amend or supplement the Indenture or the Loan Agreement in any respect which, in the judgment of the Trustee, is not materially adverse to the interests of the owners of the Bonds.

Before the Issuer shall enter into any agreement supplemental to the Indenture pursuant to this section, there shall have been filed with the Trustee an opinion of Bond Counsel stating that (1) such supplemental indenture is authorized or permitted by the Indenture and complies with its terms, and that upon adoption it will be valid and binding upon the Issuer in accordance with its terms and (2) the effectiveness of the supplemental indenture will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

The Trustee shall send written notice to the Borrower, the Investor Limited Partner and the Rating Agency of any amendment to the Indenture or the Loan Agreement and, if requested, copies of any such amendments.

Amendments to Indenture Requiring Consent of Bondholders

Subject to the terms and provisions contained in this section and not otherwise, the Holders of not less than 66 2/3% in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, to consent to and approve the execution and delivery by the Issuer and the Trustee of any agreement supplemental to the Indenture as shall be deemed necessary or desirable by the Issuer and the Trustee for the purposes of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in the Indenture; provided, however, that, unless approved in writing by the Holders of all of the Bonds then Outstanding, nothing in the Indenture contained shall permit, or be construed as permitting, (i) a change in the terms of maturity of the principal of or the interest on any Outstanding Bond, or a reduction in the principal amount of any Outstanding Bond or the rate of interest thereon, or (ii) the creation of a claim or lien upon, or a pledge or assignment of, the Trust Estate ranking prior to or on a parity with the claim, lien, assignment or pledge created by the Indenture, or the release of the Trust Estate or any part thereof (except to the extent permitted pursuant to the Documents), or (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (iv) a reduction in the aggregate principal amount of the Bonds required for any action or consent by Bondholders set forth in the Indenture, including (without limitation) that required for consent to such supplemental indentures. This section shall not limit or otherwise affect the ability of the Issuer to enter into agreements supplemental to the Indenture without the consent of the Bondholders pursuant to the Indenture.

If at any time the Issuer and the Trustee shall determine to enter into any supplemental indenture for any of the purposes of this section, the Trustee shall cause written notice of the proposed supplemental indenture to be given to all Holders of the Bonds; provided, however, that failure to give such notice or any defect therein, shall not affect the validity of any proceedings pursuant to the Indenture. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that a copy thereof is on file at the Trust Office of the Trustee for inspection by all Bondholders.

Within one hundred twenty (120) days after the date of giving such notice, the Issuer and the Trustee may enter into such supplemental indenture in substantially the form described in such notice only if there shall have first been filed with the Issuer (i) the written consents of Holders of not less than 66 2/3% in aggregate principal amount of the Bonds then outstanding (or 100% if required under the Indenture) and (ii) an Opinion of Counsel stating that (1) such supplemental indenture is authorized or permitted by the Indenture and complies with its terms, and that upon adoption it will be valid and binding upon the Issuer in accordance with its terms and (2) the effectiveness of the

supplemental indenture will not adversely affect the exclusion of interest on the Bonds from gross income for federal income taxes.

If the Holders of not less than the percentage of Bonds required by this section shall have consented to and approved the supplemental indenture as provided in the Indenture, no Holder of any Bond shall have any right to object to such supplemental indenture, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety thereof, or to enjoin or restrain the Issuer or the Trustee from entering into the same or from taking any action pursuant to the provisions thereof.

Upon the effectiveness of any supplemental indenture entered into pursuant to the provisions of this section, the Indenture shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under the Indenture of the Issuer, the Trustee and all Holders of Bonds then outstanding shall thereafter be determined, exercised and enforced under the Indenture subject in all respects to such modifications and amendments.

The Trustee shall send written notice to the Rating Agency of any amendment to the Indenture.

Supplemental Indentures Part of Indenture

Any supplemental indenture entered into in accordance with the provisions of the Indenture shall thereafter form a part of the Indenture and all the terms and conditions contained in any such supplemental indenture as to any provision authorized to be contained therein shall be and shall be deemed to be a part of the terms and conditions of the Indenture for any and all such purposes.

Amendments to Documents Requiring Consent of Bondholders

Except as provided in the Indenture, the Issuer and the Trustee shall not consent to any amendment, change or modification of the Documents without the giving of written notice and the written approval or consent of the Holders of the Bonds at the time Outstanding given and procured as provided in the Indenture; provided, however, no such separate approval or consent shall be required in connection with the issuance of refunding bonds if any required consent of the required number of Holders to the issuance thereof shall have been previously obtained. If at any time the Issuer and the Borrower shall request in writing the consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall cause notice of such proposed amendment, change, or modification to be given in the same manner as provided by the Indenture with respect to supplemental indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the Trust Office of the Trustee for inspection by all Bondholders.

Conversion Date

On the Conversion Date and upon the execution and delivery of the Funding Loan Agreement, the Governmental Lender Note and the Borrower Loan Agreement, the Indenture, the Loan Agreement and the Bonds shall be deemed amended, restated and superseded in full by the terms thereof. Certain requirements of the Indenture shall not apply to such amendment and restatement.

Severability

In case any one or more of the provisions of the Indenture or of the Bonds for any reason, is held to be illegal or invalid such illegality or invalidity shall not affect any other provisions of the Indenture or the Bonds, and the Indenture and the Bonds shall be construed and enforced to the end that the transactions contemplated by the Indenture be effected and the obligations contemplated by the Indenture be enforced as if such illegal or invalid provisions had not been contained therein.

Mortgage Loan Documents Independent

Enforcement of the covenants in the Indenture will not result in, and neither the Issuer nor the Trustee has or shall be entitled to assert, any claim against the Borrower, the Project, the Mortgage Loan proceeds, any reserves or deposits required by the Mortgage Lender in connection with the Mortgage Loan transaction, or the rents or deposits or other income of the Project.

Failure of the Issuer or the Borrower to comply with any of the covenants set forth in the Indenture or any of the Borrower Documents will not serve as a basis for default on the Mortgage Loan, the underlying mortgage, or any of the other Mortgage Loan Documents.

Notwithstanding anything in the Indenture, the Loan Agreement, the Note or the Bond Purchase Agreement to the contrary, (i) the Mortgaged Property (as defined in the Mortgage Loan Security Instrument) shall not include any portion of the Trust Estate and the Mortgage Lender shall not have any claim to or lien upon the Trust Estate under the Indenture and funds held by the Trustee under the Indenture and pledged to secure the repayment of the Bonds, except for Eligible Funds that may be returned to the party that deposited said funds with the Trustee as may be required under the Indenture and (ii) the Trust Estate shall not include any portion of the Mortgaged Property (as defined in the Mortgage Loan Security Instrument).

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APPENDIX C

SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

The following is a summary of certain provisions of the Loan Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Loan Agreement, a copy of which is on file with the Trustee.

Disbursements from the Project Fund

In the Indenture, the Issuer has authorized and directed the Trustee to make disbursements from the Project Fund to pay Costs of the Project upon satisfaction of the requirements of the Indenture. The Trustee is directed in the Indenture to make disbursements from the Project Fund as provided in the Indenture, and pursuant to the receipt of a Requisition in substantially the form attached to the Indenture as an appendix.

The Borrower's right to request disbursements from the Project Fund is limited to the principal amount of the Loan and conditioned upon the deposit of Eligible Funds into the Collateral Fund as set forth in the Indenture.

Borrower Required to Pay in the Event Project Fund Are Insufficient

In the event the moneys in the Project Fund are not sufficient to pay the Costs of the Project in full, the Borrower agrees to complete the Project and to pay that portion of the Costs of the Project in excess of the moneys available therefore in the Project Fund. The Issuer does not make any warranty, either express or implied, that the moneys paid into the Project Fund and available for payment of the Costs of the Project will be sufficient to pay all of the Costs of the Project. The Borrower agrees that if after exhaustion of the moneys in the Project Fund, the Borrower shall pay any portion of the Costs of the Project pursuant to the provisions of this section, the Borrower shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Bonds, nor shall the Borrower be entitled to any diminution of the amounts payable under the Loan Agreement.

Loan of Proceeds

The Issuer agrees, upon the terms and conditions of the Loan Agreement and the Indenture, to lend to the Borrower the proceeds received by the Issuer from the sale of the Bonds. Such proceeds shall be disbursed to or on behalf of the Borrower as provided in the Loan Agreement.

Mortgage Loan to Borrower

Contemporaneously with the issuance of the Bonds, it is expected that the Borrower shall proceed with obtaining the Mortgage Loan from the Mortgage Lender. In particular, the Borrower will promptly take all necessary actions on its part to close the Mortgage Loan.

The Mortgage Lender will, from time to time, deliver Eligible Funds to the Trustee for deposit into the Collateral Fund to enable the Trustee to disburse an equal amount of Bond proceeds from the Project Fund as approved by the Mortgage Lender in connection with a completed and fully executed Requisition, in substantially the form attached to the Indenture as an appendix.

