



REPORT TO THE HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

DATE ISSUED: March 2, 2020

REPORT NO: HAR20-014

ATTENTION: Chair and Members of the Housing Authority of the City of San Diego
For the Agenda of April 7, 2020

SUBJECT: Final Bond Authorization for Scripps Mesa Apartments

COUNCIL DISTRICT: 5

REQUESTED ACTION

Authorize the issuance of up to \$100,000,000 in Housing Authority of the City of San Diego tax-exempt Multifamily Housing Revenue Bonds to fund the construction of Scripps Mesa Apartments, a 264-unit rental housing development, located at 10380 Spring Canyon Road, San Diego, California 92131, which will consist of 53 units that will remain affordable for 55 years for very low-income families and 211 market-rate rental housing units.

STAFF RECOMMENDATION

That the Housing Authority of the City of San Diego (Housing Authority) authorize the issuance of up to \$100,000,000 in tax-exempt Multifamily Housing Revenue Bonds to facilitate Scripps AU Owner LP’s (the Borrower) construction of Scripps Mesa Apartments, a 264-unit rental housing development, located at 10380 Spring Canyon Road, San Diego, California 92131, which will consist of 53 units that will remain affordable for 55 years for very low-income families and 211 market-rate rental housing units.

SUMMARY

Development Summary is included as Attachment 1.

Table 1 – Development Details

Address	10380 Spring Canyon Road, San Diego 92131
Council District	5
Community Plan Area	Miramar Ranch North
Development Type	New Construction
Construction Type	Type-V Residential & Type II Parking Structure
Parking Type	Residential Parking Structure: 452 spaces Commercial: 12 surface parking spaces STEM Building: 27 surface parking spaces
Housing Type	Multifamily
Lot Size	6.72 acres – 292,723 square feet
Units	264
Density	40 dwelling units per acre

Affordable Unit Mix	18 one-bedroom units 29 two-bedroom units 6 three-bedroom unit
Market Rate Unit Mix	72 one-bedroom units 114 two-bedroom units 25 three-bedroom unit
Gross Building Area	374,261 square feet
Net Rentable Area	270,534 square feet

The Development

Scripps Mesa Apartments is a proposed 264-unit multifamily rental housing development located at 10380 Spring Canyon Road in the Miramar Ranch North community area (Attachment 2 – Site Map). The project is a unique public-private partnership opportunity to provide rental housing, both affordable and market-rate, along with a community space, retail space and dedicated space for a new Student Makerspace and Community Center building. This project is being developed under a long-term ground lease and joint occupancy agreement with Scripps Mesa Apartments, L.P. and the San Diego Unified School District.

Residential project amenities include: clubhouse/leasing center, fitness center, dog run, pool and spa, and indoor/outdoor community gathering space. Additionally, approximately 2,000 square feet of neighborhood retail/commercial space and the approximately 4,000-square-foot San Diego Unified School District Community/Student Center building will be included.

Project Sustainability

Scripps Mesa Apartments will comply with the California Tax Credit Allocation Committee's (TCAC) minimum energy efficiency standards.

Relocation

The site is owned by the San Diego Unified School District and currently home to a conference center and the Innovations Academy charter school. San Diego Unified anticipates completing the relocation of the charter school by April 4, 2020.

Development Team

At Bond closing, ownership of the development will be in the name of Scripps MU Owner, L.P., a California limited partnership (Scripps MU Owner), which is effectively owned as follows: (a) 50.5 percent by Essex Scripps, LLC and (b) 49.5 percent by Monarch Scripps Mesa, LLC, created by Essex and Monarch, respectively.

Prior to the closing of the tax credits, the affordable residential portion of the development will be subdivided and conveyed to a separate but related entity, Scripps AU Owner, L.P (Scrips AU). Scripps AU is California limited partnership consisting of: (a) Monarch Essex Scripps GP, LLC as administrative general partner, (b) AOF Scripps Mesa LLC, a California limited liability corporation created by AOF/Pacific Affordable Housing Corp., a California not-for-profit public benefit corporation; and (c) a tax credit limited partner yet to be identified.

Monarch Group is a local, family-owned and operated business and has completed more than 11,000 residential units in more than 50 projects in the San Diego region. Essex Property Trust Public has interests in 245 apartment communities with more than 59,500 apartment homes. This includes ownership in 19 properties that comprise 5,440 units in the San Diego region. Both partners have a

proven track record of implementing, developing, and managing tax-exempt bond and tax credit transactions as evidenced by their extensive portfolios. Disclosure statements are included as Attachment 3.

The development has had a lawsuit filed against it. The litigation is still in process, however bond counsel and the City Attorney’s Office have both indicated that this project can move forward and that the lawsuit has to do with a permit process not with the affordable units.

Table 2 - Development Team Summary

ROLE	FIRM/CONTRACT
Owner	Scripps Mesa Apartments, L.P.
General Partner	Monarch Essex Scripps GP, LLC
Limited Partner	Monarch Essex Scripps, LLC
Developer	Monarch Scripps Mesa LLC Essex Scripps, LLC
Architect	Architects Orange
General Contractor	Portrait Homes
Property Management	Essex Property Management
Construction Lender	Bank of America
Permanent Lender	Bank of America

FINANCING STRUCTURE

Scripps Mesa Apartments has an estimated total development cost of \$113,457,716. Financing will include a combination of tax-exempt Multifamily Housing Revenue Bonds, federal 4 percent tax credits, and a developer equity contribution.

No San Diego Housing Commission (Housing Commission) loan proceeds will be provided to this development.

Estimated permanent sources and uses of financing are provided in Table 3. The developer’s project pro forma is provided as Attachment 4.

Table 3 –Estimated Sources and Uses of Financing

Permanent Financing Sources	Amounts	Permanent Financing Uses	Amounts
Permanent Loan	\$ 90,000,000	Acquisition Costs	\$ 3,310,153
Tax Credit Equity	\$ 8,878,328	Construction Costs	\$ 76,951,954
Developer Equity	\$ 14,579,388	Soft Costs	\$ 20,801,870
		Developer Fee	\$ 3,000,000
		Financing Costs	\$ 9,393,739
Total Development Cost	\$113,457,716	Total Development Cost	\$ 113,457,716

Developer Fee

The net cash developer fee shall be \$3,000,000 provided, however, that in the event financing terms or construction costs change and result in a financing gap, the developer may defer additional developer fee.

On April 25, 2017, the Housing Authority approved the “Request for Approval of Updated Developer Fees” (Report No. HAR 17-011; 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 developer is proposing a \$3,000,000 total developer fee, which complies with HAR 17-011. The proposed fee is in conformance with the “Request for Approval of Updated Developer Fees” guidelines approved by the Housing Authority on April 25, 2017.

Prevailing Wages

Prevailing wages are not applicable to the proposed project due to the sources proposed to fund the construction of the project.

Development Cost Key Performance Indicators

Housing Commission staff has identified development cost performance indicators, which were used to evaluate the proposed development. The key performance indicators listed in Table 4 are commonly used by real estate industry professionals and affordable housing developers.

Table 4 – Key Performance Indicators

Development Cost Per Unit	\$113,457,716 ÷ 264 units =	\$429,764
Acquisition Cost Per Unit	\$3,310,153 ÷ 264 units =	\$12,538
Net Rentable Square Foot Hard Cost	\$76,951,954 ÷ 270,534 sq. ft. =	\$284
Gross Building Square Foot Hard Cost	\$76,951,954 ÷ 374,261 sq. ft. =	\$206

Project Comparison Chart

Multiple factors and variables influence the cost of developing multifamily affordable housing, including but not limited to project location, site conditions, site improvements needed, environmental factors, land use approval process, community involvement, construction type, design requirements/constraints, economies of scale, City impact fees, developer experience and capacity, and amenities necessary to gain tax credit approval. Table 5 shows a comparison of the subject property and other developments of the same construction type.

Table 5 – Comparable New Construction Projects

Project Name	Year	Construction Type	Units	Total Development Cost	Cost Per Unit	SDHC Subsidy Per Unit *	Hard Cost Per Square Foot
Scripps Mesa Apartments	2019	Type-V Residential & Type II Parking Structure	264	\$113,457,716	\$429,764	\$0	\$206
Civita II Family	2017	Type- III Over Type-I	203	\$99,850,914	\$491,876	\$0	\$332
Keeler Court	2019	Type V	71	\$40,891,780	\$575,941	0	\$304

AFFORDABLE HOUSING IMPACT

Under the proposed bond financing, Scripps Mesa Apartments would have 53 units restricted to households with incomes at or below 50 percent of San Diego Area Median Income (AMI). The remaining units will be market-rate units. The affordable units will be restricted for a 55-year term. Table 6 summarizes the affordability:

Table 6 – Affordability & Monthly Estimated Rent Table

Unit Type	AMI	Number of Units	Maximum Gross Rents
1-bedroom	50%	18	\$940
1-bedroom	Market	72	Market
2-bedroom	50%	29	\$1,120
2-bedroom	Market	114	Market
3-bedroom	50%	6	\$1,290
3-bedroom	Market	25	Market
Total		264	

TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BONDS

Proposed Housing Bonds

Multifamily housing financing often involves the issuance of tax-exempt Multifamily Housing Revenue Bonds (Bonds) on behalf of private developers of qualifying affordable rental apartment projects. The advantages of tax-exempt financing to developers include below-market interest rates and access to Low Income Housing Tax Credits (Tax Credits) – features that are not available with typical conventional multifamily housing mortgage loans.

The Housing Commission utilizes the Housing Authority’s tax-exempt borrowing status to pass on lower tax-exempt interest rate financing (and make 4 percent tax credits available) to developers of affordable rental housing. The Housing Authority’s ability to issue bonds is limited under the U.S. Internal Revenue Code. To issue bonds for a development, the Housing Authority must first submit an application to the California Debt Limit Allocation Committee (CDLAC) for a bond allocation. Prior to submitting applications to CDLAC, developments are brought before the Housing Commission, Housing Authority and City Council. A Housing Authority bond inducement resolution must be obtained prior to application submittal, and a City Council Tax Equity and Fiscal Responsibility Act (TEFRA) resolution must be secured no later than 30 days after application submittal. On July 8, 2019, these actions were completed for Scripps Mesa Apartments.

On October 16, 2019, CDLAC awarded the development a \$100,000,000 private activity bond allocation. The developer proposes that the bond proceeds will be used for both construction financing and permanent financing. The developer proposed that the bonds be issued through a tax-exempt private placement bond issuance. The bonds will meet all requirements of the Housing Commission’s Multifamily Housing Revenue Bond Program policy and will fully comply with the City of San Diego’s (City) ordinance on bond disclosure. The amount of bonds ultimately issued will be based upon development costs, revenues and interest rates prevailing at the time of bond issuance.

On January 17, 2020, the Borrower filed an application to the California Tax Credit Allocation Committee (“CTCAC”) requesting a reservation of 4 percent low-income housing tax credits for the development. The Borrower expects that CTCAC will award the tax credit reservation at its meeting on March 18, 2020.

A general description of the Multifamily Housing Revenue Bond Program and the actions that must be taken by the Housing Authority to initiate and finalize proposed financings are described in Attachment 5. Final authorization of the Bonds issuance will require Housing Authority approval on April 7, 2020.

Public Disclosure on Bond Authorization

The tax-exempt debt, in the form of the bonds (Bonds), will be sold through a private placement purchased directly by Bank of America. Bank of America is a “qualified institutional buyer” within the meaning of the U.S. securities laws.

Under the private placement structure for this transaction, Bank of America will make a loan to the Housing Authority pursuant to the terms of the Funding Loan Agreement among Bank of America, the Housing Authority and a to-be-selected Fiscal Agent. The Loan made by Bank of America to the Housing Authority (Funding Loan) will be evidenced by the Bonds, which will obligate the Housing Authority to pay Bank of America the amount it receives from the Borrower, as described below. The Housing Authority and the Borrower will enter into a Borrower Loan Agreement, pursuant to which the proceeds of the Funding Loan will be advanced to the Borrower. In return, the Borrower agrees to pay the Fiscal Agent amounts sufficient to make payments on the Bonds. The Housing Authority’s obligation to make payments on the Bonds is limited to the amounts the Fiscal Agent receives from the Borrower under the Borrower Loan Agreement, and no other funds of the Housing Authority are pledged to make payments on the Bonds.

Bank of America will be originating its loan pursuant to the Freddie Mac “TEL” (i.e., tax exempt loan) program. Within 30 days of closing, the Bonds will be purchased from Citibank by Freddie Mac under the TEL program, Bank of America will be the initial purchaser of the Bonds issued by the Housing Authority.

The transfer of the Bonds to any subsequent purchaser – including to Freddie Mac pursuant to the preceding paragraph – will comply with Housing Commission policy number PO300.301. Moreover, any subsequent Bond holder would be required to represent to the Housing Authority that it is a qualified institutional buyer or accredited investor who is buying the Bonds for investment purposes and not for resale, and has made due investigation of any material information necessary in connection with the purchase of the Bonds. The following document will be executed on behalf of the Housing Authority with respect to the Bonds: Funding Loan Agreement, Borrower Loan Agreement, Assignment of Deed of Trust, Regulatory Agreement, and other ancillary loan documents. At the time of docketing, documents in substantially final form will be presented to members of the Housing Authority. Any changes to the documents following Housing Authority approval require the consent of the City Attorney’s Office and Bond Counsel.

The Bonds will be issued pursuant to the Funding Loan Agreement. Based upon instructions contained in the Funding Loan Agreement and the Borrower Loan Agreement, Citibank will disburse Bond proceeds for eligible costs and will, pursuant to an assignment from the Housing Authority, receive payments from the Borrower. The Borrower Loan Agreement sets out the terms of the repayment and the security for the loan made by the Housing Authority to the Borrower, and the Housing Authority assigns its rights to receive repayments under the loan agreement to Citibank. The Regulatory Agreement will also ensure that the project complies with all applicable federal and state laws. An Assignment of Deed of Trust and other Loan Documents, which assigns the Housing Authority’s rights and responsibilities as the issuer to Citibank, is signed by the Housing Authority for the benefit of Citibank. Rights and responsibilities that are assigned to Citibank include the right to collect and enforce the collection of loan payments, monitor project construction and related budgets, and enforce insurance and other requirements. These rights will be used by Bank of America to protect its financial interests as the holder of the Bonds.

Financial Advisor’s Recommendations

Orrick, Herrington & Sutcliffe LLP is the bond counsel and Ross Financial is the Financial Advisor to work on the tax-exempt bond 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 proceed with the bond issuance. The financial advisor’s analysis and recommendation is included as Attachment 6.

FISCAL CONSIDERATIONS

The proposed funding sources and uses approved by this action are included in the Fiscal Year 2020 Housing Commission Budget.

Funding sources approved by this action will be as follows:

Bond Issuance Fees - \$250,000.00 (\$100,000,000 x .0025)

Funding uses approved by this action will be as follows:

Administration Costs \$7,950 (53 affordable unit x \$150 annual fee)

There are no fiscal impacts to the Housing Commission, the City of San Diego, or the Housing Authority. The bonds would not constitute a debt of the City. If bonds are ultimately issued for the development, the bonds will not financially obligate the City, the Housing Authority or the Housing Commission because security for the repayment of the bonds will be limited to specific private revenue sources of the development. Neither the faith and credit nor the taxing power of the City or the Housing Authority would be pledged to the payment of the bonds. The developer is responsible for the payment of all costs under the financing, including the Housing Commission annual administrative fee, as well as Housing Commission Bond Counsel and Financial Advisor fees. Additionally the developer is responsible for the payment of all costs under the financing, including the Housing Commission annual administrative fee, as well as Housing Commission Bond Counsel and Financial Advisor fees.

Development Schedule

The estimated development timeline is as follows.

Milestones	Estimated Dates
<ul style="list-style-type: none">• Housing Commission final bond authorization• Housing Authority final bond authorization• Estimated bond issuance and escrow closing• Estimated start of construction work• Estimated completion of construction work	<ul style="list-style-type: none">• March 6, 2020• April 7, 2020• April 13, 2020• April 2020• June 2022

PREVIOUS COUNCIL and/or COMMITTEE ACTION

On June 14, 2019, and June 25, 2019, respectively, the Housing Commission (Report No. HCR19-050) and the Housing Authority (Report No. HAR19-014) approved preliminary steps to issue up to \$110,000,000 of tax-exempt Multifamily Housing Revenue Bonds.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS

As required by the Housing Commission Bonds Program, the developer presented their proposal for Scripps Mesa Apartments to the local community planning board. Presentations were made on several occasions starting in October 2014. The following community groups have been informed about the San

Diego Unified School District partnership with the Monarch/Essex team: Miramar Ranch North Planning Committee, Scripps Ranch Planning Group, Scripps Ranch Civic Association, and Scripps Ranch Schools Committee.

KEY STAKEHOLDERS and PROJECTED IMPACTS

Stakeholders include Monarch Group, Essex Property Trust, the Miramar Ranch North and Scripps Ranch communities and residents. Construction of the property is expected to have a positive impact on the community because it will provide the needed affordable and market rate housing along with increased economic benefits to the area.

ENVIRONMENTAL REVIEW

A Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code was filed on June 20, 2018, which stated the following: The project will not have a significant effect on the environment. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. Mitigation measures were made a condition of the approval of the project. A Mitigation reporting or monitoring plan was adopted for this project. A Statement of Overriding Considerations was not adopted for this project. Findings were made pursuant to the provisions of CEQA. . Future actions to consider and approve development entitlement approvals related to the future development of the site will require additional review under the provisions of CEQA by the lead agency. Processing under the National Environmental Policy Act (NEPA) is not required as no federal funds are involved in this action.

Respectfully submitted,

Colin Miller

Colin Miller
Vice President
Multifamily Housing Finance
Real Estate Division

Approved by,

Jeff Davis

Jeff Davis
Executive Vice President & Chief of Staff
San Diego Housing Commission

- Attachments: 1) Development Summary
2) Site Map
3) Developer Disclosure Statement – Monarch Development
4) Developer’s Project Pro forma
5) Multifamily Housing Revenue Bond Program
6) Financial Advisor’s Recommendation
7) Public Disclosure

Hard copies are available for review during business hours at the security information desk in the main lobby and at the fifth floor reception desk of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101 and at the Office of the San Diego City Clerk, 202 C Street, San Diego, CA 92101. You may also review complete docket materials in the “Governance & Legislative Affairs” section of the San Diego Housing Commission website at www.sdhc.org

Development Summary

Table 1 – Development Details

Address	10380 Spring Canyon Road, San Diego 92131
Council District	5
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Construction Lender	Bank of America
Permanent Lender	Bank of America

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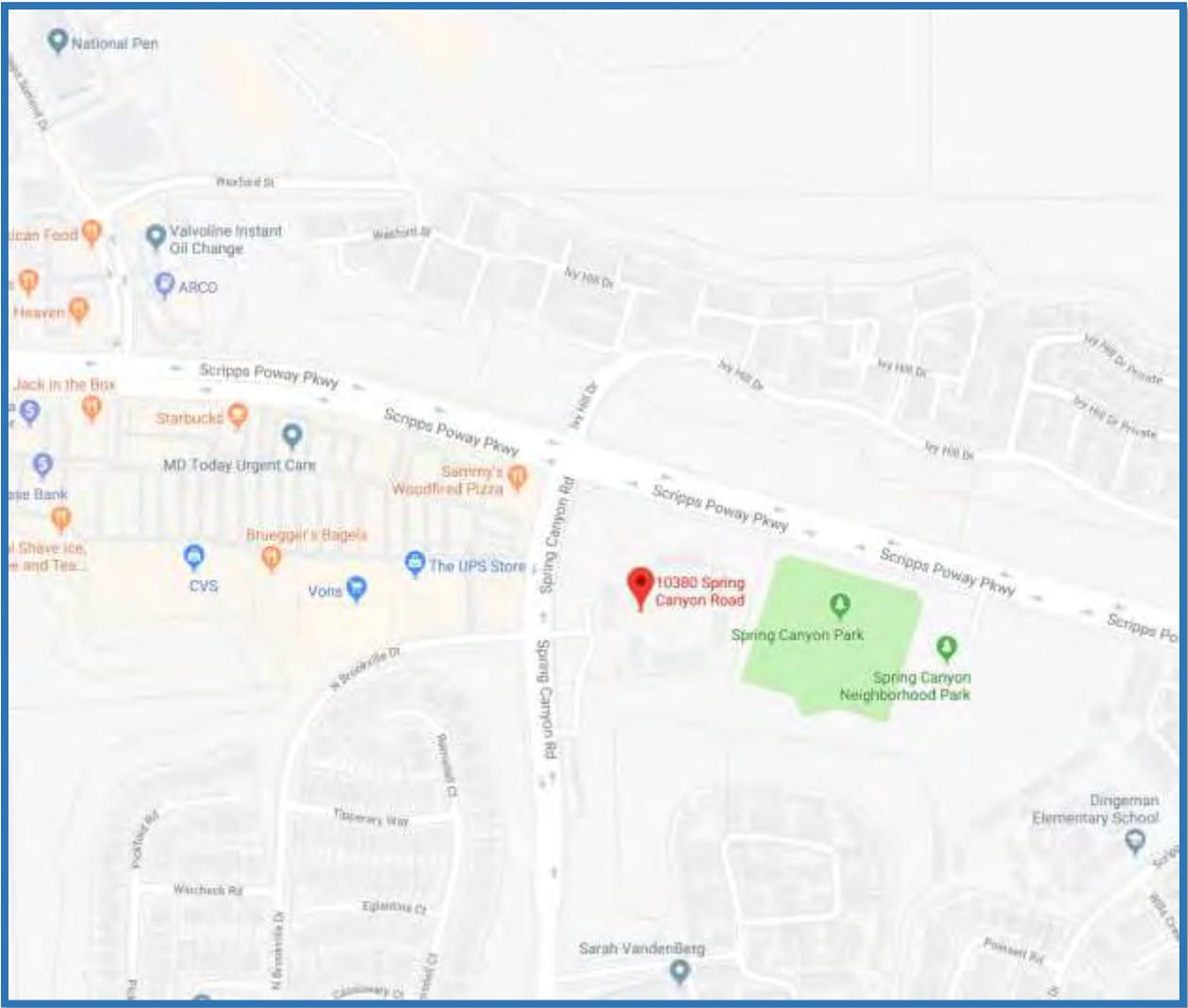
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2-bedroom	50%	29	\$1,203
2-bedroom	Market	114	Market
3-bedroom	50%	6	\$1,391
3-bedroom	Market	25	Market
Total		264	

Site Map



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

1. Name of CONTRACTOR: Scripps Mesa Apartments, L.P.
2. Address and Zip Code: c/o Essex Property Trust, 1100 Park Place, Suite 200, San Mateo, CA 94403
3. Telephone Number: 650-655-7800
4. Name of Principal Contact for CONTRACTOR: Adam Berry
5. Federal Identification Number or Social Security Number of CONTRACTOR: 30-1164091
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: Scripps Mesa Apartments, L.P.
(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:

November 9, 2018
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. 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.
 - c. 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.

- d. If the CONTRACTOR is some other entity, the officers, the members of the governing body, and each person having an interest of more than 10%.(Attach extra sheet if necessary)

Name and Address	Position Title (if any) and percent of interest or description of character and extent of interest
Name: Monarch Essex Scripps GP, LLC	General Partner of Scripps Mesa Apartments, L.P./ 1% interest in Scripps Mesa Apartments, L.P.
Address: 1100 Park Place, Suite 200, San Mateo, CA 94403	
Name: Monarch Essex Scripps, LLC	100% owner of Monarch Essex Scripps GP, LLC
Address: 1100 Park Place, Suite 200, San Mateo, CA 94403	
Name: Monarch Essex Scripps, LLC	Limited Partner of Scripps Mesa Apartments, L.P./ 99% interest in Scripps Mesa Apartments, L.P.
Address: 1100 Park Place, Suite 200, San Mateo, CA 94403	
Name: Essex Scripps, LLC	50.5% owner of Monarch Essex Scripps, LLC
Address: 1100 Park Place, Suite 200, San Mateo, CA 94403	
Name: Monarch Scripps Mesa, LLC	49.5% owner of Monarch Essex Scripps, LLC
Address: 7727 Herschel Avenue, La Jolla, CA 92037	
Name: Essex Portfolio, L.P.	100% Member of Essex Scripps, LLC
Address: 1100 Park Place, Suite 200, San Mateo, CA 94403	
Name: Essex Property Trust, Inc.	~97% General Partner of Essex Portfolio, L.P.
Address: 1100 Park Place, Suite 200, San Mateo, CA 94403	

9. Has the makeup as set forth in Item 8(a) through 8(e) changed within the last twelve (12) months? If yes, please explain in detail.

No.

10. Is it *anticipated* that the makeup as set forth in Item 8(a) through 8(e) will change within the next twelve (12) months? If yes, please explain in detail.

No.

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

Name and Address	Position Title (if any) and percent of interest or
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	description of character and extent of interest
Name: Pat Kruer Trust	Member of Monarch Scripps Mesa, LLC/ Owns an approximately 11% computed interest in the Contractor
Address: 7727 Herschel Avenue, La Jolla, CA 92037	
Name: Tim Kruer Trust	Member of Monarch Scripps Mesa, LLC/ Owns an approximately 11% computed interest in the Contractor
Address: 7727 Herschel Avenue, La Jolla, CA 92037	
Name:	
Address:	

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

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

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

Name and Address	Relationship to CONTRACTOR
Name:	
Address:	
Name:	
Address:	
Name:	
Address:	

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.

Financials are not available yet for Scripps Mesa Apartments, L.P., but see attached 10-K for Essex Portfolio, L.P., the indirect majority owner of Scripps Mesa Apartments, L.P.

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:

Funds are proposed to be a mix of tax-exempt private activity multifamily housing revenue bonds, 4% tax credits, and CONTRACTOR equity.

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

- a. In banks/savings and loans:

Name: Essex Portfolio, L.P.

Address: 1100 Park Place, Suite 200, San Mateo, CA 94403

Amount: \$100 million (see Balance Sheet in 10-K)

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

Name:

Address:

Amount: \$

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

Description	Market Value (\$)	Mortgages or Liens (\$)

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

Name and Address	Contact Name
Name: J.P. Morgan	David Yao
Address: 3 Park Plaza, Irvine, CA 92614	
Name: Wells Fargo	Jimmy Reynoso
Address: 1655 Grant St., Concord, CA 94520	
Name: Wells Fargo	
Address: 90 South 7 th St., Minneapolis, MN 55402	Amanda Weidling

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

Yes No

If yes, 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 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:

The following Projects were completed by affiliates of Essex Portfolio, L.P., the indirect majority owner of Contractor.

Type of Bond	Project Description	Date of Completion	Amount of Bond	Action on Bond
Revenue	187 unit stabilized development project in West Hollywood, CA	2014	\$54,535,000	No
Revenue	184 unit stabilized development project in West Hollywood, CA	2014	\$59,900,000	No
Revenue	275 unit stabilized development project in Los Angeles, CA	2009	\$30,045,000	No
Revenue	545 unit development project TCO expected Q3'19, in Los Angeles, CA	2019E	\$132,000,000	No

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:

Name and Address	Affiliation
Name:	
Address:	
Name:	
Address:	
Name:	

Address:	

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

Yes No

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

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

General description of such work:

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. (Attach extra sheet if necessary)

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

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

Identification of Contract or Development	Location	Amount	Date to be Completed
---	----------	--------	----------------------

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

Awarding Agency	Amount	Date Opened

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

Essex Property Trust was established in 1971 and owns over 55,000 apartment units on the West Coast. The company went public as a Real Estate Investment Trust in 1994 and currently trades on the New York Stock Exchange (trading symbol: ESS). The company has the highest total return of all public US REITs since its IPO in 1994.

The executive management team at Essex has an average of over 20 years with the company. Since its inception, the company has developed over 14,000 multifamily units in over 60 communities up and down the west coast. The company utilizes in-house construction management and accounting teams to oversee the projects and ensure that communities are delivered on-time and on-budget. Because Essex is a long-term owner of its real estate, we develop to the highest possible specifications in order to maximize long-term value creation.

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

Yes No

If yes, explain: N/A

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:

Essex Property Trust was established in 1971 and owns over 55,000 apartment units on the West Coast. The company went public as a Real Estate Investment Trust in 1994 and currently trades on the New York Stock Exchange (trading symbol: ESS). The company has the highest total return of all public US REITs since its IPO in 1994.

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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:

The CONTRACTOR (Scripps Mesa Apartments, L.P.) is not currently involved in any construction-related litigation. The entities listed in this Statement for Public Disclosure may be a party to various claims and routine litigation arising in the ordinary course of business with their development and redevelopment projects. There is no active construction-related litigation that is material to our business or any of our individual development or redevelopment projects.

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

MOC Insurance Services, 101 Montgomery St., Suite 800, San Francisco, CA 94104 – (415) 957-0600

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

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)] - See attached certificate of insurance

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)] - See attached certificate of insurance
- d. Professional Liability (Errors and Omissions) [Attach certificate of insurance showing the amount of coverage and coverage period(s)] - None
- e. Excess Liability [Attach certificate(s) of insurance showing the amount of coverage and coverage period(s)] - See attached certificate of insurance
- f. Other (Specify) [Attach certificate(s) of insurance showing the amount of coverage and coverage period(s)] - None

27. CONTRACTOR warrants and certifies that it will not during the term of the PROJECT, GRANT, LOAN, CONTRACT, DEVELOPMENT and/or RENDITIONS OF SERVICES discriminate against any employee, person, or applicant for employment because of race, age, sexual orientation, marital status, color, religion, sex, handicap, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, sexual orientation, marital status, color, religion, sex, handicap, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the SDHC setting forth the provisions of this nondiscrimination clause.
28. The CONTRACTOR warrants and certifies that it will not without prior written consent of the SDHC, engage in any business pursuits that are adverse, hostile or take incompatible positions to the interests of the SDHC, during the term of the PROJECT, DEVELOPMENT, LOAN, GRANT, CONTRACT and/or RENDITION OF SERVICES.
29. CONTRACTOR warrants and certifies that no member, commissioner, councilperson, officer, or employee of the SDHC, the AUTHORITY and/or the CITY, no member of the governing body of the locality in which the PROJECT is situated, no member of the government body in which the SDHC was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the assignment of work, has during his or her tenure, or will for one (1) year thereafter, have any interest, direct or indirect, in this PROJECT or the proceeds thereof.
30. List all citations, orders to cease and desist, stop work orders, complaints, judgments, fines, and penalties received by or imposed upon CONTRACTOR for safety violations from any and all government entities including but not limited to, the City of San Diego, County of San Diego, the State of California, the United States of America and any and all divisions and departments of said government entities for a period of five (5) years prior to the date of this statement. If none, please state: **NONE**

Government Complaint	Entity	Making	Date	Resolution
None				

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

Yes No

If yes, please explain, in detail,

N/A

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:

NONE, ESSEX AND MONARCH WILL HIRE A LICENSED GENERAL CONTRACTOR.

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

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

None.

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

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

NONE.

Date	Entity Involved (i.e. City SDHC, etc)	Status (Current, delinquent, repaid, etc.)	Dollar Amount

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: N/A

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: N/A

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

- Name: Sarah Kruer Jager
 Address: 7727 Herschel Avenue, La Jolla, CA 92037
 Phone: (858) 551-4390
 Project Name and Description: Apartment project in West Hollywood

- 2. Name: Rod Stone
 Address: 7727 Herschel Avenue, La Jolla, CA 92037
 Phone: (858) 551-4390
 Project Name and Description: Apartment project in West Hollywood
- 3. Name: Tim Kruer
 Address: 7727 Herschel Avenue, La Jolla, CA 92037
 Phone: (858) 551-4390
 Project Name and Description: Apartment project in West Hollywood

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

The project is being developed by the Monarch/Essex Team, which is comprised of highly experienced, trusted, proven, and best-in-class real estate entitlement, development, and investment experts. The team has a long history of entitlement, development, and direct investment in residential projects that create innovative solutions to development challenges. The Project Team has completed billions of dollars of real estate entitlement, development, and direct property investment throughout the Western U.S.—demonstrating its proven transaction experience.

Monarch is a local, family-owned and operated business. Monarch’s Partners have been in this business for over 40 years. Over that time, they have entitled, developed or acquired approximately 20,000 residential units in the Western U.S. This includes more than 11,000 residential units in over 50 projects in the San Diego region.

In total, Essex has interests in 247 apartment communities, aggregating 60,239 apartment homes, excluding the Company's ownership in preferred equity investments, as well as one operating commercial building, and seven active development projects with 1,982 apartment homes in various stages of development. This includes ownership today in 20 properties that comprise approximately 5,800 units in the San Diego region.

The Monarch/Essex Team has significant experience in collaborating with public agency partners, both through personal community work and through development projects. The team’s philosophy is that it is a privilege to collaborate with public agency partners, as such a partnership provides the Monarch/Essex Team the opportunity to develop projects that are not only high quality and award winning, but which also reflect the commitment to community that is fostered by collaboration with public agency partners.