Borrower's Obligations Upon Tender of Bonds

If any tendered Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available in the Collateral Fund, the Negative Arbitrage Account of the Bond Fund, or the Project Fund as provided in the Indenture for the purpose of paying the purchase price of such Bond, the Borrower will cause to be paid to the Trustee by the applicable times provided in the Indenture, an amount equal to the amount by which the principal amount of all Bonds tendered and not remarketed, together with interest accrued to the Mandatory Tender Date, exceeds the amount otherwise available pursuant to the Indenture.

Option to Terminate

The Borrower shall have the option to cancel or terminate the Loan Agreement at any time when (a) the Indenture shall have been released in accordance with its provisions, (b) sufficient money or security acceptable to the Issuer and the Trustee are on deposit with the Trustee or the Issuer, or both, to meet all Loan Payments due or to become due through the date on which the last of the Bonds is then scheduled to be retired or redeemed and (c) the Mortgage Loan shall be repaid in full. Such option shall be exercised by the Borrower, with approval of the Investor Limited Partner, giving the Issuer and the Trustee five (5) days' notice in writing of such cancellation or termination and such cancellation or termination shall become effective at the end of such notice period. The provisions of this section shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

Defaults Defined

The following shall be "Defaults" under the Loan Agreement and the term "Default" shall mean, whenever it is used in the Loan Agreement, any one or more of the following events:

- (a) Failure by the Borrower to pay any amount required to be paid under the Loan Agreement.
- (b) Failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed in the Loan Agreement other than as referred to in subsection (a) of this section or failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed in the Borrower Tax Certificate, for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, will have been given to the Borrower and the Investor Limited Partner by the Issuer or the Trustee; provided, with respect to any such failure covered by this subsection (b), no event of default will be deemed to have occurred so long as a course of action adequate to remedy such failure will have been commenced within such 60-day period and will thereafter be diligently prosecuted to completion and the failure will be remedied thereby.
- (c) The dissolution or liquidation of the Borrower, or the voluntary initiation by the Borrower of any proceeding under any federal or state law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Borrower of any such proceeding which shall remain undismissed for ninety (90) days, or failure by the Borrower to promptly have discharged any execution, garnishment or attachment of such consequence as would impair the ability of the Borrower to carry on its operations at the Project, or assignment by the Borrower for the benefit of creditors, or the entry by the Borrower into an agreement of composition with its creditors or the failure generally by the Borrower to pay its debts as they become due.
- (d) The occurrence of an Event of Default under the Indenture (other than under clause (d) under the heading "APPENDIX B — SUMMARY OF CERTAIN PROVISIONS OF THE TRUST INDENTURE — Events of Default and Acceleration").

The provisions of subsection (b) of this section are subject to the following limitation: if by reason of force majeure it is impossible for the Borrower in whole or in part, despite its best efforts, to carry out any of its agreements contained in the Loan Agreement (other than its obligations relating to the Loan as set forth in the Loan Agreement), the Borrower shall not be deemed in Default during the continuance of such inability. Such force majeure event does not affect any obligations of the Borrower other than the timing of performance of such obligations. The term "force majeure" as used in the Loan Agreement shall mean, without limitation, the following: acts of God; strikes or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or of any of their departments, agencies or officials, or of any civil or military authority; insurrections; riots; terrorism; landslides; earthquakes; fires; storms; droughts; floods; explosions; and events not reasonably within the control of the Borrower. The Borrower agrees, however, to use its best efforts to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreement. The settlement of strikes and other industrial disturbances shall be entirely within the discretion of the Borrower and the Borrower shall not be required to settle strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Borrower unfavorable to the Borrower.

Remedies on Default

Whenever any Default referred to under the section “Defaults Defined” above shall have happened and be continuing beyond the expiration of any applicable cure period, the Trustee, or the Issuer (in the event the Trustee fails to act), may take one or any combination of the following remedial steps:

(a) If the Trustee has declared the Bonds immediately due and payable pursuant to the Indenture, by written notice to the Borrower, declare an amount equal to all amounts then due and payable on the Bonds, whether by acceleration of maturity (as provided in the Indenture) or otherwise, to be immediately due and payable, whereupon the same shall become immediately due and payable; and

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under the Loan Agreement, the Note, the Tax Regulatory Agreement or any other Document in the event of default thereunder.

Any amounts collected pursuant to action taken under this section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture.

No Remedy Exclusive

Except as otherwise indicated in the Indenture, no remedy conferred upon or reserved to the Issuer or the Trustee by the 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 the Loan Agreement, the Tax Regulatory Agreement or the Note, 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 default shall impair that right or power nor shall it 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 Issuer or the Trustee to exercise any remedy reserved to it in this article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made in the Loan Agreement. Such rights and remedies as are given the Issuer under the Loan Agreement shall also extend to the Trustee, and the Trustee and the Holders of the Bonds, subject to the provisions of the Indenture, including, but not limited to the Reserved Rights of the Issuer, shall be entitled to the benefit of all covenants and agreements contained in the Loan Agreement.

No Additional Waiver Implied by One Waiver

In the event any agreement contained in the Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under the Loan Agreement.

Mortgage Loan Documents Independent

Failure of the Issuer or the Borrower to comply with any of the covenants set forth in the Loan Agreement, the Indenture or the other Borrower Documents will not serve as a basis for default on the Mortgage Loan, the underlying Mortgage, or any of the other Mortgage Loan Documents.

To the extent not otherwise set forth above in this section, the provisions of the Indenture are incorporated in the Loan Agreement by reference to the same extent as if set forth in the Loan Agreement in full.

APPENDIX D

SUMMARY OF CERTAIN PROVISIONS OF THE TAX REGULATORY AGREEMENT

The following is a brief summary of the Tax Regulatory Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Tax Regulatory Agreement, a copy of which is on file with the Trustee. All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture and the Tax Regulatory Agreement.

Qualified Residential Rental Project

The Owner 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 the Tax Regulatory Agreement, the Owner 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 two 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 the Tax 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 two units set aside for a resident manager or other administrative use) will be available for rental during the period beginning on the date of the Tax Regulatory Agreement and ending on the termination of the Compliance Period on a continuous, “first-come, first-served” basis to members of the general public, 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 two 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 Holder, (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.

Low Income Tenants and Very Low Income Tenants; Reporting Requirements

Pursuant to the requirements of the Code and the Housing Law, the Owner 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 the Tax Regulatory Agreement 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 Housing Authority, 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 thereafter 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 Housing Authority, 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 Housing Authority, 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 of 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 Housing Authority.

(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 Housing Authority, the Fiscal Agent, the Trustee, 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 Housing Authority, 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 to the Tax Regulatory Agreement as an exhibit. 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 the Tax 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 Trustee, the Housing Authority or the Administrator on behalf of the Housing Authority, 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 the Tax Regulatory Agreement and that if upon any such certification the aggregate Gross Income of tenants in such unit exceeds the applicable income limit under the Tax Regulatory Agreement, 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, no unit occupied by a residential manager shall be treated as a rental unit during the time of such occupation.

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 Housing Authority, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied: (A) the receipt by the Housing Authority of evidence acceptable to the Housing Authority that (1) the Owner shall not be in default under the Tax Regulatory Agreement or under the Loan Agreement or the Borrower Loan Agreement, as applicable, 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 Housing Authority; (2) the continued operation of the Project shall comply with the provisions of the Tax 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 Housing Authority 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 Housing Authority with respect to the assumption of the Owner's obligations under the Tax Regulatory Agreement, the Loan Agreement or the Borrower Loan Agreement, as applicable (if then in effect), including without limitation an instrument of assumption thereof, and delivery to the Housing Authority, the Trustee and the Fiscal Agent of an opinion of such transferee's counsel to the effect that each such document and the Tax 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 Housing Authority, the Trustee and the Fiscal Agent of an opinion of Bond Counsel to the effect that any such Transfer will not adversely affect the Tax-Exempt status of interest on the Obligations; (D) receipt by the Housing Authority of all fees and/or expenses then currently due and payable to the Housing Authority by the Owner and (E) receipt by the Issuer of evidence of satisfaction of compliance with the provisions of the Tax Regulatory Agreement related to notice to CDLAC of transfer of the Project.

It is expressly stipulated and agreed that any Transfer of the Project in violation of this section 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 the Tax Regulatory Agreement. The written consent of the Housing Authority to any Transfer of the Project shall constitute conclusive evidence that the Transfer is not in violation of this section. 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 the Tax Regulatory Agreement, the Owner shall be fully released from its obligations under the Tax Regulatory Agreement 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 Housing Authority or compliance with the provisions of this section.

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 permitted encumbrances under the Deed of Trust, or (B) a Transfer in accordance with the terms of the Tax Regulatory Agreement, in each case upon receipt by the Housing Authority, the Trustee and the Fiscal Agent of an opinion of Bond Counsel to the effect that such action will not adversely affect the Tax-Exempt status of interest on the Obligations (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 Housing Authority, the Trustee 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, the Borrower Loan Agreement or the Deed of Trust, as applicable; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Term

The Tax Regulatory Agreement and all and several of the terms thereof shall become effective upon its execution and delivery, and shall remain in full force and effect for the period provided therein 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 of the Tax Regulatory Agreement are intended to survive the retirement of the Obligations and discharge of the Indenture, the Funding Loan Agreement, the Loan Agreement and the Borrower Loan Agreement; provided, however, the Fiscal Agent or Trustee, as applicable, shall no longer be deemed a party thereto, as set forth therein.

The terms of the Tax Regulatory Agreement notwithstanding, the requirements of the Tax Regulatory Agreement shall terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of the Tax 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 Housing Authority, the Fiscal Agent or the Trustee from enforcing such provisions, or condemnation or a similar event, but only if, within a reasonable period, either the Obligations are retired or amounts received as a consequence of such event are used to provide a project that meets the requirements of the Tax Regulatory Agreement; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained therein 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 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 the Tax Regulatory Agreement, the Tax Regulatory Agreement may be terminated upon agreement by the Housing Authority, the Fiscal Agent, the Trustee and the Owner, with the consent of CDLAC and the Holder, upon receipt by the Housing Authority, the Fiscal Agent and the Trustee of an opinion of Bond Counsel to the effect that such termination will not adversely affect the exclusion from gross income of interest on the Obligations for federal income tax purposes. Upon the termination of the terms of the Tax Regulatory Agreement, the parties thereto agree to execute, deliver and (in the case of the Housing Authority and the Owner) record appropriate instruments of release and discharge of the terms thereof prepared by or on behalf of the Owner or the Housing Authority; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of the Tax Regulatory Agreement in accordance with its terms.

Covenants to Run With the Land

Notwithstanding Section 1461 of the California Civil Code, the Owner subjects the Project to the covenants, reservations and restrictions set forth in the Tax Regulatory Agreement. The Housing Authority and the Owner declare their express intent that the covenants, reservations and restrictions set forth in the Tax Regulatory Agreement 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 the Tax Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument thereafter 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.

Amendments; Waivers

Except as provided therein, the Tax Regulatory Agreement may be amended only by a written instrument executed by the parties thereto or their successors in title, and duly recorded in the real property records of the County, and only upon (i) receipt by the Housing Authority, the Trustee and the Fiscal Agent of an opinion from Bond Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Obligations and is not contrary to the provisions of the Housing Law and (ii) the written consent of the Holder, who shall receive a copy of any such amendment.

Anything to the contrary contained in the Tax Regulatory Agreement notwithstanding, the Housing Authority, the Trustee, the Fiscal Agent and the Owner agree to amend the Tax Regulatory Agreement to the extent required, in the opinion of Bond Counsel, in order that interest on the Obligations remains Tax-Exempt. The parties requesting such amendment shall notify the other parties to the Tax Regulatory Agreement of the proposed amendment, with a copy of such proposed amendment to Bond Counsel and a request that Bond Counsel render to the Housing Authority, the Trustee and the Fiscal Agent an opinion as to the effect of such proposed amendment upon

the Tax-Exempt status of interest on the Obligations. This provision shall not be subject to any provision of any other agreement requiring any party thereto to obtain the consent of any other person in order to amend the Tax Regulatory Agreement.

Any waiver of, or consent to, any condition under the Tax Regulatory Agreement must be expressly made in writing.

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APPENDIX E

FORM OF CONTINUING DISCLOSURE AGREEMENT

\$42,476,000*

**Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

This Continuing Disclosure Agreement, dated as of October 1, 2023 (this “Continuing Disclosure Agreement”), is executed and delivered by Bernardo Family Housing, L.P., a California limited partnership (the “Borrower”), and U.S. Bank Trust Company, National Association, as dissemination agent (the “Dissemination Agent”), for the above-captioned bonds (the “Bonds”). The Bonds are being issued pursuant to a Trust Indenture, dated as of October 1, 2023 (the “Indenture”) between the Housing Authority of the City of San Diego (the “Issuer”) and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). Pursuant to the Indenture and the Loan Agreement, dated as of October 1, 2023, between the Issuer and the Borrower (the “Loan Agreement”), the Dissemination Agent and the Borrower covenant and agree as follows:

Section 1. Purpose of this Continuing Disclosure Agreement. This Continuing Disclosure Agreement is being executed and delivered by the Borrower, and the Dissemination Agent for the benefit of the holders of the Bonds and in order to assist the Participating Underwriter in complying with the Rule (defined below). The Borrower and the Dissemination Agent acknowledge that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Continuing Disclosure Agreement, and has no liability to any person, including any holder of the Bonds or Beneficial Owner, with respect to any such reports, notices or disclosures.

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Continuing Disclosure Agreement unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

“*Annual Report*” shall mean any Annual Report provided by the Borrower pursuant to, and as described in, Sections 3 and 4 of this Continuing Disclosure Agreement.

“*Audited Financial Statements*” means, in the case of the Borrower, the annual audited financial statements prepared in accordance with generally accepted accounting principles, if any.

“*Beneficial Owner*” shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“*Disclosure Representative*” shall mean the administrator of the Project or his or her designee, or such other person as the Borrower shall designate in writing to the Dissemination Agent from time to time.

“*Dissemination Agent*” shall mean U.S. Bank Trust Company, National Association, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Borrower and which has filed with the Trustee a written acceptance of such designation.

“*Listed Events*” shall mean any of the events listed in Section 5(a) of this Continuing Disclosure Agreement.

“*MSRB*” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934. All documents provided to the MSRB shall be in an electronic format and accompanied by identifying information, as prescribed by the MSRB. Initially, all document submissions to the

* Preliminary; subject to change.

MSRB pursuant to this Continuing Disclosure Agreement shall use the MSRB's Electronic Municipal Market Access (EMMA) system at www.emma.msrb.org.

"Participating Underwriter" means Lument Securities, LLC, and its successors and assigns.

"Rule" means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The Borrower will, or will cause the Dissemination Agent to, not later than 180 days following the end of the Borrower's fiscal year, commencing with the fiscal year ending on December 31, 2024, provide to the MSRB an Annual Report which is consistent with the requirements described below. No later than 15 Business Days prior to said date, the Borrower will provide the Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package and may cross reference other information, provided that the audited financial statements for the prior calendar year of the Borrower may be submitted separately from the balance of the Annual Report.

(b) If by 15 Business Days prior to the date specified in subsection (a) for providing the Annual Report to the MSRB, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent will contact the Disclosure Representative to determine if the Borrower is in compliance with subsection (a).

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the MSRB by the date required in subsection (a), the Dissemination Agent will send in a timely manner a notice to the MSRB in substantially the form attached as Exhibit B to this Continuing Disclosure Agreement.

(d) The Dissemination Agent will file a report with the Borrower and (if the Dissemination Agent is not the Trustee) the Trustee certifying that the Annual Report has been provided pursuant to this Continuing Disclosure Agreement, stating the date it was provided.

Section 4. Content of Annual Reports. The Borrower's Annual Report will contain or incorporate by reference the financial information with respect to the Project, provided at least annually, of the type included in Exhibit A hereto, which Annual Report may, but is not required to, include Audited Financial Statements. If the Borrower's Audited Financial Statements are not available by the time the Annual Report is required to be filed, the Annual Report will contain unaudited financial statements, and the Audited Financial Statements will be filed in the same manner as the Annual Report when and if they become available.

Any or all of the items described in Exhibit A may be incorporated by reference from other documents, including official statements of debt issues with respect to which the Borrower is an "Obligated Person" (as defined by the Rule), which have been filed with the MSRB. The Borrower will clearly identify each such other document so incorporated by reference.

Each annual report submitted hereunder shall be in readable portable document format ("PDF") or other acceptable electronic form.

Section 5. Reporting of Listed Events.

(a) This Section 5 shall govern the giving of notices of the occurrence of any of the following events (each, a "Listed Event"):

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;

- (iii) Unscheduled draws on debt service reserves reflecting financial difficulty;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulty;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of holders of the Bonds, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the Borrower. For purposes of this clause (xii), any such event shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borrower, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) Appointment of a successor or additional trustee or paying agent or the change of the name of a trustee or paying agent, if material;
- (xv) Incurrence of a financial obligation of the Borrower, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Borrower, any of which affect security holders, if material;
- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Borrower, any of which reflect financial difficulties; and
- (xvii) The Project's being placed in service for purposes of qualifying the property for low income housing tax credits. Notice of the Project's being placed in service from the Borrower to the Dissemination Agent shall be in the form attached as Exhibit D hereto or such other form as may be approved by the Dissemination Agent. Notice of the Project being placed in service from the Dissemination Agent to the Municipal Securities Rulemaking Board shall be in the form attached as Exhibit C hereto or such other form as may be approved by the Dissemination Agent.

For purposes of clauses (xv) and (xvi) of this Section 5(a), "financial obligation" is as contemplated by Exchange Act Release No. 34-83885; File No. S7-01-17 (the "Adopting Release").