Essex and Monarch have partnered in the past in designing tax-exempt bond and tax credit financing structures, thereby allowing the development team to provide deeper rent affordability benefits to tenants and communities.

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

Name	Experience
To be determined.	

CONSENT TO PUBLIC DISCLOSURE BY CONTRACTOR

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

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

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

[See attached signature page.]

Executed this _____ day of _____, 20 _____, at _____, California.

CONTRACTOR:

GENERAL PARTNER:

MONARCH ESSEX SCRIPPS GP, LLC,
a Delaware limited liability company

By: Monarch Essex Scripps, LLC,
a Delaware limited liability company,
its sole member

By: Essex Scripps, LLC
a Delaware limited liability company,
its member

By: Essex Portfolio, L.P.,
a California limited partnership,
its sole member

By: Essex Property Trust, Inc.,
a Maryland corporation,
its general partner

By: 
Name: Daniel J. Rosenberg
Title: Senior Vice President

By: Monarch Scripps Mesa, LLC,
a California limited liability company,
its member

By: _____
Name: Rodney F. Stone
Title: Manager

By: _____
Name: Sarah Kruer Jager
Title: Manager

[Signatures continue on following page.]

LIMITED PARTNER:

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a Delaware limited liability company

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a Delaware limited liability company,
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By: _____
Name: Rodney F. Stone
Title: Manager

By: _____
Name: Sarah Kruer Jager
Title: Manager

CERTIFICATION

The CONTRACTOR, Scripps Mesa Apartments, L.P., a California limited partnership, 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.

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[Signatures continue on following page.]

ACKNOWLEDGMENT

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.

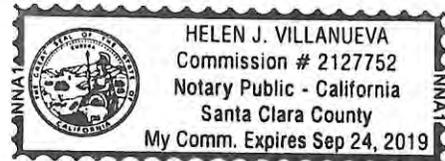
State of California
County of San Mateo)

On May 22, 2019 before me, Helen J. Villanueva, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature *H. Villanueva* (Seal)

LIMITED PARTNER:

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a Delaware limited liability company

By: Essex Scripps, LLC
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Name: Rodney F. Stone
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Title: Manager

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.

[All signatures to be notarized.]

ACKNOWLEDGMENT

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State of California
County of San Mateo)

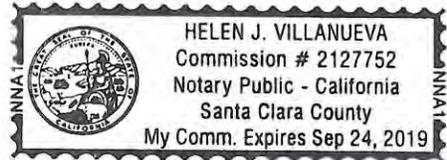
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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *H. Villanueva* (Seal)



Executed this ____ day of _____, 20 ____, at _____, California.

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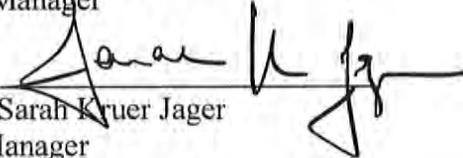
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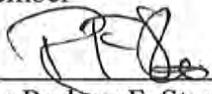
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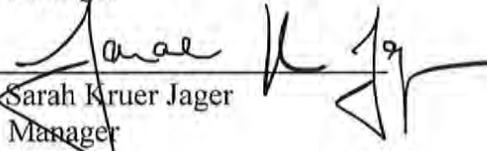
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[All signatures to be notarized.]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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)

On May 23, 2019 before me, Stefanie Greco, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Rodney F. Stone & Sarah Krueger Jager
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is 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: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Scripps Mesa

Sources & Uses Pro Forma (Feb-20)

Sources of Funding During Construction	Amount
Tax-Exempt Bond Proceeds	\$90,000,000.00
Developer Equity	\$23,457,716.00
Total Sources	\$113,457,716.00

Uses	
Land Acquisition (1)	\$3,310,153.00
Construction Costs	\$76,951,954.00
Cost of Issuance	\$1,723,739.00
Construction Loan Interest & Operating Reserve	\$7,316,250.00
Developer Fee	\$3,000,000.00
<i>Other Uses:</i>	
Architecture, Engineering & Processing	\$3,750,000.00
City Fees	\$5,500,000.00
Property Taxes During Construction	\$1,000,000.00
Other Soft Costs	\$2,996,048.00
Contingency	\$7,909,572.00
Total Uses	\$113,457,716.00

Note: Sources and uses pro forma above is preliminary/estimated and subject to change.

(1) Excludes ground lease payments due to ground lessor over lease term.

Sources of Funding - Permanent	Amount
Tax-Exempt Bond Proceeds	\$90,000,000.00
Projected Tax Credits (4%)	\$8,878,328.00
Developer Equity	\$14,579,388.00
Total Sources	\$113,457,716.00

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

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

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

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

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

Approval Process:

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

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

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

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

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

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

ROSS FINANCIAL

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February 11, 2020

Ms. Jennifer Kreutter
Director of Multifamily Loan Underwriting
Housing Finance Real Estate Division
San Diego Housing Commission
1122 Broadway, Suite 300
San Diego, CA 92101

Re: Scripps Mesa Apartments

Dear Ms. Kreutter:

The San Diego Housing Commission (the “Commission”) has retained Ross Financial as its municipal advisor to analyze the feasibility of issuing tax-exempt bonds (the “Bonds”) for the Scripps Mesa Apartments (the “Development”).

This feasibility analysis reviews the following items:

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

Ross Financial has based its analysis of the Development’s financial feasibility on materials provided by the Monarch Group (“Monarch”), which, along with Essex Property Trust (“Essex”), has created the developer and borrower entities for the Development. The materials include: (1) the application to the California Debt Limit Allocation Committee (“CDLAC”) for private activity bond allocation, (2) the financing commitment from Bank of America, N.A., as construction and permanent lender (the “Bank”) for the Development, (3) the market study performed by CBRE in support of the application to CDLAC, and (4) Monarch’s pro forma financial schedules for the Development. Ross Financial has not visited the site of the proposed Development and had no role in the selection of the Bank.

OVERVIEW OF DEVELOPMENT

Development Summary. The Development is a new construction mixed-use multifamily residential project being developed under a long-term ground lease with San Diego Unified School District (“SDUSD”). The uses consist of 264 mixed income multifamily residential units, parking, commercial and a STEAM building for SDUSD. The 264 residential units are comprised of 90 one-bedroom units, 143 two-bedroom units and 31 three-bedroom units. In addition to a four-story parking structure, there are three buildings: one four-story residential building, a one-story community clubhouse building and a one-story STEAM building with approximately 4,000 square feet for student makerspace. The construction is Type-V Residential with a PT mat slab foundation for the residential portion and a Type II parking structure.

Parking and Amenities. The Development includes 491 parking spaces: 451 spaces in the parking structure, 12 surface spaces for commercial, 1 surface space for the leasing office and 27 surface spaces for the STEAM building. Site amenities include: a community clubhouse with a leasing office, fitness center, business center, storage and laundry facilities; a community garden; adog run; a resort-style pool and spa; multiple indoor/outdoor community gathering spaces; open green space areas; and approximately 2,000 square feet of neighborhood retail/commercial. Unit amenities will include: a full appliance package with an electric range, frost-free refrigerator, oven, microwave, dishwasher and garbage disposal; high ceilings; quartz or similar countertops; tile backsplashes; European-style cabinets; full size washers and dryers; wood plank-style flooring; and balconies.

Unit and Affordability Mix. The unit mix and affordability restrictions for the Development are expected to be as follows:

Scripps Mesa	Unit Mix	Market	50% AMI**
1 Bedroom/1 Bath	90	72	18
2 Bedroom/2 Bath	143*	114	29
3 Bedroom/2 Bath	31	25	6
Total Units	264	211	53

*Includes 1 manager’s unit

** AMI = Area median income; Manager’s unit is not subject to affordability restrictions

Description of Development Site. The Development is to be constructed on a 6.72 acre site located at 10380 Spring Canyon Road in San Diego. The Site is owned by the SDUSD and is currently improved with the Scripps Mesa Community Center and Innovations Academy Charter School, which will be relocated and razed prior to construction.

Located in the Miramar Ranch North Community of San Diego, the Development Site is 1.0 mile from Interstate 15, north of the pick-up location for the 964 bus line and south of

the pick-up location for the 944 bus line. Surrounding land uses consist of a mixture of commercial and residential development:

- To the West: Scripps Ranch Marketplace, a shopping center that includes a CVS pharmacy, a Vons Grocery, a bank and several smaller retail establishments.
- To the East: Spring Canyon Park and Dingerman Elementary School
- To the North and South: Single family housing

Development Subdivisions. After the Bond closing, the Site and Development will be subdivided into eight separate parcels for financing purposes. There will be separate ownership of the market rate units, affordable units, the commercial/retail component, the STEAM facility and other project components.

Ownership of the Residential Portion of the Development. The residential portion of the Development eventually will be comprised of two parcels, each with separate ownership entities.

At Bond closing, ownership of the Development will be in the name of Scripps MU Owner, L.P., a California limited partnership (“Scripps MU Owner”), consisting of Monarch Essex Scripps GP, LLC as the sole general partner. Monarch Essex Scripps GP, LLC is a California limited liability corporation that will be 100% owned by Monarch Essex Scripps, LLC which, in turn, will be owned: (a) 50.5% by Essex Scripps, LLC and (b) 49.5% Monarch Scripps Mesa, LLC, created by Essex and Monarch, respectively.

After the Bond closing but prior to the closing of the tax credits for the Development, Scripps MU Owner will assign its interest in the parcel with the affordable units to Scripps AU Owner, L.P., a California limited partnership consisting of: (a) Monarch Essex Scripps GP, LLC as administrative general partner, (b) AOF Scripps Mesa LLC, a California limited liability corporation created by AOF/Pacific Affordable Housing Corp., a California not-for-profit public benefit corporation; and (c) a tax credit limited partner to be identified.

Developer Experience. The Developer will be a joint venture consisting of Essex Portfolio, LP and Monarch Scripps Mesa, LLC, entities created by Essex and Monarch, respectively. According to Monarch, Essex and Monarch, collectively, have more than 40 years of experience in financing, developing and/or rehabilitating multifamily rental housing. For Monarch, this experience encompasses over 11,000 units in more than 50 developments in the San Diego region. Essex has interests in 245 apartment communities aggregating more than 59,000 residential units, including 19 properties in the San Diego region comprising 5,440 units. Notable new construction projects include:

- 537 unit development (500 Folsom) in San Francisco, completed in 2019
- 187 unit development (The Huxley) in West Hollywood, completed in 2014
- 184 unit development (The Dylan) in West Hollywood, completed in 2014
- 275 unit development (Belmont Station) in Los Angeles, completed in 2009

CDLAC/CTCAC. On August 16, 2019, the Housing Authority filed an application to CDLAC requesting a private activity bond allocation of \$100,000,000 for the Development. On October 16, 2019, CDLAC awarded private activity bond allocation in the requested amount. The CDLAC allocation will expire in approximately 180 days after its award – on April 13, 2020. On January 17, 2020, the Borrower filed an application to the California Tax Credit Allocation Committee (“CTCAC”) requesting a reservation of 4% low income tax credits for the Development. The Borrower expects that CTCAC will award the tax credit reservation at its meeting on March 18, 2020.

In connection with the CDLAC application process, on June 25, 2019, the Housing Authority adopted a resolution of intent to issue tax-exempt obligations for the Development and authorized the submission of the application to CDLAC. On the same date, a TEFRA hearing, duly noticed, was held before the City Council at which time the Development was approved for purposes of Section 147 of the Internal Revenue Code. The TEFRA approval was signed July 8, 2019.

PROPOSED FINANCING

Project Costs and Funding. According to most recent projections provided by Monarch, the total costs of the Development, including construction and all soft costs, are estimated at \$113,457,716. The estimated sources of funds will differ during the construction period and following construction and lease-up (“at permanent”), as shown in the following table based on the most recent projections:

ESTIMATED DEVELOPMENT SOURCES AND USES		
Sources of Funding	Construction	Permanent
<i>Bond proceeds</i>	\$90,000,000	\$90,000,000
<i>LIHTC</i>	0	8,878,328
<i>Borrower Equity</i>	23,457,716	14,579,388
Total	\$113,457,716	\$113,457,716
Uses of Funding	Construction	Permanent
<i>Land Acquisition</i>	\$3,310,153	\$3,310,153
<i>Construction</i>	76,951,954	76,951,954
<i>Architect & Engineering</i>	3,750,000	3,750,000
<i>Constr. Interest, Tax and Reserves</i>	8,316,250	8,316,250
<i>Contingency</i>	7,909,572	7,909,572
<i>Developer Fee</i>	3,000,000	3,000,000
<i>City Fees, Issuance and Other Soft Costs</i>	10,219,787	10,219,787
Total	\$113,457,716	\$113,457,716

Low income housing tax credits are not needed at Bond closing to fund the construction of the Development. Construction will be funded only from Bond proceeds and Borrower equity (hard dollars). The tax credits will fund at permanent and will be used to repay a portion of the Borrower equity. Unlike 100% affordable transactions where limited

partner tax credit payments are needed as a construction and/or a bond repayment source, the delayed receipt of low income housing tax credits is typical of mixed income transactions.

The Bonds and Bank Funding Approach. The expectation (based on the most recent pro forma) is that the Housing Authority will issue the Bonds in a single tax-exempt series in the estimated amount of \$90,000,000 (but in no case to exceed \$100,000,000).

The Bonds will have the following features:

- The Bonds will be purchased by Bank of America, N.A. (the “Bank”);
- The Bonds will be funded in full at issuance, with proceeds held by a bond trustee (to be bid pursuant to a competitive process) under a trust indenture;
- Unspent Bond proceeds will be invested in an investment agreement with a third party provider that is acceptable to the Bank and Commission;
- The Bonds will have a nominal maturity not to exceed 40 years;
- The Bonds will not amortize during an initial term of between 10 to 20 years (the “Initial Period”);
- The Bonds will bear a fixed rate of interest estimated to be 4.25% during the Initial Period;
- The Borrower intends to enter into fixed to floating rate interest rate swap with a highly-rated counterparty acceptable to the Bank pursuant to which the fixed interest rate will be swapped for a variable interest rate equal to the national variable rate index (“SIFMA”) plus a spread of approximately 1.00% for a period of approximately 5 years. After the swap period, the Borrower may elect to extend the swap or refinance the Bonds. **Neither the Commission nor the Authority will be a party to the interest rate swap;**
- The Bonds will be callable at any time after 4 years;
- The Bonds are expected to close in early April 2020.

The Bank will execute a document with certain required representations to the effect that it has sufficient knowledge and experience to evaluate the risks and merits associated with purchasing the Bonds and has indicated its intention to hold the Bonds for its account. The Bank may transfer all or a portion of the Bonds only to transferees that execute a document with similar representations.

Housing Commission Financial Involvement. The Housing Commission will have no financial involvement with the Development.

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

- Tax-Exempt Bond Regulatory Agreement requirements (including voluntary elections made to CDLAC) for a 55-year term;

- Tax Credit Regulatory Agreement requirements (post-issuance) under which 53 units must be affordable at 50% AMI for a 55-year term to remain eligible for tax credits;

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

	Scripps Mesa
Assumptions	
Vacancy	5%
Revenue Escalation	2%
Operating Expense Escalation	3%
Cash Flow and Coverage	
Stabilized Net Income – First Full Year	\$8,146,250
Expenses	(3,015,000)
Commission Bond Monitoring and Admin Fee ²	(120,450)
Managing GP and LP Fees	(22,500)
Estimated Net Operating Income	\$4,998,800
Bond Debt Service ³	(3,825,000)
Debt Service Coverage ⁴	1.31x
Available Cash Flow	\$1,173,800

² Commission's fee at permanent is 0.125% x permanent loan amount plus monitoring fee of \$150/unit

³ Assumes an initial Bond par of \$90,000,000 at 4.25%

⁴ Net operating income divided by sum of Note Debt Service

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

Escalation	Revenues	Year				
		1	2	3	4	5
2.00%	Gross Scheduled Rent	8,575,000	8,746,500	8,921,430	9,099,859	9,281,856
	less 5% vacancy	(428,750)	(437,325)	(446,072)	(454,993)	(464,093)
	Total Net Income	8,146,250	8,309,175	8,475,359	8,644,866	8,817,763
3.00%	Expenses					
	Operating Expenses	(3,015,000)	(3,105,450)	(3,198,614)	(3,294,572)	(3,393,409)
	Bond Monitoring Fee*	(120,450)	(120,450)	(120,450)	(120,450)	(120,450)
	GP Asset Management Fee	(12,000)	(12,000)	(12,000)	(12,000)	(12,000)
	Total Expenses + Reserves	(3,147,450)	(3,237,900)	(3,331,064)	(3,427,022)	(3,525,859)
	Net Operating Income	4,998,800	5,071,275	5,144,295	5,217,844	5,291,904
	Bond Debt Service**	(3,825,000)	(3,825,000)	(3,825,000)	(3,825,000)	(3,825,000)
	Debt Service Coverage	1.31x	1.33x	1.34x	1.36x	1.38x
	Cash Flow after Debt Service	1,173,800	1,246,275	1,319,295	1,392,844	1,466,904

*Assumes 1/8% fee times \$90,000,000 par plus \$150/restricted unit monitoring fee

**Bond debt service assumes 4.25% fixed interest rate and interest only payments

PUBLIC PURPOSE

The Bonds are expected to result in the long-term affordability of 53 one, two and three-bedroom units in the City of San Diego which will be restricted and affordable to households earning 50% AMI.