(b) The Dissemination Agent shall, within three (3) Business Days of obtaining actual knowledge of the occurrence of any potential Listed Event, pursuant to subsection (c) of this Section 5 or otherwise, provide the Disclosure Representative with notice by facsimile transmission confirmed by telephone or by email). While the Dissemination Agent is also the Trustee, the Dissemination Agent shall be deemed to have actual knowledge of those items listed in clauses (i), (iii) (solely with respect to funds held by the Trustee), (iv), (v), (vii), (viii), (ix), (x) and (xiv) above without the Dissemination Agent's having received notice of such event. While the Dissemination Agent is not also the Trustee, the Dissemination Agent shall not be deemed to have actual knowledge of any items listed in clauses (i) - (xvii) above without the Dissemination Agent having received written notice of such event. For purposes of providing notice to the Disclosure Representative, the Dissemination Agent shall assume that the unscheduled draws described in clauses (iii) and (iv) reflect financial difficulty.

(c) Whenever the Borrower obtains knowledge of the occurrence of a potential Listed Event, the Borrower shall, within five (5) Business Days of obtaining such knowledge and in any event no more than eight (8) Business Days after the occurrence of such event, determine if such event is in fact a Listed Event that is required by the Rule to be disclosed and provide the Dissemination Agent with notice and instructions pursuant to subsection (d) below.

(d) If the Borrower has determined that a Listed Event is required to be disclosed, then the Borrower shall prepare a written notice describing the Listed Event and provide the same to the Dissemination Agent along with instructions to file the same pursuant to subsection (e) below.

(e) If the Dissemination Agent has been provided with a written notice describing a Listed Event pursuant to subsection (c) of this Section 5 or otherwise, and is instructed by the Borrower to report the occurrence of such Listed Event, the Dissemination Agent shall, within two (2) Business Days of its receipt of such written notice and in any event no more than ten (10) Business Days after the occurrence of the Listed Event, file the notice with the MSRB and send a copy to the Borrower.

Section 6. Amendment; Waiver. Notwithstanding any other provision of this Continuing Disclosure Agreement, the Borrower and the Dissemination Agent may amend this Continuing Disclosure Agreement (and the Dissemination Agent will agree to any amendment so requested by the Borrower unless such amendment adversely affects its rights, duties, protections, immunities, indemnities or standard of care, as determined by the Dissemination Agent) and any provision of this Continuing Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions described under paragraph (a) under "Provision of Annual Reports," "Contents of Annual Reports" or paragraph (a) under "Reporting of Listed Events," it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of an Obligated Person (as defined in the Rule) with respect to the Bonds or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Holders or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Continuing Disclosure Agreement, the Borrower will describe such amendment in the next Annual Report and will include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information being presented by the Borrower. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change will be given in the same manner as for a Listed Event under Section 5(e) hereof and (ii) the Annual Report

for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 7. Default. In the event of a failure of the Borrower or the Dissemination Agent to comply with any provision of this Continuing Disclosure Agreement and such failure to comply continues beyond a period of thirty (30) days following written notice to the Borrower, the Borrower or any Holder or Beneficial Owner of the Bonds may, take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Borrower or the Dissemination Agent, as the case may be, to comply with its obligations under this Continuing Disclosure Agreement. A default under this Continuing Disclosure Agreement will not be deemed an Event of Default under the Indenture or the Loan Agreement, and the sole remedy under this Continuing Disclosure Agreement in the event of any failure of the Borrower or the Dissemination Agent to comply with this Continuing Disclosure Agreement will be an action to compel performance.

Section 8. Beneficiaries. This Continuing Disclosure Agreement will inure solely to the benefit of the Borrower, the Dissemination Agent, the Participating Underwriter and Holders from time to time of the Bonds and will create no rights in any other person or entity.

Section 9. Provision of Quarterly Statements. The Dissemination Agent shall, at the request of the Holders of the Bonds, furnish to the Holders of the Bonds, quarterly statements of the activity and assets held in each of the funds and accounts maintained by the Dissemination Agent in its capacity as Trustee under the Indenture. The Dissemination Agent shall satisfy this obligation by providing such quarterly statements via EMMA and/or an online system accessible to the Borrower and the Holders of the Bonds on each March 31st, June 30th, September 30th and December 31st. The Dissemination Agent shall furnish such quarterly statements at the sole cost of the Borrower.

Section 10. Additional Information. Nothing in this Continuing Disclosure Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Continuing Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Continuing Disclosure Agreement. If the Borrower chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Continuing Disclosure Agreement, the Borrower shall have no obligation under this Continuing Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent.

(a) The Dissemination Agent shall have only such duties as are specifically set forth in this Continuing Disclosure Agreement. The Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Borrower has provided such information to the Dissemination Agent as required by this Continuing Disclosure Agreement. The Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Dissemination Agent shall have no duty or obligation to review or verify any information, disclosures or notices provided to it by the Borrower and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Holders of the Bonds or any other party. The Dissemination Agent shall have no responsibility for the Borrower's failure to report to the Dissemination Agent a Listed Event or a duty to determine the materiality thereof. The Dissemination Agent shall have no duty to determine, or liability for failing to determine, whether the Borrower has complied with this Continuing Disclosure Agreement. The Dissemination Agent may conclusively rely upon Certifications of the Borrower at all times.

The obligations of the Borrower under this Section 11 shall survive resignation or removal of the Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and shall not incur any liability and

shall be fully protected in acting in good faith upon the advice of such legal counsel. The reasonable fees and expenses of such counsel shall be payable by the Borrower.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Continuing Disclosure Agreement shall be provided in an electronic format and accompanied by identifying information as prescribed by the MSRB.

Section 12. Notices. All notices, requests, demands or other communications to or upon the respective parties hereto shall be deemed to have been duly given or made when delivered personally or by mail (including electronic mail) to the party to which such notice, request, demand or other communication is required or permitted to be given or made under this Continuing Disclosure Agreement and addressed as set forth below or telecopied to the telecopier number of the recipient, with confirmation of transmission, indicated below:

If to the Borrower:

Bernardo Family Housing, L.P.
13520 Evening Creek Drive North, Suite 160
San Diego, CA 92128
Attention: _____
Telephone: _____

If to the Dissemination Agent:

U.S. Bank Trust Company, National Association
633 West 5th Street, 24th Floor
Los Angeles, CA 90071
Attention: Nabeel Badawi
Telephone: (213) 615-6079

Section 13. Governing Law. This Continuing Disclosure Agreement shall be governed by the laws of the State of California.

Section 14. Termination of this Continuing Disclosure Agreement. The Borrower or the Dissemination Agent may terminate this Continuing Disclosure Agreement by giving written notice to the other party at least 30 days prior to such termination. The Dissemination Agent shall be fully discharged at the time any such termination is effective. The Borrower's and the Dissemination Agent's obligations under this Continuing Disclosure Agreement shall terminate upon the legal defeasance, prior redemption, tender, conversion or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Borrower shall give notice of such termination in a filing with the MSRB.

Section 15. Counterparts. This Continuing Disclosure 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.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Continuing Disclosure Agreement to be executed by their duly authorized representatives as of the date set forth above.

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood
President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation,
its Manager

By: _____
Katelyn Silverwood
Executive Director

[Counterpart Signature Page to Continuing Disclosure Agreement]

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION,**
as Dissemination Agent

By: _____
Authorized Officer

EXHIBIT A

ANNUAL REPORT

\$42,476,000*

**Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

CUSIP: _____

Annual report for the period ending December 31, _____

THE PROJECT

Name of the Project:	SkyLINE (former known as Rancho Bernardo Transit Village)
Address:	16785-16787 West Bernardo Drive, San Diego, CA 92127
Number of Units:	100

INFORMATION ON THE BONDS

Original principal amount of Bonds:	
Outstanding principal amount of Bonds:	

OPERATING HISTORY OF THE PROJECT

The tables set forth below offer a summary of the operating results of the Project for fiscal year ended December 31, 20__, as derived from the Borrower's audited financial statements [or unaudited financial statements].

Financial Results for Fiscal Year Ending December 31, _____	
Revenues	
Operating Expenses ¹	
Net Operating Income	
Debt Service on the Bonds	
Net Income (Loss)	
Debt Service Coverage Ratio	

¹Excludes depreciation and other non-cash expenses.

Occupancy Results for Fiscal Year Ending December 31, _____	
Physical Occupancy	____%
Economic Occupancy ¹	____%

¹ The physical occupancy rate is the proportion of units that are occupied or leased by tenants. The economic occupancy rate is the proportion of the gross potential rent that is actually collected. As such, the economic occupancy takes into consideration items such as model units, employee units, discounted units, rent incentives, loss to lease and bad debt expense.

* Preliminary; subject to change.

AUDITED FINANCIAL STATEMENTS

_____ Attached

_____ Audited financial statements of the Borrower for the period ending December 31, 20__ are not yet completed; therefore, no audited financial statements of the Borrower are being filed herewith. Unaudited financial statements for such period are attached in lieu of audited financial statements. Audited financial statements will be filed when available.

_____ No audited financial statements of the Borrower were prepared for the period ending December 31, 20__; therefore, no audited financial statements of the Borrower are being filed herewith. Unaudited financial statements for such period are attached in lieu of audited financial statements.

EXHIBIT B

**NOTICE OF FAILURE TO
FILE ANNUAL DISCLOSURE REPORT**

Name of Issuer: Housing Authority of the City of San Diego

Name of Bond Issue: Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B

Name of Borrower: Bernardo Family Housing, L.P.

CUSIP: [CUSIP]

Date of Issuance: October __, 2023

NOTICE IS HEREBY GIVEN that the above-referenced borrower (the “Borrower”) has not provided an Annual Report with respect to the above-named Bonds as required by its Continuing Disclosure Agreement. The undersigned has been informed by the Borrower that it anticipates that Annual Report will be filed by _____.

DATED: _____

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION,**
as Dissemination Agent

By: _____
Authorized Officer

cc: Borrower

EXHIBIT C

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF
PROJECT PLACED IN SERVICE**

Name of Issuer: Housing Authority of the City of San Diego

Name of Bond Issue: Multifamily Housing Revenue Bonds (SkyLINE) 2023 Series B

Name of Borrower: Bernardo Family Housing, L.P.

Name of Project: SkyLINE (formerly known as Rancho Bernardo Transit Village)

Address of Project: 16785-16787 West Bernardo Drive, San Diego, CA 92127

Date of Issuance: October __, 2023

NOTICE IS HEREBY GIVEN as per the requirements of the Continuing Disclosure Agreement, dated as of October 1, 2023, between the above-referenced borrower (the “Borrower”) and U.S. Bank Trust Company, National Association, as Dissemination Agent, that the Borrower has certified that the above-referenced project (the “Project”) is complete and placed in service by the Borrower as evidenced by a certificate from the Borrower confirming that the Project is placed in service for purposes of Section 42 of the Code.

Dated:

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION,**
as Dissemination Agent

By: _____
Authorized Officer

cc: Borrower

EXHIBIT D

FORM OF NOTICE OF PLACED IN SERVICE

\$42,476,000*

**Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B**

The undersigned hereby provides notice to U.S. Bank Trust Company, National Association, a national banking association, as dissemination agent (the “Dissemination Agent”) that the multifamily rental housing facility known as SkyLINE (formerly known as Rancho Bernardo Transit Village) (the “Project”) has been placed in service in accordance with the Trust Indenture, dated as of October 1, 2023, between the Housing Authority of the City of San Diego (the “Issuer”) and U.S. Bank Trust Company, National Association, a national banking association, as trustee (the “Trustee”), pursuant to which the above-captioned bonds were issued, as further evidenced by the attached Certificate of Occupancy.

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood
President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation,
its Manager

By: _____
Katelyn Silverwood
Executive Director

* Preliminary; subject to change.

ATTACHMENT

Certificate of Occupancy

APPENDIX F

FORM OF BOND COUNSEL OPINION

Upon delivery of the Bonds, Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Issuer, proposes to deliver its approving opinion in substantially the following form:

[Closing Date]

Housing Authority of the City of San Diego
San Diego, California

Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(SkyLINE) 2023 Series B
(Final Opinion)

Ladies and Gentlemen:

[We have acted as bond counsel to the Housing Authority of the City of San Diego (the “Issuer”) in connection with the issuance of \$42,476,000 principal amount of its Multifamily Housing Revenue Bonds (SkyLINE), 2023 Series B, a portion of the principal amount of which has been issued on the date hereof (the principal amount issued and remaining unrepaid from time to time in accordance with the Indenture is hereinafter referred to as the “Bonds”). The Bonds are issued pursuant to the provisions of Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code, as amended (the “Act”), and a trust indenture, dated as of October 1, 2023 (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). The Indenture provides that the Bonds are issued for the stated purpose of making a loan of the proceeds thereof to Bernardo Family Housing, L.P., a California limited partnership (the “Borrower”), pursuant to a loan agreement, dated as of October 1, 2023 (the “Loan Agreement”), by and between the Issuer and the Borrower. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

In such connection, we have reviewed the Indenture, the Loan Agreement, the Tax Regulatory Agreement and the Tax Certificate, opinions of counsel to the Issuer, the Trustee and the Borrower, certificates of the Issuer, the Trustee, the Borrower and others, and such other documents, opinions and matters to the extent we deemed necessary to render the opinions set forth herein.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after original delivery of the Bonds on the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after original delivery of the Bonds on the date hereof. Accordingly, this letter speaks only as of its date and is not intended to, and may not, be relied upon or otherwise used in connection with any such actions, events or matters. Our engagement with respect to the Bonds has concluded with their issuance, and we disclaim any obligation to update this letter. We have assumed the genuineness of all documents and signatures provided to us and the due and legal execution and delivery thereof by, and validity against, any parties other than the Issuer. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents and of the legal conclusions contained in the opinions, referred to in the second paragraph hereof. Furthermore, we have assumed compliance with all covenants and agreements contained in the Indenture, the Loan Agreement, the Tax Regulatory Agreement and the Tax Certificate, including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Bonds to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Bonds, the Indenture, the Loan Agreement, the Tax Regulatory Agreement and the Tax Certificate and their enforceability may be subject to bankruptcy, insolvency, receivership, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors’ rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against governmental entities such as the Issuer in the State of California. We express no opinion with

respect to any indemnification, contribution, liquidated damages, penalty (including any remedy deemed to constitute or to have the effect of a penalty), right of set-off, arbitration, judicial reference, choice of law, choice of forum, choice of venue, non-exclusivity of remedies, waiver or severability provisions contained in the foregoing documents, nor do we express any opinion with respect to the state or quality of title to or interest in any of the real or personal property described in or as subject to the lien of the Indenture or the Loan Agreement or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce liens on, any such property. Our services did not include financial or other non-legal advice. Finally, we undertake no responsibility for the accuracy, completeness or fairness of the Official Statement or other offering material relating to the Bonds and express no opinion or view with respect thereto.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Bonds constitute the valid and binding limited obligations of the Issuer.
2. The Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the Issuer. The Indenture creates a valid pledge, to secure the payment of the principal of and interest on the Bonds, of the Trust Estate, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture.
3. Interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code"), except that no opinion is expressed as to the exclusion from gross income of interest on any Bond for any period during which such Bond is held by a person who, within the meaning of Section 147(a) of the Code, is a "substantial user" of the facilities with respect to which the proceeds of the Bonds were used or is a "related person." Interest on the Bonds is not a specific preference item for purposes of the federal individual alternative minimum tax. We observe that, for tax years beginning after December 31, 2022, interest on the Bonds included in adjusted financial statement income of certain corporations is not excluded from the federal corporate alternative minimum tax. Interest on the Bonds is exempt from State of California personal income taxes. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the amount, accrual or receipt of interest on, the Bonds.]

Faithfully yours,

ORRICK, HERRINGTON & SUTCLIFFE LLP

RECORDING REQUESTED BY:

Bernardo Family Housing, L.P., a California limited partnership

WHEN RECORDED RETURN TO:

Orrick, Herrington & Sutcliffe LLP

405 Howard Street

San Francisco, CA 94105-2669

Attention: _____

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

By and Among

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO,
a California limited partnership,

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Trustee and Fiscal Agent,

and

BERNARDO FAMILY HOUSING, L.P.

Dated as of October 1, 2023

Relating to

\$(PAR B)
HOUSING AUTHORITY OF THE CITY OF SAN DIEGO
MULTIFAMILY HOUSING REVENUE BONDS
(SKYLINE)
2023 SERIES B

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BOOKMARK NOT DEFINED.
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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 October 1, 2023, 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 “Housing Authority”), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under and by virtue of the laws of the United States of America, as trustee (the “Trustee”) and as fiscal agent (the “Fiscal Agent”) (as more particularly defined herein), and Bernardo Family 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”).

W I T N E S S E T H:

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 Indenture, the Housing Authority has agreed to execute and deliver its Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (SkyLINE), 2023 Series B, in the aggregate principal amount of \$[PAR B] (the “Bonds”);

WHEREAS, the Bonds will be issued pursuant to an Indenture of Trust, dated as of October 1, 2023 (as amended from time to time, the “Indenture”), between the Issuer and the Trustee;

WHEREAS, pursuant to a Loan Agreement, dated as of October 1, 2023, between the Issuer and the Owner (the “Loan Agreement”), the proceeds of the Bonds will be used to fund a loan (the “Loan”) to the Owner to finance the acquisition, construction and equipping of a 100-unit (including one manager’s unit) multifamily rental housing development to be known as “SkyLINE” (formerly known as Rancho Bernardo Transit Village), located on the real property site described in Exhibit A hereto, subject to the Ground Lease (as more particularly described herein, the “Project”);

WHEREAS, Citibank, N.A. (“Citi”) has entered into a Forward Commitment Agreement with the Owner and Bank of America, N.A., a national banking association, as the construction lender, dated as of [____], 2023 (the “Citi Forward Commitment”), whereby Citi has committed, subject to the satisfaction on or before the Termination Date (as defined in the Citi Forward Commitment) of the Conditions to Conversion set forth in the Citi Forward Commitment, to facilitate the financing of the Project in the Permanent Phase;

WHEREAS, if the Conditions to Conversion are satisfied on or before the Termination Date, Conversion will occur on the Conversion Date and, on such Conversion Date, among other things, (i) the Bonds shall be subject to mandatory tender in accordance with the

provisions of the Indenture, and, as more particularly described in the Indenture, the Bonds shall convert to the Governmental Lender Note, and from and after the Conversion Date the Funding Loan Agreement and the Borrower Loan Agreement shall control, provided that the Conditions to Conversion have been satisfied;

WHEREAS, the “Obligations” herein refer to the Bonds, prior to the Conversion Date and the Governmental Lender Note, following the Conversion Date;

WHEREAS, to assure the Housing Authority and the owners of the Obligations that interest on the Obligations 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 Obligations are authorized to be executed and delivered under the Housing Law, and to satisfy the purposes of the Housing Authority in determining to issue, execute and deliver the Obligations, 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 Obligations by the Housing Authority 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 Housing Authority, the Fiscal Agent, the Trustee 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, in the Indenture, prior to the Conversion Date, or in the Funding Loan Agreement, following the Conversion Date.