The Bonds and associated Bond and Tax Regulatory Agreements will require that this affordability level be maintained for a period of 55 years.

BENEFITS AND RISKS TO THE COMMISSION

The Bonds provide a vehicle for financing a portion of the construction costs of the Development. As proposed, the Bonds will result in the long-term affordability of 53 one, two and three-bedroom units in the City of San Diego with units restricted to income levels described in "Public Purpose" above.

The Bonds do not pose undue financial risk to the Housing Authority. The Bonds are not direct obligations of the Housing Authority or the City of San Diego. The Bonds will be purchased by the Bank, which has indicated its intention to hold the Bonds for its own account. As the Bonds are callable after 4 years, there is a reasonable chance that the Bonds will be refinanced in full well before final maturity.

The primary risk is construction and lease-up risk – that the Development is not completed and/or leased up. This risk is essentially borne by the Bank which is purchasing the Bonds and the Borrower who is contributing hard equity dollars of more than \$13 million.

If the Housing Authority issues the Bonds, the Commission would receive an issuer fee at Bond closing of \$225,000, equal to 0.25% times the initial aggregate par amount of the Bonds (estimated at \$90,000,00). The Commission also would receive an estimated annual fee of \$112,500 to monitor the Bonds plus (b) a per unit monitor fee of \$150/restricted unit).

Costs of issuance will be funded by the Borrower most likely from equity and/or other funds. The Borrower has agreed to indemnify the Housing Authority and Commission as to matters relating to the Bonds. However, the Borrower is a single purpose entity with no significant assets or sources of income other than the Development and is generally not required to make up any cash flow shortfalls. Accordingly, Monarch and Essex will be providing its indemnification.

RECOMMENDATIONS

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

- The Bonds will achieve a public purpose by providing 53 affordable units, with all units restricted to income levels at 50% of AMI.

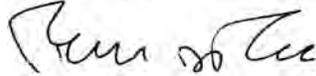
Ms. Jennifer Kreutter
Re: Scripps Mesa Apartments
February 11, 2020
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Attachment 6 - Financial Advisor's Recommendation

- The Bonds will be purchased by a well-established, highly capitalized bank that is active in affordable housing lending. The Bonds will be subject to restrictive transfer limitations at all times.
- The Borrower has agreed to indemnify the Housing Authority and the Commission regarding matters relating to the financing.
- Based on estimates provided by Monarch, there should be sufficient funds to complete the Development and the Development provides adequate cash flow to cover permanent debt service on the Bonds.

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

Very truly yours,



Peter J. Ross
Principal

PUBLIC DISCLOSURES RELATING TO CONDUIT REVENUE OBLIGATIONS

Pursuant to California Government Code Section 5852.1, the borrower (the "Borrower") identified below has provided the following required information to the Housing Authority of the City of San Diego (the "Authority") prior to the Authority's regular meeting (the "Meeting") of its Board of Commissioners (the "Board") at which Meeting the Board will consider the authorization of conduit revenue obligations as identified below.

1. Name of Borrowers: **Scripps MRU Owner, L.P., a California limited partnership and Scripps AU Owner, L.P., a California limited partnership.**
2. Board of Commissioners Meeting Date: **April 7, 2020.**
3. Name of Bond Issue / Conduit Revenue Obligations: **Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (Scripps Mesa Apartment) 2020 Series E (the "Bonds").**
4. Private Placement Lender or Bond Purchaser, Underwriter or Financial Advisor (mark one) engaged by the Borrower from which the Borrower obtained the following required good faith estimates relating to the Bonds:
 - (A) The true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the new issue of the Bonds (to the nearest ten-thousandth of one percent): **5.50% (estimated as of 3/18/20; final interest rate to be set closer to Bond closing, estimated on 4/8/20).**
 - (B) The estimated finance charges of the Bonds, which mean the sum of all fees and charges paid to third parties: collectively, **\$7,560,000 (\$1,600,000 paid upfront, \$4,360,000 paid during the term of the Bonds and \$[1,600,000] paid from Bond maturity through the end of the 55 year compliance period in the Regulatory Agreement).**
 - (C) The amount of proceeds received by the public body for sale of the Bonds less the finance charges of such Bonds described in subparagraph (B) and any reserves or capitalized interest paid or funded with proceeds of such Bonds: **\$85,000,000 (all finance charges and capitalized interest likely to be funded from a source other than the proceeds of the Bonds).**
 - (D) The total payment amount, which means the sum total of all payments the Borrower will make to pay debt service on the Bonds plus the finance charges of the Bonds described in subparagraph (B) not paid with the proceeds of the Bonds (which total payment amount shall be calculated to the final maturity of the Bonds): **\$281,560,000] (consisting of estimated principal and interest payments of \$274,000,000] and estimated finance charges identified in (B)).**

This document has been made available to the public at the Meeting of the Board.

Dated: March __, 2020

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 MULTIFAMILY HOUSING REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$100,000,000 TO FINANCE THE CONSTRUCTION OF A MULTIFAMILY RENTAL HOUSING DEVELOPMENT TO BE KNOWN AS SCRIPPS MESA APARTMENTS, 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 issue revenue bonds to finance the acquisition, rehabilitation or construction, development and equipping of multifamily rental housing; and

WHEREAS, Scripps MRU Owner, L.P., a California limited partnership and Scripps AU Owner, L.P., a California limited partnership (together, Borrower), have requested that the Authority issue multifamily housing revenue bonds and loan the proceeds thereof to the Borrower to finance Borrower's acquisition, construction, development and equipping of a multifamily residential rental housing development to be known as "Scripps Mesa Apartments" (Project), to consist of 264 apartment units to be located at 10380 Spring Canyon Road in the City of San Diego; and

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

accomplish such purpose it is desirable for the Authority to issue one or more revenue bonds to finance the costs of the construction and equipping of the Project; and

WHEREAS, the Authority intends to issue its Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (Scripps Mesa Apartments) 2020 Series E (Bonds) in an aggregate principal amount not to exceed \$100,000,000, which Bonds may be designated in one or more subseries; and

WHEREAS, the Bonds are expected to be initially purchased by Bank of America, N.A., or an affiliate (Purchaser) in a private placement transaction; and

WHEREAS, the Authority will loan the proceeds of the Bonds to the Borrower (Loan) and the Borrower will use such proceeds to finance the costs of the construction and equipping of the Project and the costs of issuing the Bonds; and

WHEREAS, the City Council of the City of San Diego, by its Resolution R-312545, effective July 8, 2019, approved the Authority's issuance of the Bonds after publication of a "TEFRA" notice and the holding on June 25, 2019 of a "TEFRA" hearing, 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 obligations; and

WHEREAS, CDLAC has allocated to the Project \$100,000,000 of the 2019 State of California ceiling for private activity bonds under section 146 of the Code; and

WHEREAS, the following documents are presented for consideration:

(1) The form of Trust Indenture (Indenture), by and between the Authority and U.S. Bank National Association, as trustee (Trustee), including the form of the Bonds attached to the Indenture as Exhibit A; and

(2) The form of Loan Agreement (Loan Agreement), by and between the Authority and the Borrower; and

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

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

WHEREAS, a Notice of Determination in compliance with sections 21108 or 21152 of the Public Resources Code was filed on June 20, 2018 determining that the Project will not have a significant effect on the environment. A final Environmental Impact Report (EIR) was prepared for the Project pursuant to the provisions of the California Environmental Quality Act (CEQA), a mitigation or monitoring plan was adopted and mitigation measures were made a condition of the approval of the Project; 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, construction and equipping 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 purpose of financing the acquisition, construction and equipping of the Project, the Authority approves the issuance of the Bonds in

one or more series, in an aggregate principal amount not to exceed \$100,000,000. The Bonds shall be issued 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 issuance and delivery thereof) as provided in the Indenture. The Bonds shall be in substantially the form attached as Exhibit A to the Indenture, with such appropriate variations, omissions, insertions, and provisions as are required or permitted by the Indenture. 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.

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 Executive Director of the Authority (Executive Director), the Executive Vice President and Chief Operating Officer (Executive Vice President & Chief Operating Officer) of the San Diego Housing Commission (Housing Commission), or the Vice President of Housing Finance and Portfolio Management Real Estate Division of the Housing Commission (Vice President Housing Finance), and the official seal of the Authority, or a facsimile, shall be impressed or imprinted on the Bonds and 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 Executive Director, the Executive Vice President & Chief Operating Officer, and the Secretary or a Deputy Secretary of the Authority, or the designee of any such officer (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 Regulatory Agreement. The Regulatory Agreement, in the form on file in the Housing Commission offices, is approved. The Designated Officers are each authorized to execute and deliver the Regulatory Agreement in such form, together with such changes as may be approved by the Designated Officer executing the same, in consultation with the General Counsel to the Authority, such execution to constitute conclusive evidence of the approval of all changes from the form of the Regulatory Agreement approved in this Resolution.

Section 7. Actions Ratified and Authorized. All prior actions taken by the officers, employees, and agents of the Authority with respect to the issuance and sale of the 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 assignment of security documents or deed of trust, and other documents, including but not limited to those described in any of the documents approved by this Resolution, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds and the making of the Loan in accordance with the Act and this Resolution.

Section 8. Further Consents, Approvals and Other Actions. All consents, approvals, notices, orders, requests, and other actions permitted or required by any of the documents authorized by this Resolution or otherwise appropriate in the administration of the 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 or lender, 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 9. 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 10. 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
02/18/2020
Or.Dept: Housing Authority
Doc. No.: 2330180

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

and

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

TRUST INDENTURE

Dated as of April 1, 2020

**\$(PAR AMOUNT)
Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(Scripps Mesa Apartments) 2020 Series E**

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TRUST INDENTURE

THIS TRUST INDENTURE is made and entered into as of April 1, 2020, 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 NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, with a corporate office located [CITY, STATE], as trustee (together with its permitted successors and assigns, the “Trustee”). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Section 1.01.

WITNESSETH:

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 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; and

WHEREAS, Scripps MRU Owner, L.P., a California limited partnership and Scripps AU Owner, L.P., a California limited partnership (together, the “Borrower”), have requested the Issuer to issue revenue bonds in the principal amount of \$[PAR AMOUNT] designated as the Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (Scripps Mesa Apartments) 2020 Series E (the “Bonds”) and to loan the proceeds from the sale thereof (the “Loan”) to the Borrower to finance and/or refinance the acquisition, construction and development of a 264-unit multifamily rental housing development to be located in San Diego, California, to be known as Scripps Mesa Apartments (the “Project”); and

WHEREAS, as more particularly described in the Loan Agreement, following the issuance of the Bonds, it is expected that the Property will be subdivided into separate condominium parcels intended for separate ownership, one parcel of which (as more particularly defined herein, the “Affordable Parcel”) is expected to be owned by Scripps AU Owner, L.P., a California limited partnership, consisting of 53 affordable residential rental units and related and ancillary common areas and facilities (the “Affordable Project”), and one parcel of which (as more particularly defined herein, the “Market Rate Parcel”) is expected to be owned by Scripps MRU Owner, L.P., a California limited partnership, and is expected to consist of 211 residential rental units which will be rented to individuals and families at market rates (the “Market Rate Project”); and

WHEREAS, pursuant to the Act and a resolution of the Issuer, the Issuer has agreed to issue the Bonds and to originate the Loan pursuant to a Loan Agreement, dated as of April 1, 2020, between the Issuer and the Borrower to assist in financing the Project; and

WHEREAS, pursuant to the Loan Agreement, the Borrower has agreed and covenanted with the Issuer and the Issuer has agreed to (i) apply the proceeds of the Loan to pay the costs of construction and development of the Project, (ii) make payments sufficient to pay the principal of, premium, if any, and interest on the Bonds when due (whether at maturity, by redemption, acceleration or otherwise) and (iii) observe the other covenants and agreements and make the other payments set forth therein; and

WHEREAS, the Borrower has delivered to the Issuer and the Issuer has assigned to the Trustee hereunder, the Note evidencing the Borrower's obligation to repay the Loan and the Issuer has made the Loan to the Borrower, subject to the terms and conditions of the Loan Agreement and this Indenture; and

WHEREAS, the obligations of the Borrower under the Loan Agreement and the Note will be secured by, among other things, a [Ground Leasehold Deed of Trust, Security Agreement and Fixture Filing] of even date herewith (as the same may be modified, amended or supplemented from time to time, the "Mortgage"), from the Borrower to a trustee for the benefit of the Trustee, and by the other Loan Documents.

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 the Bonds by the owners thereof and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Bonds according to their tenor and effect and to secure the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, the Issuer does hereby bargain, sell, convey, assign, pledge and grant to the Trustee, without recourse, a security interest in the following (the "Trust Estate"), subject only to the provisions of this Indenture permitting the application thereof to the purposes and on the terms and conditions set forth herein, for the securing of the performance of the obligations of the Issuer hereinafter set forth:

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

GRANTING CLAUSES

(a) All moneys from time to time paid by the Borrower pursuant to the terms of the Borrower Documents and all right, title and interest of the Issuer (including, but not limited to, the right to enforce any of the terms thereof) under and pursuant to and subject to the provisions of the Loan Agreement and other Borrower Documents (but excluding the amounts on deposit or to be deposited in the Fee Account, the Rebate Fund and the Costs of Issuance Fund including investment earnings on such amounts, reserving, however, the Reserved Rights); and

(b) All other moneys and securities from time to time held by the Trustee under the terms of this Indenture (or credited to any fund or account established hereunder), excluding all amounts on deposit in the Fee Account, the Rebate Fund and the Costs of Issuance Fund; and

(c) Any and all property, rights and interests (real, personal or mixed) of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder to the Trustee, which the Trustee is hereby authorized to receive at any and all times and to hold and apply the same subject to the terms of this Indenture; and

(d) The proceeds of any of the foregoing.

TO HAVE AND TO HOLD, all and singular, the Trust Estate, for the benefit of the Bondholders, with all rights and privileges hereby transferred, pledged, assigned and/or granted or agreed or intended so to be, to the Trustee and its successors and assigns in trust forever;

IN TRUST NEVERTHELESS, upon the terms and conditions herein set forth for the benefit, security and protection of all present and future Owners of the Bonds Outstanding, without preference, priority or distinction as to participation in the lien, benefit and protection of this Indenture of one Bond over or from the others, except as herein otherwise expressly provided;

PROVIDED, NEVERTHELESS and these presents are upon the express condition, that if (i) the Issuer shall well and truly pay or cause to be paid the principal of and premium, if any, on such Bonds with interest, according to the provisions set forth in the Bonds or shall provide for the payment or redemption of such Bonds by depositing or causing to be deposited with the Trustee the entire amount of funds or securities requisite for payment or redemption thereof when and as authorized by the provisions of Article VIII (it being understood that any payment with respect to the principal of or interest on Bonds made by the Borrower shall not be deemed payment or provision for the payment of the principal of or interest on Bonds, except Bonds purchased and canceled by the Trustee, all such uncanceled Bonds to remain Outstanding and the principal of and interest thereon payable to the Owners thereof) and shall also pay or cause to be paid all other sums payable hereunder by the Issuer and (ii) no amount shall be owing by the Borrower to the Issuer or the Trustee under the Loan Agreement, then these presents and the estate and rights hereby granted shall cease, terminate and become void and thereupon the Trustee, on payment of its lawful charges and disbursements then unpaid, on demand of the Issuer and upon the payment by the Issuer of the cost and expenses thereof, shall, subject to provisions herein requiring any remainder to be distributed to the Borrower, duly execute, acknowledge and deliver to the Issuer such instruments of satisfaction or release as may be necessary or proper to discharge this Indenture of record and if necessary shall grant, reassign and deliver to the Issuer all and singular the property, rights, privileges and interests by it hereby granted, conveyed and assigned and all substitutes therefor or any part thereof, not previously disposed of or released as herein provided; otherwise this Indenture shall be and remain in full force;

THIS INDENTURE FURTHER WITNESSETH and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed and the Issuer does hereby agree and covenant with the Trustee, for the benefit of the respective Owners from time to time of the Bonds as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.01. Definitions. The terms defined in this Article I shall have the meanings provided herein for all purposes of this Indenture, unless the context clearly requires otherwise. In addition, terms used herein and not otherwise defined herein shall have the meaning specified in the Loan Agreement and in the other Bond Documents as applicable.