“Administrator” means the Housing Authority or any administrator or program monitor appointed by the Housing Authority to administer this Regulatory Agreement, and any successor administrator appointed by the Housing Authority.

“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.

“Bondholder” means during any period in which the Bonds are outstanding, the “Holder of the Bonds” under and as such term is defined in the Indenture. If at any time no Bonds remains outstanding and the Indenture has been discharged, then there is no Bondholder and references herein to the Bondholder are void and inapplicable and shall be disregarded.

“Bonds” shall have the meaning given in the recitals hereto.

“Borrower Loan” means the loan made to the Owner pursuant to the Borrower Loan Agreement.

“Borrower Loan Agreement” means that certain Borrower Loan Agreement, to be executed and delivered and to become effective on the Conversion Date, by and between the Housing Authority and the Owner, in respect of the Borrower Loan to the Owner from proceeds of the Governmental Lender Note, as the same may be amended and supplemented from time to time.

“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. 23-135 attached hereto as Exhibit D, adopted on May 10, 2023 and relating to the Project, as supplemented by that certain Resolution No. 23-176 adopted on July 25, 2023 [and by that certain revised resolution dated _____, 2023], as such resolution may be further modified, supplemented 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 Housing Authority, and the Fiscal Agent and Trustee 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 Housing Authority to the Owner, or as otherwise approved by the Housing Authority.

“City” means the City of San Diego, California.

“Closing Date” means the date the Obligations are originally issued, executed and delivered, expected to be on or about October [___], 2023.

“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” shall have the meaning given such term in the Indenture.

“County” means the County of San Diego, California.

“Deed of Trust” means the “Mortgage Loan Security Instrument” as defined in the Indenture, 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 Project (subject to the Ground Lease) delivered by the Owner to secure the Owner’s obligations to a third-party lender.

“Fiscal Agent” means U.S. Bank Trust Company, National Association, or any successor fiscal agent appointed and acting under the Funding Loan Agreement.

“Funding Lender” means during any period in which the Governmental Lender Note is outstanding, the “Noteowner” under and as such term is defined in the Funding Loan Agreement. If at any time no Governmental Lender Note remains outstanding and the Funding Loan Agreement has been discharged, then there is no Funding Lender and references herein to the Funding Lender are void and inapplicable and shall be disregarded.

“Funding Loan Agreement” means that certain Funding Loan Agreement, to be executed and delivered and to become effective on the Conversion Date, by and among the Housing Authority, Citi and the Fiscal Agent, with respect to the Governmental Lender Note, as the same may be amended and supplemented from time to time.

“Governmental Lender Note” shall have the meaning given such term in the Indenture.

“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.

“Ground Lease” means [_____].

“Ground Lessor” means [_____].

“Holder” means, as applicable, the Bondholder prior to the Conversion Date or the Funding Lender from and after the Conversion Date, as applicable.

“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 Housing Authority to the Owner, or as otherwise approved by the Housing Authority.

“Indenture” means that certain Trust Indenture dated as of October 1, 2023, between the Housing Authority and the Trustee, with respect to the Bonds, as the same may be amended and supplemented from time to time.

“Investor Limited Partner” means Bank of America, N.A., a national banking association, in its capacity as the investor limited partner, and its successors and assigns permitted hereunder.

“Loan” shall have the meaning given in the recitals hereto, and effective as of the Conversion Date, the Loan shall refer to the Borrower Loan.

“Loan Agreement” means that certain Loan Agreement dated as of October 1, 2023, by and between the Housing Authority and the Owner, in respect of the Loan to the Owner from proceeds of the Bonds, as the same may be amended and 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. [_____], a [California corporation], is hereby approved as the initial Manager.

“Obligations” shall have the meaning given in the recitals hereto.

“Project” means the 100-unit multifamily rental housing development (including one manager’s units) to be located at 11675 George Cooke Express Drive (previously designated 16785-16787 West Bernardo Drive), 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 equipping of which facilities are to be financed, in whole or in part, from the proceeds of the sale of the Obligations or the proceeds of any payment by the Owner pursuant to the Loan Agreement or the Borrower 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 or the Borrower Loan Agreement. No proceeds of the Obligations will be used to finance any commercial or retail space in respect of the Project, or any parking or storage facilities not dedicated exclusively for use by residential tenants, and such space is not included in the definition of the term “Project.”

“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 in respect of the Obligations, dated the Closing Date, executed by the Housing Authority 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 Obligations, 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.

“Trustee” means U.S. Bank Trust Company, National Association, or any successor trustee appointed and acting under the Indenture.

“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, the Loan Agreement and, when effective, the Borrower 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 Obligations to which it is a party or of which it is a beneficiary (or, with respect to the Borrower Loan Agreement, to which it will be a party or beneficiary thereunder); that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the Housing Authority for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Housing Authority in any manner except to execute and deliver the Obligations 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 one unit 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 one unit 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, 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 one dwelling unit by a resident manager or maintenance personnel, any of whom may be the Owner.

(h) The Owner shall deliver to the Administrator and the Holder, (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 Housing Authority, 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 Housing Authority, 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 Housing Authority, 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 of 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 Housing Authority.

(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 Housing Authority, the Fiscal Agent, the Trustee, 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 Housing Authority, 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 Trustee, the Housing Authority or the Administrator on behalf of the Housing Authority, 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 Obligations. The Owner and the Housing Authority, as applicable, each hereby represents, warrants and agrees as follows:

(a) The Owner and the Housing Authority 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 Obligations 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 Housing Authority will file of record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the Housing Authority, the Fiscal Agent and the Trustee (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 Housing Authority as grantee.

Section 7. Requirements of the Housing Authority. 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 Housing Authority set forth in this Section 7, as follows:

(a) For the duration of the Compliance Period, notwithstanding any retirement of the Obligations or termination of the Loan Agreement or the Borrower Loan Agreement, as applicable, the Owner will pay to the Housing Authority all of the amounts required to be paid by the Owner under the Loan Agreement or the Borrower Loan Agreement, as applicable, and will indemnify the Housing Authority, the Fiscal Agent and the Trustee as provided in Section 9 and, with respect to the Fiscal Agent and the Trustee, 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 Housing Authority, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Housing Authority upon reasonable advance notice to the Owner.

(c) The Owner acknowledges that the Housing Authority 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 Housing Authority to deliver to any such Administrator, in addition to or instead of the Housing Authority, 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 Housing Authority. The fees and expenses of the Administrator shall be paid by the Housing Authority.

(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 Obligations, 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 unless otherwise permitted by CDLAC, the Owner shall maintain at least 58 units as Very Low Income Units (including four one-bedroom units, three two-bedroom units and three three-bedroom units), and at least 41 units as Low Income Units.

Any of the foregoing requirements of the Housing Authority contained in this Section 7 may be expressly waived by the Housing Authority, in its sole discretion, in writing, but (i) no waiver by the Housing Authority 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 Housing Authority has received an opinion of Bond 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 Obligations for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the Housing Authority and the Owner receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Obligations 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, the Trustee and the Housing Authority 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 Bond Counsel filed with the Housing Authority, the Fiscal Agent, the Trustee 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 Obligations, 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 Bond Counsel filed with the Housing Authority, the Fiscal Agent, the Trustee 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 Housing Authority, at its sole discretion, the Fiscal Agent, the Trustee and the Owner, with the consent of the Holder, and only upon receipt by the Housing Authority, the Fiscal Agent and the Trustee of the written opinion of Bond Counsel to the effect that such amendment will not affect the Tax-Exempt status of interest on the Obligations or violate the requirements of the Housing Law, and otherwise in accordance with Section 22 hereof.

(c) The Owner, the Housing Authority and, if applicable, the Fiscal Agent and the Trustee, shall execute, deliver and, if applicable, the Owner or the Housing Authority 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 Housing Authority hereby appoints the Fiscal Agent and Trustee as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record (it being understood that the Fiscal Agent and Trustee has no duty or obligation to take such action) on behalf of the Owner or the Housing Authority, as is applicable, any such document or instrument (in such form as may be approved in writing by Bond Counsel) if either the Owner or the Housing Authority defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Housing Authority or the Owner, the Fiscal Agent and Trustee shall take no action under this subsection without first notifying the Owner or the Housing Authority, or both of them, as is applicable, and without first providing the Owner or the Housing Authority, 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 or Trustee to execute an amendment to this Regulatory Agreement on behalf of the Housing Authority 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 Housing Authority, the City, the Fiscal Agent, the Trustee 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 Obligations, the Indenture, the Funding Loan Agreement, the Loan Agreement, the Borrower 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 Obligations;

(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 of, the Project or any part thereof;

(iii) any lien or charge upon payments by the Owner to the Housing Authority or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Housing Authority 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 prepayment, defeasance and/or redemption, in whole or in part, of the Obligations;

(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 Obligations or any of the documents relating to the Obligations, or any omission or alleged omission from any offering statement or disclosure document for the Obligations 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 Obligations, or allegations (or regulatory inquiry) that interest on the Obligations is taxable, for federal tax purposes;

except to the extent such damages are caused by the willful misconduct of 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, the Trustee and/or the Housing Authority in enforcing the provisions hereof, as more fully set forth in the Loan Agreement or the Borrower Loan Agreement, as applicable.

The provisions of this Section 9 shall survive the final payment or defeasance of the Obligations and this Regulatory Agreement; provided, however, the provisions of this Section shall, in the case of the Fiscal Agent and Trustee, survive the term of this Regulatory Agreement or the resignation or removal of the Fiscal Agent or Trustee, but only as to claims arising from events occurring during the term of this Regulatory Agreement or the Fiscal Agent's and Trustee's tenure under the Funding Loan Agreement and Indenture, respectively, and shall, in the case of the Housing Authority, 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 Housing Authority has agreed to execute and deliver the Obligations 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 Obligations by the Housing Authority, 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 Housing Authority 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, Trustee and Fiscal Agent, interested in the legality and validity of the Obligations, in the exemption from California personal income taxation of interest on the Obligations and in the Tax-Exempt status of the interest on the Obligations. In performing their duties and obligations hereunder, the Housing Authority, the Administrator, the Trustee 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 Housing Authority, the Trustee 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 Housing Authority, the Trustee 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 and the Trustee by the Owner or the Housing Authority 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 Housing Authority, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied: (A) the receipt by the Housing Authority of evidence acceptable to the Housing Authority that (1) the Owner shall not be in default hereunder or under the Loan Agreement or the Borrower Loan Agreement, as applicable, 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 Housing Authority; (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 Housing Authority 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 Housing Authority with respect to the assumption of the Owner's obligations under this Regulatory Agreement, the Loan Agreement or the Borrower Loan Agreement, as applicable (if then in effect), including without limitation an instrument of assumption hereof and thereof, and delivery to the Housing Authority, the Trustee 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 Housing Authority, the Trustee and the Fiscal Agent of an opinion of Bond Counsel to the effect that any such Transfer will not adversely affect the Tax-Exempt status of interest on the Obligations; (D) receipt by the Housing Authority of all fees and/or expenses then currently due and payable to the Housing Authority 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 Housing Authority 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 Housing Authority or compliance with the provisions of this Section 12.

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 permitted encumbrances under the Deed of Trust, or (B) a Transfer in accordance with the terms of this Regulatory Agreement, in each case upon receipt by the Housing Authority, the Trustee and the Fiscal Agent of an opinion of Bond Counsel to the effect that such action will not adversely affect the Tax-Exempt status of interest on the Obligations (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 Housing Authority, the Trustee 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, the Borrower Loan Agreement or the Deed of Trust, as applicable; 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 Obligations and discharge of the Indenture, the Funding Loan Agreement, the Loan Agreement and the Borrower Loan Agreement; provided, however, the Fiscal Agent or Trustee, as applicable, 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 Housing Authority, the Fiscal Agent or the Trustee from enforcing such provisions, or condemnation or a similar event, but only if, within a reasonable period, either the Obligations 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 Housing Authority, the Fiscal Agent, the Trustee and the Owner, with the consent of CDLAC and the Holder, upon receipt by the Housing Authority, the Fiscal Agent and the Trustee of an opinion of Bond Counsel to the effect that such termination will not adversely affect the exclusion from gross income of interest on the Obligations 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 Housing Authority and the Owner) record appropriate instruments of release and discharge of the terms hereof prepared by or on behalf of the Owner or the Housing Authority; 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 Housing Authority 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 Housing Authority 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 Housing Authority 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 Obligations 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 Housing Authority, the Holder, the Trustee or the Fiscal Agent to the Owner (with a copy to the Housing Authority, the Holder, the Trustee and the Fiscal Agent, as applicable), or for a period of 60 days from the date the Owner should, with reasonable diligence, have discovered such default, then the Housing Authority, the Trustee 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 Housing Authority) until the default is corrected, and (ii) in the opinion of Bond Counsel, the failure to cure said default within 60 days will not adversely affect the Tax-Exempt status of interest on the Obligations. The Housing Authority, the Trustee 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 Housing Authority or the Fiscal Agent or Trustee, at the written direction of Housing Authority, subject to the terms of the Indenture or the Funding Loan Agreement, as applicable, 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 Housing Authority or the Trustee or Fiscal Agent, as applicable, hereunder;

- (ii) 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 Holder, which consent shall not be unreasonably withheld, declare a default under the Loan Agreement or the Borrower Loan Agreement, as applicable, 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 Housing Authority 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 Trustee or Fiscal Agent, as applicable, shall have the right, in accordance with this Section and the provisions of the Indenture or Funding Loan Agreement, as applicable, without the consent or approval of the Housing Authority, but with the consent of the Holder, which consent shall not be unreasonably withheld, to exercise any or all of the rights or remedies of the Housing Authority hereunder; provided that prior to taking any such action the Trustee or Fiscal

Agent, as applicable, shall give the Housing Authority written notice of its intended action. After the Indenture or Funding Loan Agreement, as applicable, has been discharged, the Housing Authority 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 Trustee or Fiscal Agent, as applicable.

The Housing Authority, the Fiscal Agent and Trustee 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, the Trustee and the Housing Authority 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 or Trustee 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 or Trustee, as applicable, the Fiscal Agent or Trustee shall remain entitled to any indemnity applicable to it hereunder, or under the Loan Agreement or the Borrower Loan Agreement, as applicable, for the payment of such legal fees and costs.

Section 18. The Fiscal Agent and the Trustee. The Fiscal Agent and the Trustee shall act as specifically provided herein and in the Funding Loan Agreement and the Indenture and may exercise such additional powers as are reasonably incidental hereto and thereto. The Fiscal Agent and Trustee 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, with respect to the Fiscal Agent or Trustee, as applicable, unless it has received written direction from the Holder and has been indemnified to its satisfaction. The Fiscal Agent or Trustee, as applicable, may act as the agent of and on behalf of the Housing Authority, and any act required to be performed by the Housing Authority as herein provided shall be deemed taken if such act is performed by the Fiscal Agent or Trustee, as applicable. 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 the Trustee is acting solely as Trustee under the Indenture and not in its individual capacity, and, except as expressly provided herein, all provisions of the Funding Loan Agreement or the Indenture, as applicable, relating to the rights, privileges, powers and protections of the Fiscal Agent or Trustee, respectively, shall apply with equal force and effect to all actions taken (or omitted to be taken) by the Fiscal Agent or Trustee, as applicable, in connection with this Regulatory Agreement. None of the Fiscal Agent, the Trustee, nor any of their 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 or Trustee 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 Housing Authority 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. Neither the Fiscal Agent nor the Trustee shall be responsible for such monitoring.

After the date on which no portion of the Bonds remains Outstanding, as provided in the Indenture, the Trustee shall no longer have any duties or responsibilities under this Regulatory Agreement.

Notwithstanding anything to the contrary herein, the Fiscal Agent shall have no duties or obligations, express or implied, under this Regulatory Agreement, and references to the Fiscal Agent shall be of no force and effect, unless and until the Conversion Date occurs and the Funding Loan Agreement and Borrower Loan Agreement are made effective. After the date upon which no portion of the Governmental Lender 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.

After the date on which no portion of the Obligations remain Outstanding, all references to the Fiscal Agent or the Trustee in this Regulatory Agreement shall be deemed references to the Housing Authority.

To the extent that the Fiscal Agent and the Trustee are the same entity, rights, duties, obligations and immunities of either of them hereunder shall be construed without duplication.

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 Housing Authority may reasonably request. The Owner shall pay all fees and charges incurred in connection with any such recording.

(b) The Owner and the Housing Authority will file of record such other documents and take such other steps as are reasonably necessary, in the opinion of Bond Counsel, in order to insure 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 Holder 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 or the discharge of the Funding Loan Agreement or the Indenture, throughout the Compliance Period, the Owner shall continue to pay the fees of the Housing Authority as provided in Section 9 hereof, unless such prepayment is made in connection with a refunding of the Obligations.