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

“*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 management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by agreement, contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“*Affordable Owner*” means, in respect of such transfer described in Section 6.03 of the Loan Agreement, Scripps AU Owner, L.P., a California limited partnership.

“*Affordable Parcel*” means, in respect of such transfer described in Section 6.03 of the Loan Agreement, the Affordable Units and such ancillary and subordinate facilities or portions thereof constituting a separate legal parcel.

“*Affordable Units*” means, in respect of such transfer described in Section 6.03 of the Loan Agreement, the Initial Very Low Income Units (as defined in the Regulatory Agreement).

“*Alternate Security*” means any irrevocable letter of credit, guarantee, surety bond, insurance policy or other form of financial guarantee or credit facility delivered to the Trustee in substitution for a Credit Facility.

“*Approved Institutional Buyer*” means any institution that is either (i) a “qualified institutional buyer” as that term is defined under Rule 144A of the Securities Act of 1933 or (ii) an “accredited investor” as defined in Rule 501(a)(1), (2) or (3) of Regulation D of the Securities Act of 1933.

“*Authorized Borrower Representative*” means each Person at the time designated to act on behalf of the Borrower by written certificate or certificates furnished to the Issuer and the Trustee containing the specimen signature of each such Person and duly signed separately on behalf of Scripps MRU Owner, L.P. and Scripps AU Owner, L.P., respectively.

“*Authorized Denomination*” means, (a) so long as the Bonds are not rated in one of the three highest rating categories by a Nationally Recognized Rating Agency, (i) \$500,000 plus any integral multiple of \$5,000 in excess thereof and (ii) for purposes of redemption, purchase in lieu of redemption or defeasance, \$5,000 or any integral multiple thereof; provided that no Bond may be Outstanding in an amount less than \$500,000 except the last Bond Outstanding and (b) while the Bonds are rated within one of the three highest whole rating categories by any Nationally Recognized Rating Agency acceptable to the Issuer, \$5,000 or any integral multiple 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.

“*Bond Counsel*” means any firm of nationally recognized bond counsel familiar with the transactions contemplated under the Indenture and approved by the Issuer.

“*Bond Documents*” means the Indenture, the Bonds, the Loan Agreement, the Regulatory Agreement, the Tax Certificate, the Supplemental Agreement, and all other documents executed and delivered in connection with or relating to, the Bonds, including all Loan Documents not expressly listed in this definition, all as amended, restated and/or supplemented from time to time.

“*Bond Fund*” means the trust fund by that name created pursuant to Section 6.02 hereof.

“*Bond Payment Date*” means any Interest Payment Date and any other date on which the principal of, premium, if any, and/or interest on the Bonds is to be paid to the Owners thereof, whether upon redemption, at maturity or upon acceleration of maturity of the Bonds.

“*Bond Year*” means the period commencing on the Closing Date and ending on [CLOSING DATE], 2021 and each twelve month period thereafter, so long as the Bonds are Outstanding.

“*Bondholder Representative*” has the meaning set forth in Section 14.10 of this Indenture.

“*Bonds*” has the meaning set forth in the recitals of this Indenture.

“*Borrower*” has the meaning set forth in the recitals of this Indenture.

“*Borrower Documents*” means the Loan Agreement, the Note, the Regulatory Agreement, the Mortgage, the Supplemental Agreement, the Environmental Agreement and each of the other agreements, certificates, contracts or instruments to be executed by the Borrower in connection with the issuance of the Bonds or the financing of the Project, together with all other documents or instruments executed by the Borrower which evidence or secure the Borrower’s indebtedness under such documents and all other documents and instruments delivered simultaneously herewith or required under the Borrower Documents to be delivered during the term of the Loan.

“*Borrower’s Equity Account*” means the account by that name created pursuant to Section 6.02 hereof.

“*Business Day*” means a day other than a Saturday, a Sunday or a legal holiday on which banks located in the State of New York or in any city where the Trustee maintains its place of business for performance of its obligations under the Indenture are not open for general banking business.

“*Calculation Period*” means any one of the following: (a) during any Floating Rate Period, each period beginning on and including a Wednesday and ending on and including the earlier of (i) the next following Tuesday, (ii) the day before the next following Fixed Rate Conversion Date or (iii) the Maturity Date and (b) each period beginning on and including a Floating Rate Conversion Date and ending on and including the next following Tuesday.

“*Closing Date*” means [CLOSING DATE], 2020.

“*Code*” means the Internal Revenue Code of 1986, as amended; each reference to the Code shall be deemed to include (a) any successor internal revenue law and (b) the applicable regulations whether final, temporary or proposed under the Code or such successor law; any reference to a particular provision of the Code shall be deemed to include (a) any successor provision of any

successor internal revenue law and (b) the applicable regulations, whether final, temporary or proposed, under such successor provision.

“*Conversion Date*” means a Floating Rate Conversion Date or a Fixed Rate Conversion Date.

“*Costs of Issuance*” means all fees and reasonable costs and expenses incurred in connection with the issuance of the Bonds.

“*Cost of Issuance Fund*” means the account by that name created pursuant to Section 6.02 of this Indenture.

“*Credit Facility*” means any irrevocable letter of credit, guarantee, surety bond, insurance policy or other financial guarantee or credit facility delivered by a Credit Facility Provider to the Trustee pursuant to the Loan Documents and the Bond Documents as the same may be hereafter supplemented or amended and, upon acceptance by the Trustee of any Alternate Security delivered in accordance with the Loan Documents and the Bond Documents as the same may be hereafter supplemented or amended, such Alternate Security.

“*Credit Facility Provider*” means the financial institution or other entity which has issued the Credit Facility, if any, including its successors and assigns.

“*Current Bondholder Period*” means the period commencing on the effective date of the Supplemental Agreement and ending on the earlier of (a) the date that the owners of 100% of the principal amount of Bonds Outstanding agree in writing to terminate the Supplemental Agreement or (b) the first Conversion Date.

“*Default*” means any occurrence or event specified in Section 9.01 of this Indenture.

“*Default Rate*” shall mean during the relevant time period the interest rate otherwise due on the Bonds plus 2% per annum using the same day count fraction otherwise applicable to interest on the Bonds pursuant to Section 2.02(d) of this Indenture; provided, however, the Default Rate may not exceed the Maximum Rate.

“*Earliest Optional Redemption Date*” means with respect to any Fixed Rate Period (other than the Initial Fixed Rate Period), the Interest Payment Date which is closest to the Midpoint Date.

“*Eminent Domain*” means the taking of property by or on behalf of any governmental authority by means of a condemnation or sale in lieu thereof.

“*Environmental Agreement*” means the Environmental Compliance and Indemnification Agreement, dated as of April 1, 2020, executed by the Borrower in favor of the Trustee.

“*Essex Completion Guaranty*” means [_____].

“*Event*” has the meaning set forth in Section 3.05 of this Indenture.

“*Event of Default*” has the meaning set forth in Section 9.01 of this Indenture.

“*Extraordinary Expenses*” and “*Extraordinary Services*” means services performed by or as applicable, expenses incurred by the Issuer or the Trustee which services or expenses, as applicable, are rendered or incurred in addition to the normal and reasonable services or expenses of such party; provided such additional services or expenses are reasonable and, in respect of the Trustee, not attributable to any gross negligence or willful failure of the Trustee to perform its undertakings hereunder or under the Borrower Documents.

“*Extraordinary Optional Redemption Date*” has the meaning set forth in Section 3.05 of this Indenture.

“*Extraordinary Optional Redemption Notice*” has the meaning set forth in Section 3.05 of this Indenture.

“*Favorable Tax Opinion*” means an opinion of Bond Counsel substantially to the effect that the proposed action, waiver or failure to act or other specified fact, condition or circumstance, together with any other changes with respect to the Bonds made or to be made in connection with such action, waiver or failure to act or fact, condition or circumstance, will not, in and of itself, adversely affect any exclusion of interest on the Bonds from gross income for federal income tax purposes.

“*Fee Account*” means the account by that name created pursuant to Section 6.02 of this Indenture.

“*Fixed Rate*” means with respect to any Fixed Rate Period, that rate of interest per annum determined with respect to such Fixed Rate Period pursuant to Section 2.02(a) or 2.02(b)(i) of this Indenture, which may be (but is not required to be) specified as a formula pursuant to which an actual rate of interest is to be determined from time to time during the applicable Fixed Rate Period.

“*Fixed Rate Conversion Date*” means any date, determined in accordance with Section 2.02(b) of this Indenture, on which the Bonds convert from bearing interest at a Floating Rate to bearing interest at a Fixed Rate or any date immediately following a Fixed Rate Period as of which the interest rate on the Bonds is reset at a Fixed Rate.

“*Fixed Rate Determination Date*” means a day no later than five Business Days prior to the Fixed Rate Conversion Date on which a Fixed Rate Period begins.

“*Fixed Rate Period*” means the Initial Fixed Rate Period and any period from and including a Fixed Rate Conversion Date to and including the earlier of the day before the next following Conversion Date, if any, or the date of maturity of the Bonds.

“*Floating Rate*” means, with respect to each Calculation Period, that rate of interest per annum calculated with respect to such Calculation Period pursuant to Section 2.02(b)(ii) of this Indenture.

“*Floating Rate Conversion Date*” means any date, determined in accordance with Section 2.02(b) of this Indenture on which the Bonds convert from bearing interest at a Fixed Rate to bearing interest at a Floating Rate.

“*Floating Rate Determination Date*” means, with respect to any Calculation Period, the day on which such Calculation Period begins or, in the event that such day is not a Business Day, the next following Business Day, except as may otherwise be set forth herein.

“*Floating Rate Period*” means the period from and including a Floating Rate Conversion Date to and including the earlier of the day before the next following Fixed Rate Conversion Date, if any, or the date of maturity of the Bonds.

“*Government Obligations*” means (i) noncallable direct obligations of the United States of America or obligations that are unconditionally guaranteed by, the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent; or (iii) noncallable obligations of a state or a political subdivision of a state that have been refunded and that are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent.

“*Indenture*” has the meaning set forth in the introductory paragraph of this Indenture.

“*Index Rate*” means, with respect to any Calculation Period, a rate of interest per annum equal to the weekly average dealer taxable commercial paper rate for commercial paper with one-month maturities, as published by the Federal Reserve in Statistical Release H.15 (or any successor publication of the Federal Reserve) on the Monday (or the next succeeding Business Day, if such Monday is not a Business Day) immediately preceding the Floating Rate Determination Date with respect to such Calculation Period.

“*Initial Bondholder*” means, (i) on the Closing Date, Bank of America, N.A., [and (ii) any Permitted Transferee during the Current Bondholder Period].

“*Initial Fixed Rate*” shall have the meaning given thereto in Section 2.02(a) hereof.

“*Initial Fixed Rate Period*” means the period commencing on the Closing Date and ending on the earlier of (a) the day before the Initial Mandatory Tender Date, (b) the day before any earlier optional Conversion Date, or (c) the date of maturity of the Bonds.

“*Initial Mandatory Tender Date*” shall mean [_____ 1, 20__].

“*Insurance and Condemnation Proceeds Fund*” means the account by that name created pursuant to Section 6.02 of this Indenture.

“*Interest Account*” means the account by that name created pursuant to Section 6.02 of this Indenture.

“*Interest Payment Date*” means (a) during any Fixed Rate Period, including the Initial Fixed Rate Period, each January 1, April 1, July 1 and October 1, commencing [July 1, 2020] and each Conversion Date and (b) during any Floating Rate Period, the first Business Day of each month and each Conversion Date.

“*Interest Rate Determination Method*” means any of the methods for determining the interest rate on the Bonds described in Section 2.02.

“*Investment Company*” means an open-end diversified management investment company registered under the Investment Company Act of 1940.

“*Investment Grade*” means a credit rating of “A” or better by one or more of the Nationally Recognized Rating Agencies during any Fixed Rate Period and one of the three highest rating categories during any Floating Rate Period.

“*Investor Letter*” means an Investor Letter substantially in the form attached to this Indenture as Exhibit C.

“*Investment Securities*” means and includes any of the following obligations or securities:

(a) Direct obligations of or obligations guaranteed by, the United States of America;

(b) Interest bearing time or demand deposits, certificates of deposit, prime commercial paper, investment agreements or other similar banking arrangements with any bank, trust company, national banking association or other savings institution (including the Trustee) provided that, at the time of purchase, (i) such deposits, certificates and other arrangements are fully insured by the Federal Deposit Insurance Corporation, the proceeds of which insurance are timely available or (ii) the senior debt of such depository is rated in the two highest letter rating categories of S&P or Moody’s or (iii) such depository has combined capital and surplus of at least \$35,000,000 and such deposits, certificates and other arrangements (to the extent not insured as described in clause (i) above) are fully secured by obligations described in clause (a) or (d) of this definition in an amount, as valued against market at least monthly, at least equal to 100% of the sum of the outstanding balance of such deposits, certificates and other arrangements;

(c) Bonds, debentures, notes or other evidences of indebtedness issued or guaranteed by any of the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Banks; Federal Farm Credit Banks; Export Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Federal Financing Bank; or Small Business Administration; or any other agency or instrumentality of the United States of America (created by an Act of Congress) substantially similar to the foregoing in its legal relationship to the United States of America;

(d) Full faith and credit obligations of any state of the United States of America;

(e) Contracts for the purchase and sale of obligations described in clause (a) of this definition, provided that if the Persons with which such contracts are made are not members of the Federal Reserve System or if such Persons (including members of the Federal Reserve System) are not required to set aside and otherwise identify, to the satisfaction of the Trustee, obligations described in clauses (a), (b) or (c) above to such contracts as security or reserve therefor in an amount, as valued against market at least monthly, at all times (other than within thirty days after each valuation) at least equal to

100% of the sum of the face amount of each such contract, such obligations shall be delivered to and held by a depository during the term of such contracts;

(f) Interest bearing notes issued by a bank, trust company, national banking association or other depository institution or by a bank holding company, an insurance company or other financial institution, the senior debt of which is rated in the two highest letter rating categories of S&P or Moody's at the time of purchase;

(g) Shares of mutual funds, any investment fund, including money market funds which invest solely in Investment Securities listed in one or more of (a), (b), (c) or (e) above, including the funds of the Trustee;

(h) Bonds, notes or other securities the interest on which is excludable from gross income for purposes of federal income taxation under Section 103 of the Code that are rated by either Moody's or S&P in one of the three highest whole rating categories established by such rating service; or interests in funds which invest solely in such bonds, notes or other securities; and

(i) [an agreement, held by the Trustee, for the investment of moneys at a guaranteed rate with a Qualified Financial Institution whose unsecured long-term obligations are rated by a Nationally Recognized Rating Agency in one of the three highest whole rating categories established by such rating service, or whose obligations are unconditionally guaranteed or insured by a Qualified Financial Institution whose unsecured long-term obligations are rated by a Nationally Recognized Rating Agency in one of the three highest whole rating categories established by such rating service; provided that such agreement is in a form acceptable to the Bondholder Representative; and provided further that such agreement includes the following restrictions: (1) the invested funds will be available for withdrawal without penalty or premium, at any time that (A) the Trustee is required to pay moneys from the Fund(s) established under this Indenture to which the agreement is applicable, or (B) any Nationally Recognized Rating Agency indicates that it will lower or actually lowers, suspends or withdraws the rating on the Bonds on account of the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement, (2) the agreement, and if applicable the guarantee or insurance, is an unconditional and general obligation of the provider and, if applicable, the guarantor or insurer of the agreement, and ranks pari passu with all other unsecured unsubordinated obligations of the provider, and if applicable, the guarantor or insurer of the agreement, (3) the Trustee receives an opinion of counsel, which may be subject to customary qualifications, that such agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and, if applicable, an opinion of counsel that any guaranty or insurance policy provided by a guarantor or insurer is legal, valid, binding and enforceable upon the guarantor or insurer in accordance with its terms, and (4) the agreement provides that if during its term the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement, is withdrawn, suspended by any Nationally Recognized Rating Agency or falls below the third highest rating category of a Nationally Recognized Rating Agency, the provider must, within 10 days, either: (A) collateralize the agreement (if the agreement is not already collateralized) with Investment Securities described in paragraph (a) or (b) of this definition by depositing

collateral with the Trustee or a third party custodian, such collateralization to be effected in a manner and in an amount reasonably satisfactory to the Bondholder Representative, or, if the agreement is already collateralized, increase the collateral with Investment Securities described in paragraph (a) or (b) of this definition by depositing collateral with the Trustee or a third party custodian, in an amount reasonably satisfactory to the Bondholder Representative, (B) at the request of the Trustee or the Bondholder Representative, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium unless required by law or (C) transfer the agreement, guarantee or insurance, as applicable, to a replacement provider, guarantor or insurer, as applicable, then meeting the requirements of a Qualified Financial Institution and whose unsecured long-term obligations are then rated by a Nationally Recognized Rating Agency in one of the three highest whole rating categories established by such rating service. The agreement may provide that the down-graded provider may elect which of the remedies to the down-grade (other than the remedy set out in (B)) to perform; and

(j) Subject to the Tax Certificate, any other investments approved by the Bondholder Representative that are rated in one of the three highest long-term or short-term Rating Categories by Moody's and S&P at the time of investment.

"*Issuer*" 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 HA-[_____] of the Issuer adopted on [April ___, 2020] authorizing the issuance of the Bonds and the execution and delivery of the Issuer Documents.

"*Issuer Documents*" means, collectively, this Indenture, the Bonds, the Loan Agreement, the Regulatory Agreement and any other agreement, certificate, contract or instrument to be executed by the Issuer in connection with the issuance of the Bonds or the financing of a portion of the expense associated with the Project.

"*Issuer's Fee*" means the Issuer's fees payable on the Closing Date and annually thereafter in accordance with Section 20 of the Regulatory Agreement.

"*Late Payment Rate*" means a per annum rate equal to the rate then borne by the Bonds.

"*Loan*" means the loan made by the Issuer to the Borrower pursuant to the Loan Agreement for the purpose of providing funds to the Borrower to finance or refinance the acquisition, construction and development of the Project.

"*Loan Agreement*" means the Loan Agreement, dated as of April 1, 2020, between the Issuer and the Borrower, providing for the funding of the Loan, as amended, restated and/or supplemented from time to time.

"*Loan Documents*" means, collectively, the Regulatory Agreement, the Loan Agreement, the Note, the Mortgage, the Essex Completion Guaranty and all other agreements, instruments, documents and certificates evidencing, securing or relating to any of the aforementioned

documents or the Bonds assumed or delivered on behalf of the Borrower (including, without limitation, the Supplemental Agreement during the Current Bondholder Period), all as amended, restated and/or supplemented from time to time.

“*Mail*” means mail by first-class postage prepaid to the Owners of the Bonds at their addresses appearing on the registration books of the Issuer maintained by the Paying Agent.

“*Mandatory Tender*” means the mandatory tender of Bonds pursuant to Section 3.04 of this Indenture.

“*Mandatory Tender Date*” has the meaning set forth in Section 3.04(a) of this Indenture.

“*Mandatory Tender Notice*” has the meaning set forth in Section 3.04(a) of this Indenture.

“*Maturity Date*” has the meaning set forth in Section 2.01 of this Indenture.

“*Market Rate Owner*” means, in respect of such transfer described in Section 6.03 of the Loan Agreement, Scripps MRU Owner, L.P., a California limited partnership.

“*Market Rate Parcel*” means, in respect of such transfer described in Section 6.03 of the Loan Agreement, the Market Rate Units and such ancillary and subordinate facilities or portions thereof constituting a separate legal parcel.

“*Market Rate Units*” means, in respect of such transfer described in Section 6.03 of the Loan Agreement, [211 units].

“*Maximum Rate*” means, with respect to the Loan Agreement or the Bonds, 12% per annum or such lower rate as may be specified in a Credit Facility.

“*Midpoint Date*” means with respect to any Fixed Rate Period, the first day which is at least one-half of the number of days in such Fixed Rate Period after the first day of such Fixed Rate Period.

“*Moody’s*” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to any other Nationally Recognized Rating Agency designated by the Borrower with the consent of the Issuer.

“*Mortgage*” means the Leasehold Deed of Trust, Security Agreement and Fixture Filing, dated as of April 1, 2020, by the Borrower in favor of the Trustee, as such Mortgage is amended or supplemented from time to time.

“*Nationally Recognized Rating Agency*” means Moody’s or S&P or such other entity as may be designated as such by the Borrower and approved by the Issuer and the Bondholder Representative, and, in respect of the Bonds, provides a rating at the request of the Borrower, the Issuer or the Bondholder Representative.

“*Net Proceeds*” means, when used with respect to any insurance proceeds or award resulting from or other amount received in connection with, casualty or other property damage or any taking by Eminent Domain, the gross proceeds from the insurance or such award or other amount, less all expenses (including attorney’s fees and any extraordinary fee of the Trustee) incurred in the realization thereof.

“*Note*” has the meaning assigned to such term in the Loan Agreement.

“*Office of the Trustee*” means the office of the Trustee for delivery of notices and other documents, as specified pursuant to Section 14.08 of this Indenture.

“*Outstanding*” or “*Bonds Outstanding*” or “*Outstanding Bonds*” means, as at any given date, all Bonds which have been authenticated and delivered by the Trustee under this Indenture, except:

- (a) Bonds cancelled at or prior to such date or delivered to or acquired by the Trustee on or prior to such date for cancellation;
- (b) Bonds deemed to be paid in accordance with Article VIII of this Indenture; and
- (c) Bonds in lieu of which other Bonds have been authenticated under Section 2.08 hereof.

“*Owner*” or “*Owners*” means the Person or Persons in whose name any Bond is registered on the books maintained by the Trustee.

“*Paying Agent*” means the Trustee and any successor Paying Agent designated pursuant to this Indenture. “*Co-Paying Agent*” means any co-paying agent appointed in accordance with Section 10.26 hereof. “*Principal Office of the Paying Agent*” means the office designated as such by the Paying Agent or the Co-Paying Agent, as applicable, in writing to the Issuer, the Borrower and the Trustee.

“*Permitted Transferee*” means (a) any entity (including without limitation, any trust or custodial arrangement) either directly or indirectly controlled (“control”, in the case of a trust or other entity, meaning operating control in the ordinary course of business) or established by Bank of America, N.A. or one of its Affiliates (collectively, “BANA”) and either in which all beneficial ownership interests (other than those owned by BANA) are (A) owned by Approved Institutional Buyers or (B) rated in one of the three highest rating categories by a Nationally Recognized Rating Agency; (b) BANA, [(c) any “related person” to BANA within the meaning of the Internal Revenue Code of 1986, as amended, which is an Approved Institutional Buyer]; (d) any Approved Institutional Buyer which executes an Investor Letter in the form attached hereto as Exhibit C; or (e) the Borrower, but solely pursuant to Section 3.06 hereof.

“*Person*” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee, estate, limited liability company, unincorporated organization, real estate investment trust, government or any agency or political subdivision thereof or any other form of entity.

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

“*Project Fund*” means the fund by that name created and established in Section 6.02 hereof.

“*Purchase Date*” means any date on which the Bonds are subject to optional or mandatory tender and purchase in accordance with the terms of this Indenture.

“*Purchase in Lieu of Redemption Date*” has the meaning set forth in Section 3.06(a) of this Indenture.

“*Purchase Price*” (a) with respect to an optional tender, shall have the meaning set forth in Section 3.01(a) or (b) with respect to a mandatory tender, shall have the meaning set forth in Section 3.04(a)(ii) of this Indenture.

[“*Qualified Financial Institution*” shall mean any of: (i) bank or trust company organized under the laws of any state of the United States of America, (ii) national banking association, (iii) savings bank, a savings and loan association, or an insurance company or association chartered or organized under the laws of any state of the United States of America, (iv) federal branch or agency pursuant to the International Banking Act of 1978 or any successor provisions of law or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, (v) government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, (vi) securities dealer approved in writing by the Bondholder Representative the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation, or (vii) a corporation or limited liability company organized under the laws of any state of the United States of America.]

“*Rebate Analyst*” means a certified public accountant, financial analyst or bond counsel or any firm of the foregoing or other form of financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code selected by and at the expense of the Borrower to make the computations required under the Indenture and the Loan Agreement.

“*Rebate Fund*” means the fund by that name created and established pursuant to Section 6.11 of this Indenture.

“*Record Date*” means (a) during any Floating Rate Period, the fifth day next preceding any Interest Payment Date, (b) during any Fixed Rate Period other than the Initial Fixed Rate Period, the fifteenth (15th) day of the month preceding any Interest Payment Date and (c) during the Initial Fixed Rate Period, the Business Day immediately preceding any Interest Payment Date.

“*Redemption Account*” means the account by that name created pursuant to Section 6.02 of this Indenture.

“*Regulatory Agreement*” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of April 1, 2020, by and among the Issuer, the Trustee and the Borrower.

“*Remarketing Agent*” means any entity appointed in accordance with Section 10.23(a) of this Indenture.

“*Remarketing Agreement*” means any remarketing agreement executed in connection with the remarketing of the Bonds, including but not limited to the Remarketing Agreement contemplated by Section 10.23(a) hereof, as amended, restated and/or supplemented from time to time.

“*Requisition*” means a requisition for the purposes described in Section 6.03 hereof, a form of which is attached hereto as Exhibit D.

“*Reserved Rights*” means those certain rights of the Issuer under the Loan Agreement to indemnification and to payment or reimbursement of fees, costs and expenses and the Rebate Amount under [Section 2.02(w)] of the Loan Agreement, its right to inspect and audit the books, records and premises of the Borrower and of the Project, its right to collect attorneys’ fees and related expenses, its right to enforce the Borrower’s covenant to comply with applicable federal tax law and State law (including the Act and the rules of the Issuer, if any), its right to receive notices and give consent hereunder and under the Loan Agreement and its right to enforce the Regulatory Agreement.

“*Responsible Officer of the Trustee*” means any officer in the Office of the Trustee with direct responsibility for the Trustee’s performance under and as contemplated by this Indenture and also, with respect to a particular matter, any other officer of the Trustee to whom such matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

“*Restoration*” has the meaning set forth in Section 5.04(a) of the Loan Agreement.

“*Revenues*” means all moneys paid or payable to the Trustee in accordance with the Loan Agreement, the Loan, the Mortgage and the Note, including any moneys derived from any Credit Facility, or any other guaranty, credit enhancement facility or similar instrument made in favor of the Trustee, to pay principal of the Bonds upon redemption, at maturity or upon acceleration of maturity or to pay interest on the Bonds when due and all receipts credited under the provisions of this Indenture against such payments.

“*S&P*” means S&P Global Ratings, a business unit of Standard & Poor’s Financial Services LLC, its successors and assigns, or, if such corporation will be dissolved or liquidated or will no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Borrower with the consent of the Issuer.

“*Special Record Date*” means a day that is the tenth day next preceding the date of mailing of notice of redemption of Bonds or, if such day is not a Business Day, the next preceding Business Day.

“*State*” means the State of California.

“*Supplemental Agreement*” shall mean the Supplemental Agreement, dated as of April 1, 2020, by and between the Borrower and the Initial Bondholder or an Affiliate thereof, as the same may be amended, restated and/or supplemented from time to time.

“*Tax Certificate*” means the Tax Certificate and Agreement, dated the Closing Date, executed and delivered by the Issuer and the Borrower, as amended, supplemented or restated from time to time.

“*Tender Agent*” means the entity appointed or serving as Tender Agent pursuant to Section 10.23(b) hereof in connection with the tender and purchase of Bonds pursuant to the terms of this Indenture and the Remarketing Agreement, if any.

“*Tender Date*” means the first day of any Floating Rate Period and any Fixed Rate Period other than the Initial Fixed Rate Period.

“*Total Destruction*” means damage or destruction to the Project that involves estimated Restoration costs of more than 50% of the actual replacement value of the improvements constituting the Project immediately prior to such damage or destruction, such estimates to be in the good faith judgment of the Borrower (as evidenced by a certificate of an Authorized Borrower Representative delivered to the Trustee and consented to by the Owners during the Initial Fixed Rate Period).

“*Total Taking*” means an event whereby title to the entire Project shall be taken by Eminent Domain or in the event that title to such a substantial part of the Project shall be taken by Eminent Domain, whereby in the good faith judgment of the Borrower (as evidenced by a certificate of an Authorized Borrower Representative delivered to the Trustee) the portion of the Project remaining after such Eminent Domain is unsuitable for use by the Borrower in the operation of its business.

“*Trust Estate*” has the meaning set forth in the paragraph immediately preceding the granting clauses of this Indenture.

“*Trustee*” has the meaning set forth in the introductory paragraph to this Indenture. “Principal Office of the Trustee” means the office designated as such by the Trustee in writing to the Issuer, the Borrower and the Paying Agent.

“*Trustee Fee*” means the annual fee of the Trustee in the amount of \$[TRUSTEE’S FEE] for its normal and reasonable services rendered hereunder as Trustee and Paying Agent and its normal and reasonable expenses incurred hereunder or under the Borrower Documents, including reasonable counsel fees and expenses, as and when the same become due and upon demand therefor; provided that such fees do not include amounts due, if any, for Extraordinary Services of the Trustee.

“*Undelivered Bond*” means a Bond which is deemed purchased pursuant to the Mandatory Tender provisions of this Indenture, but which has not been presented to the Trustee by the holder thereof.

Section 1.02. Construction. In this Indenture, unless the context otherwise requires:

(a) Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Indenture.

(b) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms refer to this Indenture and the term “hereafter” shall mean after and the term “heretofore” shall mean before, the date of execution of this Indenture.

(c) Words of the masculine gender shall mean and include correlative words of the female and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(d) Words importing the redemption of a Bond or the calling of a Bond for redemption do not include or connote the payment of such Bond at its stated maturity or the purchase of such Bond.

(e) References in this Indenture to particular sections of the Code, the Act or any other legislation shall be deemed to refer also to any successor sections thereto or other redesignations for codification purposes.

Section 1.03. Effective Date. The provisions of this Indenture shall be effective on and as of the Closing Date.

ARTICLE II

THE BONDS

Section 2.01. Authority for and Issuance of Bonds. There is hereby authorized and created under this Indenture an issue of bonds limited in aggregate principal amount to \$[PAR AMOUNT] and designated “Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (Scripps Mesa Apartments) 2020 Series E.” No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total principal amount of Bonds that may be issued and Outstanding hereunder is hereby expressly limited to \$[PAR AMOUNT].

The Bonds shall be issuable only as fully registered Bonds without coupons in Authorized Denominations or any integral multiples thereof in the form as provided in Exhibit A hereto. The definitive Bonds shall be lettered “R” and shall be numbered separately from 1 consecutively upward. The Bonds shall be dated the Closing Date and shall mature on [April 1, 2060] (the “Maturity Date”) and shall be subject to redemption and purchase as provided in Article III hereof.

Bonds authenticated prior to the first Interest Payment Date shall bear interest from the Closing Date. Bonds issued in exchange for or upon the registration of transfer of Bonds on or after the first Interest Payment Date thereon shall bear interest from the Interest Payment Date next preceding the date of the Paying Agent’s or an authenticating agent’s authentication thereof, unless the date of such authentication shall be an Interest Payment Date to which interest on the Bonds has been paid in full or duly provided for, in which case they shall bear interest from such Interest Payment Date; provided that if, as shown by the records of the Bond registrar, interest on the Bonds shall be in default, Bonds issued in exchange for or upon the registration of transfer of Bonds shall bear interest from the date to which interest has been paid in full on the Bonds or if no interest has been paid on the Bonds, the date of the first delivery of fully executed and authenticated Bonds hereunder.

The principal of and premium, if any, on the Bonds shall be payable at the Office of the Trustee upon presentation of the Bonds. Payment of interest on the Bonds shall be made to the Owner thereof by check or draft mailed to the Owner at its address as it appears on the registration books maintained by the Trustee as registrar on behalf of the Issuer on the Record Date or at such other address as is furnished to the Trustee in writing by such Owner.

Payment of interest on the Bonds may, at the option of any Owner of Bonds in an aggregate principal amount of at least \$1,000,000, be transmitted by wire transfer within the United States to such Owner to the bank account number on file with the Trustee as of the Record Date at the risk and expense of such Owner. Payment of the principal of and interest on the Bonds shall be in any coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public or private debts.

Section 2.02. Interest on Bonds.

(a) During the Initial Fixed Rate Period, the Bonds shall bear interest at the rate of [__.__]% per annum (the “Initial Fixed Rate”).