The Owner agrees to pay to the Housing Authority (a) on the Closing Date, the Housing Authority's up-front administrative fee, in the amount of \$[____], which amount is equal to 25 basis points (0.25%) of the maximum principal amount of the Obligations (\$[____]), 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 Housing Authority'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 Obligations as of the Closing Date, and (ii) commencing with the first [____] 1 occurring after the Conversion Date and thereafter on each subsequent [____] 1, an amount equal to the greater of \$10,000 per year or 0.125% of the outstanding principal amount of the Obligations outstanding following any partial repayment of principal of the Obligations 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 such [____] 1 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 Obligations outstanding at the Conversion Date regardless of any later reductions of the outstanding principal 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 Housing Authority (not including salaries and wages of Housing Authority employees) related to the Obligations, 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 Obligations.

The Ongoing Administrative Fee will be charged each year during the Compliance Period hereunder in respect of administrative and monitoring costs of the Housing Authority and will be due and payable, without the requirement for any invoice to be delivered to the Owner.

The fees of the Housing Authority 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 Housing Authority's or Holder's enforcement of the provisions of this Regulatory Agreement, but the Housing Authority 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 Housing Authority, promptly following a written demand from the Housing Authority to the Owner, any out-of-pocket expenses of the Housing Authority incurred in connection with the administration of any of the Loan Documents.

In the event that the Obligations are 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 Housing Authority to refund the Obligations, 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 Housing Authority's annual fee for the remainder of the term of this Regulatory Agreement, at the option of the Housing Authority, shall be paid by the Borrower at the time of the prepayment of the Obligations and shall be a lump sum amount equal to the present value (based on a discount rate equal to the yield on the Obligations, as determined by the Housing Authority at the time of prepayment) of the Housing Authority's fee, calculated based on the

principal amount of the Obligations outstanding immediately preceding such prepayment, for the number of remaining years of the Compliance Period.

Notwithstanding any prepayment of the Loan and discharge of the Indenture or the Funding Loan Agreement, as applicable, 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 Housing Authority as provided in this Section 20.

If the Owner fails to make payment of the Housing Authority's annual fee for a period of two consecutive years or more, then the Housing Authority may, in its sole discretion, declare the total amount of the annual fee of the Housing Authority 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 Housing Authority an annual occupancy monitoring fee (the "Occupancy Monitoring Fee") for the greater of: (1) [40] units (constituting 40% of the [100] units) at an initial amount of \$157.50 /unit for a total of \$[_____], or (b) the total number of units monitored by the Housing Authority. The Occupancy Monitoring Fee is subject to annual adjustment. The Owner agrees to pay the Housing Authority an initial monitoring fee in the amount set forth in schedules promulgated by Housing Authority from time to time. In addition, in each year during the term of this Regulatory Agreement, the Owner shall pay to the Housing Authority an annual Occupancy Monitoring Fee, as determined by the Housing Authority in schedules promulgated by Housing Authority 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 Housing Authority, the Trustee and the Fiscal Agent of an opinion from Bond Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Obligations and is not contrary to the provisions of the Housing Law and (ii) the written consent of the Holder, who shall receive a copy of any such amendment.

(b) Anything to the contrary contained herein notwithstanding, the Housing Authority, the Trustee, the Fiscal Agent and the Owner hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Bond Counsel, in order that interest on the Obligations 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 Bond Counsel and a request that Bond Counsel render to the Housing Authority, the Trustee and the Fiscal Agent an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Obligations. 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 Indenture, prior to the Conversion Date, or in the Funding Loan Agreement, following the Conversion Date, 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
901 P Street, Room 213A
Sacramento, CA 95814
Attention: Executive Director

The Housing Authority, the Administrator, the Trustee, 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 the Holder at the address(es) for the Holder set forth in the Indenture or the Funding Loan Agreement, as applicable.

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 and to the Investor Limited Partner at the address(es) for the Investor Limited Partner set forth in the Indenture or the Funding Loan Agreement, 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 Housing Authority 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 Holder, the Fiscal Agent, the Trustee or the Housing Authority and their successors and assigns, is limited to the Owner's interest in the Project, the Pledged Revenues or the Trust Estate, as applicable, and the amounts held in the funds and accounts created under the Funding Loan Agreement and the Indenture, 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 Indenture or the Funding Loan Agreement, as applicable, or any rights of the Owner under the Indenture, the Funding Loan Agreement or any other documents relating to the Obligations 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 Indenture, the Funding Loan Agreement, the Loan Agreement, the Borrower 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 or the Borrower Loan Agreement, as applicable.

Section 27. Property Management. The Owner agrees that at all times the Project shall be managed by a property manager (i) approved by the Housing Authority 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 Housing Authority has approved [_____], a [California corporation], as the initial Manager. The Owner shall submit to the Housing Authority from time to time such information about the background, experience and financial condition of any existing or proposed Manager as the Housing Authority may reasonably require to determine whether such Manager meets the requirements for a Manager set forth herein. The Housing Authority 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 Housing Authority in such reviews.

Replacement of Manager. If the Housing Authority 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 Housing Authority may deliver written notice to the Owner, the Fiscal Agent or the Trustee, as applicable, and the Holder 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 Housing Authority, with copies to the Fiscal Agent or the Trustee, as applicable, and the Holder, a proposal to engage a new Manager meeting the requirements of this Section 27. Each of the Housing Authority and the Holder 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 Holder may at any time by written instruction to the Housing Authority, the Fiscal Agent, the Trustee and the Owner deny the Housing Authority’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 Obligations.

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 Housing Authority, 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 Housing Authority, 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 Housing Authority, 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 Housing Authority.

(b) The Owner acknowledges that the Housing Authority shall monitor the Owner's compliance with the terms of the CDLAC Conditions. The Owner acknowledges that the Housing Authority 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 Housing Authority 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 Housing Authority, (iii) any change in the name of the Project or the Manager; (iv) any material default under the Funding Loan Agreement, the Indenture, the Borrower Loan Agreement, the Loan Agreement or this Regulatory Agreement, including, but not limited to, such defaults associated with the Tax-Exempt status of the Obligations, 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 Housing Authority 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 Housing Authority 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 Obligations for federal income tax purposes; and (ii) any requirement of this Section 29 shall be void and of no force and effect if the Housing Authority and the Owner (with a copy to the Holder) 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 Housing Authority, 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 Housing Authority, 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 Obligations are no longer outstanding or (ii) the proceeds of the Obligations and the Loan have been fully spent.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Housing Authority, the Fiscal Agent, the Trustee 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: _____
Executive Vice President of Real Estate

[Signature Page – SkyLINE Regulatory Agreement]

U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Signatory

[Signature Page – SkyLINE Regulatory Agreement]

OWNER:

BERNARDO FAMILY HOUSING, L.P.,
a California limited partnership

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

By: Affirmed Housing Group, Inc.,
a Delaware Corporation, dba in California as
Affirmed Housing Partners,
its Manager

By: _____
James P. Silverwood, President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation
its Manager

By: _____
Katelyn Silverwood, Executive Director

[Signature Page – SkyLINE Regulatory Agreement]

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

Real property in the City of San Diego, County of San Diego, State of California, described as follows:

[TO BE ADDED]

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% =
Enter the greater of the total of column I, or J: imputed income				(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

\$

Rent Assistance:

\$

Utility Allowance

\$

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 ☐

b. HOME ☐

c. Tax Exempt ☐

d. AHDP ☐

e. ☐

(Name of Program)

See Part V above.

Income Status

☐ ≤50% AMGI

☐ ≤60% AMGI

☐ ≤80% AMGI

☐ OI**

Section 1. Income
Status

☐ 50% AMGI

☐ 60% AMGI

☐ 80% AMGI

☐ OI**

Income Status

☐ 50% AMGI

☐ 80% AMGI

☐ OI**

Income Status

☐

☐

☐ 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

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

ARTICLE II **Part I - Development Data**

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

- *Move-in Date Enter the date the tenant has or will take occupancy of the unit. (YYYY-MM-DD)
- *Effective Date Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification. (YYYY-MM-DD)
- Property Name Enter the name of the development.
- County Enter the county (or equivalent) in which the building is located.
- BIN # Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
- Address Enter the address of the building.
- Unit Number Enter the unit number.
- # Bedrooms Enter the number of bedrooms in the unit.
- *Vacant Unit Check if unit was vacant on December 31 of requesting year.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of Household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and last four digits of social security number or alien registration number for each occupant. If tenant does not have a Social Security Number (SSN) or alien registration number, please enter the numerical birth month and last two digits of birth year (e.g. birthday January 1, 1970, enter "0170"). If tenant has no SSN number or date of birth, please enter the last 4 digits of the BIN.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

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**

a.	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.

Commenced Occupancy

- 1.
- 2.
- 3.

Terminated Occupancy

- 1.
- 2.
- 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:

Unit Number

- 1.
- 2.
- 3.

Name (Head of Household)

- 1.
- 2.
- 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 [Borrower] 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]