(b) ***Optional Conversion of Interest Rate.*** If, during any Floating Rate Period or any Fixed Rate Period, the Trustee and the Remarketing Agent, if any, have received written notice from the Borrower of its election to have the Bonds convert from bearing interest at the Initial Fixed Rate to bearing interest at a Floating Rate or from bearing interest at a Fixed Rate to bearing interest at a different Fixed Rate or from bearing interest at a Floating Rate to bearing interest at a Fixed Rate and the Trustee shall have received the Favorable Tax Opinion required by Section 5.10 of the Loan Agreement, the Trustee shall establish a Conversion Date as directed by the Borrower with respect to the Bonds, which shall be (i) in the case of a conversion to a Floating Rate, the first Wednesday that is both a Business Day and at least forty-five (45) days following the date on which the Trustee receives such notice from the Borrower and (ii) in the case of a conversion to a Fixed Rate, the first Business Day designated by the Borrower that is at least forty-five (45) days following the date on which the Trustee receives such notice from the Borrower; provided, however, that the Trustee may not establish a Conversion Date prior to (i) [INITIAL TENDER DATE], during the Initial Fixed Rate Period or (ii) during any other Fixed Rate Period, the first date on which the Bonds are subject to optional redemption during such Fixed Rate Period. Any Conversion Date established by the Trustee in response to the Borrower’s election to convert from the Initial Fixed Rate or another Fixed Rate to a Floating Rate shall be a Floating Rate Conversion Date. Any Conversion Date established by the Trustee in response to the Borrower’s election to convert from a Floating Rate to a Fixed Rate or from the Initial Fixed Rate or another Fixed Rate to a new Fixed Rate, shall be a Fixed Rate Conversion Date. The Trustee shall give notice of the Fixed Rate Conversion Date or Floating Rate Conversion Date so established to the Remarketing Agent, if any, the Tender Agent, the Issuer, the Borrower and the Credit Facility Provider, if any, and shall give notice in the manner prescribed in Section 3.04 that the Bonds are subject to mandatory tender in connection with such proposed Conversion Date. In no event shall the Fixed Rate or Floating Rate determined under the terms of subsection (b)(i) or (b)(ii) below exceed the Maximum Rate.

(i) *Conversion to a Fixed Rate.*

(A) By no later than the thirty-second (32nd) calendar day immediately preceding each Fixed Rate Conversion Date established as a result of an election of the Borrower under Section 5.10(a) or 5.10(b) of the Loan Agreement (or if such day is not a Business Day, on the immediately succeeding Business Day), the Remarketing Agent shall estimate the Fixed Rate to be in effect for the relevant Fixed Rate Period as follows:

The Borrower, in the written notice given under Section 5.10(a) or 5.10(b) of the Loan Agreement, shall specify the length of the Fixed Rate Period that will follow the current Floating Rate Period or Fixed Rate Period. The Remarketing Agent shall then calculate the minimum Fixed Rate that would be necessary, in its opinion in light of prevailing conditions in the financial markets on the date of such calculation, for the Bonds to bear during a Fixed Rate Period of the length so specified, in order to allow the Bonds to be remarketed in a secondary market transaction on and as of the Fixed Rate Conversion Date at a price of par plus accrued interest.

(B) By no later than the close of business on the thirty-second (32nd) calendar day immediately preceding the Fixed Rate Conversion Date, the Remarketing Agent shall give immediate notice to the Issuer, the Trustee, the Borrower and the Credit Facility Provider, if any, of the estimated Fixed Rate.

By no later than 4:00 p.m., New York, New York time on each Fixed Rate Determination Date preceding a Fixed Rate Conversion Date established under this Section 2.02(b), the Remarketing Agent shall determine the Fixed Rate to be in effect for the designated Fixed Rate Period beginning on such Fixed Rate Conversion Date in the manner set forth in Section 2.02(b)(i) above, as applicable. The Remarketing Agent shall give immediate notice to the Issuer, the Trustee, the Tender Agent, the Borrower and the Credit Facility Provider, if any, of the Fixed Rate on each such Fixed Rate Determination Date. In no event shall such Fixed Rate exceed the Maximum Rate.

(C) During a Fixed Rate Period from and after an optional Fixed Rate Conversion Date, the Bonds shall bear interest at the Fixed Rate calculated as set forth in this Section; provided, however, that notwithstanding the foregoing, the Bonds shall continue to bear interest at the rate in effect immediately prior to the Fixed Rate Conversion Date until a new Fixed Rate Conversion Date or Floating Rate Conversion Date is effected in accordance with the terms and provisions of this Indenture and the establishment of the proposed Fixed Rate Conversion Date by the Trustee under this Section 2.02(b)(i) shall be null and void in the event that:

(1) the Fixed Rate determined by the Remarketing Agent on the Fixed Rate Determination Date pursuant to Section 2.02(b)(i)(B) above exceeds by more than [.25]% per annum the Fixed Rate previously estimated by the Remarketing Agent pursuant to Section 2.02(b)(i)(A) above, unless the Borrower has given notice pursuant to Section 5.10(a) or

5.10(b) of the Loan Agreement of its election to have the Bonds bear interest at the new Fixed Rate so determined; or

(2) the Trustee has not received, by no later than 11:00 a.m., New York, New York time, on such Fixed Rate Conversion Date, a Favorable Tax Opinion as to the conversion of the Bonds from the rate in effect prior to such Fixed Rate Conversion Date to the Fixed Rate determined pursuant to Section 2.02(b)(i)(B) above; or

(3) a Credit Facility is to be in effect as of any such Fixed Rate Conversion Date and the Trustee has not received, by no later than 11:00 a.m., New York, New York time on such Fixed Rate Conversion Date, written confirmation from a Nationally Recognized Rating Agency that such agency has assigned to the Bonds a credit rating that classifies the Bonds as Investment Grade (without regard to modifiers such as pluses and minuses) and that such rating will be in full force and effect as of the Fixed Rate Conversion Date, following the change in interest rate on the Bonds on such date; or

(4) a Credit Facility is to be in effect as of any such Fixed Rate Conversion Date and the Trustee has not received, by no later than 11:00 a.m., New York, New York time on such Fixed Rate Conversion Date, an opinion of counsel to the Credit Facility Provider, if any, or to the obligor on the Alternate Security to be in effect as of the Fixed Rate Conversion Date, as applicable, stating that, according to its terms, the Credit Facility or the Alternate Security, as the case may be, is enforceable in accordance with its terms (except to the extent the enforceability thereof may be limited by bankruptcy, insolvency, receivership, conservatorship, rehabilitation, reorganization, moratorium and other similar laws affecting creditors' rights generally and by general principles of equity permitting the exercise of judicial discretion and to the extent that the enforceability of indemnification and contribution provisions to which such Credit Facility or Alternate Security relates may be limited, in whole or in part, by applicable securities laws or public policy and subject to such other exceptions as shall be customary or reasonable).

In such event, the Trustee shall give notice by no later than 1:00 p.m., New York, New York time, on such Fixed Rate Conversion Date to the Tender Agent, the Remarketing Agent, if any, the Borrower, the Owners and the Credit Facility Provider, if any, that the Bonds will continue to bear interest at the rate in effect immediately prior to the Fixed Rate Conversion Date.

Notwithstanding the foregoing, upon a conversion to a Fixed Rate, the Borrower, pursuant to written notice to the Issuer and the Trustee, may elect to provide a Credit Facility for the Bonds if and only if a Favorable Tax Opinion is delivered to the Trustee taking into account the provision of such Credit Facility.

(D) The Fixed Rate for each Fixed Rate Period, computed by the Remarketing Agent in accordance with this Section 2.02(b)(i), shall be conclusive and binding upon the Issuer, the Trustee, the Tender Agent, the Remarketing Agent, the Borrower, the Credit Facility Provider, if any, and the Owners.

(ii) *Conversion to a Floating Rate.*

(A) On and after a Floating Rate Conversion Date to and including any Fixed Rate Conversion Date, the Bonds shall bear interest at the Floating Rate, as hereinafter described. The Floating Rate for each Calculation Period shall be calculated by the Remarketing Agent on the Floating Rate Determination Date with respect to such Calculation Period. Subject to Section 2.02(b)(ii)(B) below, such Floating Rate shall be the minimum rate of interest per annum that would be necessary for the Bonds to bear during such Calculation Period, in the opinion of the Remarketing Agent, in light of prevailing conditions in the financial markets, in order to allow the Bonds to be remarketed in a secondary market transaction on and as of the first day of such Calculation Period at a price of par plus accrued interest. The Remarketing Agent shall give immediate notice to the Issuer, the Trustee, the Borrower and the Tender Agent of such Floating Rate on each such Floating Rate Determination Date. In no event shall the Floating Rate exceed the Maximum Rate.

(B) In the event that the Remarketing Agent fails to determine and notify the Trustee and the Tender Agent of the Floating Rate for any Calculation Period as required by Section 2.02(b)(ii)(A) above or a Responsible Officer of the Trustee shall have actual knowledge that the Floating Rate as so established has been held to be invalid or unenforceable by a court of competent jurisdiction for any period during a Calculation Period, the Trustee shall notify the Remarketing Agent and the Borrower by telephone, facsimile, electronic or other practical means to obtain immediate notice of the Floating Rate for such Calculation Period. If such failure is not cured by 12:00 noon on the Business Day following the applicable date on which the Floating Rate is required to be determined and written notice of such cure provided to the Trustee by such time, then the Floating Rate for such Calculation Period shall be the Floating Rate in effect for the immediately preceding Calculation Period, unless the Bonds bore interest at a Fixed Rate on the day immediately prior to the day on which such Calculation Period began, in which case the Floating Rate with respect to such Calculation Period shall be [____ percent (__%)] of the Index Rate. The Trustee shall compute such Floating Rate as set forth in the previous sentence and shall give notice thereof to the Issuer, the Tender Agent, the Remarketing Agent and the Borrower.

(C) During a Floating Rate Period from and after a Floating Rate Conversion Date, the Bonds shall bear interest at the Floating Rate calculated as set forth in this Section; provided, however, that notwithstanding the foregoing, the Bonds shall continue to bear interest at the rate in effect immediately prior to the proposed Floating Rate Conversion Date until a new Floating Rate Conversion Date or Fixed Rate Conversion Date is effected in accordance with the terms and provisions of this Indenture and the establishment of the proposed Floating Rate Conversion Date by the Trustee under this Section 2.02(b)(ii) shall be null and void, in the event that:

(1) the Trustee has not received, by no later than 11:00 a.m., New York, New York time, on such Floating Rate Conversion Date, a Favorable Tax Opinion as to the conversion of the Bonds from the rate in effect prior to such Floating Rate Conversion Date to the Floating Rate determined pursuant to Section 2.02(b)(ii)(B) above; or

(2) a Credit Facility is to be in effect as of any such Floating Rate Conversion Date and the Trustee has not received, by no later than 11:00 a.m., New York, New York time on such Floating Rate Conversion Date, written confirmation from a Nationally Recognized Rating Agency that such agency has assigned to the Bonds a credit rating that classifies the Bonds as Investment Grade (without regard to modifiers such as pluses and minuses) and that such rating will be in full force and effect as of the Floating Rate Conversion Date, following the change in interest rate on the Bonds on such date; or

(3) a Credit Facility is to be in effect as of any such Floating Rate Conversion Date and the Trustee has not received, by no later than 11:00 a.m., New York, New York time on such Floating Rate Conversion Date, an opinion of counsel to the Credit Facility Provider, if any, or to the obligor on the Alternate Security to be in effect as of the Floating Rate Conversion Date, as applicable, stating that, according to its terms, the Credit Facility or the Alternate Security, as the case may be, is enforceable in accordance with its terms (except to the extent the enforceability thereof may be limited by bankruptcy, insolvency, receivership, conservatorship, rehabilitation, reorganization, moratorium and other similar laws affecting creditors' rights generally and by general principles of equity permitting the exercise of judicial discretion and to the extent that the enforceability of indemnification and contribution provisions to which such Credit Facility or Alternate Security relates may be limited, in whole or in part, by applicable securities laws or public policy and subject to such other exceptions as shall be customary or reasonable).

In such event, the Trustee shall give notice by no later than 1:00 p.m., New York, New York time, on such Floating Rate Conversion Date to the Issuer, the Tender Agent, the Remarketing Agent, the Borrower, the Owners and the Credit Facility

Provider, if any, that the Bonds will continue to bear interest at the rate in effect immediately prior to the Floating Rate Conversion Date.

Notwithstanding the foregoing, upon a conversion to a Floating Rate, the Borrower, pursuant to written notice to the Issuer and the Trustee, may elect to provide a Credit Facility for the Bonds if and only if a Favorable Tax Opinion is delivered to the Trustee prior to or simultaneously with such conversion, taking into account the provision of such Credit Facility.

(D) The Floating Rate for each Calculation Period, computed by the Remarketing Agent, pursuant to Section 2.02(b)(ii)(A) above or by the Trustee pursuant to Section 2.02(b)(ii)(B) above, as applicable, shall be conclusive and binding upon the Issuer, the Trustee, the Tender Agent, the Remarketing Agent, the Borrower, the Credit Facility Provider, if any, and the Owners.

(c) The Issuer intends to conform strictly to the usury laws applicable to this Indenture and the Bonds and all agreements made in the Bond Documents and the Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to the Owners as interest or other 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 Bond Documents or the 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, ipso facto, the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law; and if from any circumstances whatsoever, the Owners 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 Owners, to the reduction of the principal remaining unpaid hereunder and under the Bonds 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. Subject to the express terms of the Note, this paragraph shall control every other provision of the Bond Documents and all Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Issuer intends and agrees that (i) interest shall be computed upon the assumption that payments under the Bond Documents and the Loan Documents and the Credit Facility, if any, will be paid according to the agreed terms and any sums of money which are taken into account in the calculation of interest, even though paid at one time, shall be spread over the stated term of the Bonds.

(d) During each Fixed Rate Period, the interest rate shall be computed on the basis of a 360-day year, for the actual number of days elapsed in the period for which such interest is payable. During each Floating Rate Period, the interest rate shall be computed on the basis of a 365- or 366-day year, as applicable, for the actual number of days elapsed in the period for which such interest is payable.

Section 2.03. Execution. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the 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. Any facsimile signatures on the Bonds shall have the same force and effect as if said officers had manually signed the Bonds. The manual or facsimile signatures of individuals who were the proper officers of the Issuer at the time of execution shall bind the Issuer, notwithstanding that such individuals or any of them shall have ceased to hold such offices prior to the execution and delivery of the Bonds or shall not have held such offices at the date of the Bonds.

Section 2.04. Bonds; Limited Obligations. 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 2.05. Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the form contained on Exhibit A attached hereto shall have been duly executed by the Trustee or an authenticating agent thereof and such executed certificate of the Trustee or an authenticating agent thereof upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's or authenticating agent's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Trustee or an authenticating agent thereof, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder.

Section 2.06. Form of Bonds. The Bonds issued under this Indenture shall be substantially in the form set forth in Exhibit A hereto with such variations, omissions and insertions as are permitted or required by this Indenture.

Section 2.07. Delivery of Bonds. Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate, the Bonds and shall deliver them as directed by the Issuer as hereinafter in this Section provided.

Prior to the delivery by the Trustee of any of the Bonds, the Trustee shall have received the following:

(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 and delivery of the Loan Agreement and this Indenture.

(b) Original executed counterparts of the Loan Agreement, the Regulatory Agreement, the Note, the Mortgage, the Essex Completion Guaranty and this Indenture.

(c) A request and authorization to the Trustee on behalf of the Issuer and signed by an Authorized Issuer Representative to authenticate and deliver the Bonds to the purchaser specified therein upon receipt by the Trustee of the purchase price specified therefor and to deposit the proceeds thereof in accordance with the terms thereof and this Indenture;

(d) An original executed Investor Letter signed by the Initial Bondholder; and

(e) An opinion of Bond Counsel, in customary form and with appropriate assumptions, qualifications and exclusions, among other things, substantially to the effect that the Bonds have been duly authorized and validly issued, that the Indenture creates a valid lien on the Trust Estate and the interest on the Bonds will not be included in gross income of the Owners thereof for federal income tax purposes and will be exempt from State personal income taxes.

Upon receipt of these documents, the Trustee shall authenticate and deliver the Bonds to or upon the order of the original purchasers thereof but only upon receipt of the payment to the Trustee of the purchase price of the Bonds.

Section 2.08. Mutilated, Lost, Stolen or Destroyed Bonds; Bonds Not Delivered for Purchase.

(a) In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and the Trustee or its authenticating agent may authenticate and deliver a new Bond of like date, maturity, interest rate and denomination as that 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 Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee. In the event any mutilated, lost, stolen or destroyed Bond shall be about to mature or has matured or been called for redemption, instead of issuing a duplicate Bond, the Trustee may pay the same without surrender thereof. The Issuer and the Trustee or its

authenticating agent may charge the Owner of such Bond their reasonable fees and expenses in this connection.

(b) In the event that any Bond to be purchased pursuant to Section 3.04 hereof is not delivered by the Owner thereof on the date such Bond is to be purchased, the Issuer shall execute and the Trustee or its authenticating agent shall authenticate and deliver a new Bond of like date, maturity, interest rate and denomination as the Bond to be purchased and the Trustee or its authenticating agent shall register such Bond as directed by the Borrower or, if such Bond is purchased with funds provided under a Credit Facility, as directed by the Credit Facility Provider.

(c) All duplicate Bonds issued and authenticated pursuant to this Section 2.08 shall constitute original, contractual obligations of the Issuer (whether or not, in the case of paragraph (a), lost, stolen or destroyed Bonds be at any time found by anyone) and shall be entitled to equal and proportionate rights and benefits hereunder as all other Outstanding Bonds issued hereunder.

Section 2.09. Registration and Exchange of Bonds; Persons Treated as Owners. By this Indenture the Issuer shall cause books for the registration and for the transfer of the Bonds as provided in this Indenture to be kept by the Trustee, as registrar, at the Principal Office of the Trustee, which is hereby constituted and appointed the registrar of the Issuer. At reasonable times and under reasonable regulations established by the Trustee, such books may be inspected and copied by the Issuer, the Borrower, the Credit Facility Provider, if any, or by Owners (or a designated representative thereof) of 15% or more in aggregate principal amount of Bonds then Outstanding.

Upon surrender for registration or transfer of any Bond at its Principal Office, the Trustee shall deliver in the name of the transferee or transferees a new fully authenticated and registered Bond or Bonds of Authorized Denominations or any integral multiples thereof of the same maturity for the aggregate principal amount which the Owner is entitled to receive.

Bonds, upon surrender thereof at the Principal Office of the Trustee, together with an assignment duly executed by the Owner or his attorney or legal representative in such form as shall be satisfactory to the Trustee, may, at the option of the Owner thereof, be exchanged for an equal aggregate principal amount of Bonds of any Authorized Denomination or integral multiple thereof as the Bonds surrendered for exchange.

All Bonds presented for registration or transfer, redemption or payment (if so required by the Issuer or the Trustee), shall be accompanied by a written instrument or instruments of transfer or authorization for exchange satisfactory to the Trustee, duly executed by the Owner or by his duly authorized attorney.

Unless the Bonds are rated within one of the three highest whole rating categories by a Nationally Recognized Rating Agency acceptable to the Issuer, the Bonds may not be transferred without the consent of the Issuer; provided, however, that no such consent shall be required if the purchaser/transferee is a Permitted Transferee; and provided, further, that, without the prior consent of the Issuer, there shall not be more than 15 individual holders at any given time. While the Bonds are rated within one of the three highest whole rating categories by a Nationally Recognized Rating Agency acceptable to the Issuer, the Bonds shall be freely transferable in

Authorized Denominations without the consent of the Issuer and without any requirement for the delivery of an Investor Letter.

The Trustee also may require payment from the Owner of a sum sufficient to cover any tax or other governmental fee or charge that may be imposed in relation thereto. Such taxes, fees and charges shall be paid before any such new Bond shall be delivered.

The Issuer and the Trustee shall not be required (a) to issue or register the transfer of any Bonds during a period beginning on the Record Date (or, if applicable, Special Record Date) and ending at the close of business on the Business Day next preceding any Bond Payment Date (or, if applicable, the date of mailing of notice of redemption) or (b) to transfer any Bonds selected, called or being called for redemption in whole or in part, except that, the Issuer and the Trustee shall be required to issue or register the transfer of Bonds delivered pursuant to Section 3.01 hereof for purchase after such Record Date (or Special Record Date).

Bonds delivered upon any registration of transfer as provided herein or as provided in Section 2.08 hereof, shall be valid limited obligations of the Issuer, evidencing the same debt as the Bonds surrendered, shall be secured by this Indenture and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

The Issuer, the Remarketing Agent, the Borrower, the Credit Facility Provider, if any, and the Trustee shall treat the Person in whose name a Bond is registered on the books maintained by the Paying Agent as the absolute Owner thereof for all purposes, whether or not such Bond shall be overdue and shall not be bound by any notice to the contrary.

The Bonds shall bear the following legend:

SALES OR TRANSFERS OF THIS BOND MAY BE MADE ONLY TO AN “APPROVED INSTITUTIONAL BUYER” AS DEFINED IN THE INDENTURE (ANY INSTITUTION THAT IS EITHER (I) A “QUALIFIED INSTITUTIONAL BUYER” AS THAT TERM IS DEFINED UNDER RULE 144A OF THE SECURITIES ACT OF 1933 OR (II) AN “ACCREDITED INVESTOR” AS DEFINED IN RULE 501(A)(1), (2) OR (3) OF REGULATION D OF THE SECURITIES ACT OF 1933) OR AS OTHERWISE PERMITTED UNDER THE INDENTURE.

The Bonds are subject to a significant degree of risk and are suitable for consideration solely for Approved Institutional Buyers (as defined in the Indenture) who are experienced in the field of unrated multifamily housing bonds. No rating for the Bonds has been applied for and there is no assurance given that any rating would be received if an application for a rating had been made. By the purchase of the Bonds, the purchaser is avowing that such purchaser (i) is an Approved Institutional Buyer, (ii) is purchasing the Bonds solely for its own account, (iii) can bear the economic risk of its investment in the Bonds, (iv) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of purchasing the Bonds, (v) has made the decision to purchase the Bonds based on its own independent investigation regarding the Bonds and (vi) has received the information it considers necessary to make an informed decision to

invest in the Bonds. If the purchaser of the Bonds is a trust or custodial arrangement, in lieu of the foregoing representations, the depositor or trustor of the custodial arrangement or trust represents that the beneficial owners of the interests in the trust or custodial arrangement are required to make representations substantially the same as those contained in this paragraph.

The Issuer and the Trustee shall have no liability or responsibility for determining the suitability of any Owner of Bonds, nor shall any documentation therefor be required. Except as otherwise provided in the Indenture, this Bond may not be sold in denominations of less than \$500,000. The Bonds are unrated and not secured by a credit facility. By the purchase and acceptance of this Bond the owner acknowledges and agrees that the Bond shall not be offered, sold, assigned, pledged or otherwise transferred except to Permitted Transferees as provided in the Indenture.

Section 2.10. Disposal of Bonds. Whenever any Outstanding Bond is delivered for cancellation pursuant to this Indenture, upon payment of the principal amount, premium (to the extent applicable) and interest represented thereby or for replacement pursuant to Section 2.08 hereof or transfer pursuant to Section 2.09 hereof, such Bond shall be cancelled by the Trustee subject to applicable law and disposed of in accordance with the customary procedures of the Trustee and counterparts of a certificate of disposal evidencing such disposal shall be furnished upon request by the Trustee to the Issuer and the Borrower.

Section 2.11. Temporary Bonds. Pending preparation of definitive Bonds, there may be executed and upon request of the Issuer, the Trustee shall authenticate and deliver, in lieu of definitive Bonds and subject to the same limitations and conditions, temporary typewritten, printed, engraved or lithographed bonds, in the form of registered Bonds without coupons in Authorized Denominations or integral multiples thereof, substantially in the form of Exhibit A hereto and with such appropriate omissions, insertions and variations as may be required with respect to such temporary Bonds.

If temporary Bonds shall be issued, the Issuer shall cause the definitive Bonds to be prepared and to be executed, authenticated and delivered to the Trustee, and the Trustee, upon presentation to it at the Office of the Trustee of any temporary bonds, shall cancel the same and deliver in exchange therefor at the place designated by the Owner, without charge to the Owner thereof, a definitive Bond or Bonds of an equal aggregate principal amount, of the same maturity and bearing interest at the same rate or rates as the temporary Bond surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder.

ARTICLE III

PURCHASE OF BONDS; REDEMPTION OF BONDS

Section 3.01. Optional Tender.

(a) During any Floating Rate Period, each Owner shall have the option to require that the Borrower purchase or cause the purchase (out of remarketing proceeds) of the Bonds such

Owner holds at a purchase price equal to the principal amount of the Bonds so tendered plus accrued interest to the Purchase Date (the “Purchase Price”) in the manner set forth in this Section and such Bonds shall be subject to mandatory purchase as set forth below. To exercise such option the Owner shall:

(i) deliver to the Tender Agent, with a copy to the Remarketing Agent, a written notice (the “Purchase Notice”) stating (A) the principal amount and serial numbers of Bonds to be purchased and (B) the date on which such Owner desires such Bonds to be purchased, which shall be a Business Day not prior to the [seventh (7th)] day next succeeding the date of delivery of such notice to the Tender Agent (which date shall be a Purchase Date with respect to the requested purchase of Bonds) and not later than a Fixed Rate Conversion Date; and

(ii) deliver to the Tender Agent, not later than 10:00 a.m., New York, New York time on the Purchase Date, the Bonds to be purchased pursuant to such Purchase Notice, with an appropriate endorsement for transfer or a blank bond power.

Deliveries of Purchase Notices and Bonds to be purchased shall be made to the Tender Agent at its designated office or such other address as the Tender Agent may specify. Immediately upon receipt of a Purchase Notice, the Tender Agent shall give immediate notice to the Borrower, the Remarketing Agent and the Credit Facility Provider, if any, of the principal amount of Bonds to be purchased pursuant to such Purchase Notice and the Purchase Date specified therein. In no event shall the Tender Agent be required to, on behalf of the Borrower, effect the purchase of a portion of any Bond unless both the amount of the Bond so purchased and the amount remaining are in Authorized Denominations.

(b) In the event that the Tender Agent receives a Purchase Notice following the issuance by the Trustee of notice given hereunder of the establishment of a Fixed Rate Conversion Date, the Tender Agent shall provide copies of such notice from the Trustee to the Remarketing Agent, who shall furnish a copy of such notice to each Person to whom the Remarketing Agent attempts to sell such Bonds pursuant to the Remarketing Agreement.

(c) A Purchase Notice shall be irrevocable and effective upon receipt by the Tender Agent. Any Bond as to which a Purchase Notice has been delivered pursuant to Section 3.01(a)(i) above must be delivered to the Tender Agent as provided in Section 3.01(a)(ii) above and any Bonds not so delivered for which there has been deposited irrevocably in trust with the Tender Agent an amount of money sufficient to pay the Purchase Price thereof on the Purchase Date shall be deemed to be Undelivered Bonds hereunder and shall be deemed to have been purchased on the Purchase Date at the Purchase Price. IN THE EVENT AN OWNER FAILS TO DELIVER ITS BONDS AS REQUIRED FOLLOWING SUBMISSION OF A PURCHASE NOTICE AND SUFFICIENT MONEYS ARE ON DEPOSIT WITH THE TRUSTEE TO PAY THE PURCHASE PRICE FOR SUCH BONDS AND ALL OTHER BONDS TENDERED FOR PURCHASE ON SUCH DATE IN ACCORDANCE WITH THE INDENTURE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE ON OR SUBSEQUENT TO THE DATE DESIGNATED FOR PURCHASE IN THE APPLICABLE NOTICE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE

BENEFITS OF THIS INDENTURE, EXCEPT FOR THE PAYMENT OF THE PURCHASE PRICE THEREFOR UPON PRESENTATION OF SUCH BONDS AND SUCH BONDS SHALL NO LONGER BE DEEMED TO BE OUTSTANDING HEREUNDER. The foregoing legend shall appear on the face of each Bond bearing interest at a Floating Rate.

(d) Notwithstanding the foregoing provisions, in the event that any Bond as to which the holder thereof has submitted a Purchase Notice is remarketed to such Owner pursuant to the Remarketing Agreement, the Remarketing Agent shall so notify the Trustee and the Tender Agent, and such Owner need not deliver such Bond to the Tender Agent as required under Section 3.01(a)(ii) above, although the Purchase Price with respect to such Bond shall be deemed to have been paid without any corresponding deposit with or payment by the Trustee or Tender Agent, and such Bond shall be deemed to have been delivered to the Tender Agent, redelivered to such Owner and remarketed for purposes of this Indenture.

Section 3.02. Optional Redemption. At any time on or after [_____ 1, 2024], during the Initial Fixed Rate Period, pursuant to Section 5.05 of the Loan Agreement, the Borrower may elect to have the Bonds redeemed, in whole on any date, at a redemption price equal to 100% of the outstanding principal amount of the Bonds plus accrued interest thereon to the redemption date, without premium.

During any Floating Rate Period, the Bonds shall be subject to redemption at the option of the Borrower and shall be redeemed in whole or in part (in Authorized Denominations) on the [first Business Day of any month] at a redemption price equal to the outstanding principal amount of Bonds to be redeemed plus accrued interest thereon to the date of redemption.

During any Fixed Rate Period (other than the Initial Fixed Rate Period), the Bonds shall be subject to redemption at the option of the Borrower and shall be redeemed in whole on any date or in part on any January 1, April 1, July 1 or October 1 (a “Fixed Rate Interest Payment Date”), at the respective prices set forth in the table below (expressed as percentages of the principal amount of the Bonds so called for redemption), plus accrued interest thereon to the redemption date, as contemplated by Section 5.05 of the Loan Agreement:

if the Fixed Rate Period has a duration of two years or less:

Redemption Dates			Prices
From the Fixed Rate Interest Payment Date closest to the Midpoint Date	to	the following Fixed Rate Interest Payment Date	100.5%
From such following Fixed Rate Interest Payment Date	to	the end of the Fixed Rate Period	100%

if the Fixed Rate Period has a duration of more than two years, but less than five years:

Redemption Dates			Prices
From the Fixed Rate Interest Payment Date closest to the Midpoint Date	to	the following Fixed Rate Interest Payment Date	101.5%

Redemption Dates			Prices
From such following Fixed Rate Interest Payment Date	to	the next following Fixed Rate Interest Payment Date	101%
From such next following Fixed Rate Interest Payment Date	to	the subsequent Fixed Rate Interest Payment Date	100.5%
From such subsequent Fixed Rate Interest Payment Date	to	the end of the Fixed Rate Period	100%

if the Fixed Rate Period has a duration of five years or more:

Redemption Dates			Prices
From the Fixed Rate Interest Payment Date closest to the Midpoint Date	to	the following Fixed Rate Interest Payment Date	102%
From such following Fixed Rate Interest Payment Date	to	the next following Fixed Rate Interest Payment Date	101.5%
From such next following Fixed Rate Interest Payment Date	to	the subsequent Fixed Rate Interest Payment Date	101%
From such subsequent Fixed Rate Interest Payment Date	to	the next Fixed Rate Interest Payment Date	100.5%
From such next Fixed Rate Interest Payment Date	to	the end of the Fixed Rate Period	100%

The Borrower may exercise such option by giving the Trustee and the Owner written notice of such exercise, not less than thirty (30) days prior to the proposed redemption date, which notice shall specify the date fixed for optional redemption.

Section 3.03. Mandatory Redemption. The Bonds are subject to mandatory redemption as provided in this Section 3.03 on the earliest practicable redemption date for which timely notice of redemption can be given pursuant to Section 3.07 following the occurrence of the event requiring such redemption. Bonds will be redeemed at a redemption price equal to 100% of the principal amount of such Bonds plus accrued interest to the redemption date, without premium.

(a) *Mandatory Loan Prepayment.* The Bonds shall be subject to redemption in whole or in part upon mandatory prepayment of the Loan pursuant to Section 5.03 of the Loan Agreement;

(b) *Excess Funds.* The Bonds shall be redeemed in whole or in part in the event and to the extent that amounts on deposit in the Project Fund are transferred to the Redemption Account pursuant to Section 6.03.

Section 3.04. Mandatory Tender.

(a) On (i) the Initial Mandatory Tender Date and (ii) the day following the end of any Fixed Rate Period (including the Initial Fixed Rate Period) or any Floating Rate Period (each, a

“Mandatory Tender Date”) the Borrower shall be obligated to purchase or cause the purchase of all of the Bonds at the Purchase Price (as defined below) in the manner set forth in this Section 3.04. Not later than [thirty (30) days] prior to a Mandatory Tender Date, or [twenty (20) days] in the case of a Mandatory Tender Date occurring in connection with a conversion to a Floating Rate, the Trustee shall send to each Owner notice of the Mandatory Tender (the “Mandatory Tender Notice”) which notice shall:

(i) specify the Mandatory Tender Date; and

(ii) state that the Bonds must be delivered by the Owners to the Office of the Trustee (or the Tender Agent, if applicable) on or prior to such Mandatory Tender Date, together with all necessary endorsements for transfer and shall be subject to purchase on such Mandatory Tender Date at a purchase price with respect to each Bond equal to the redemption price of such Bonds if such Bonds were optionally redeemed on the Business Day preceding such Mandatory Tender Date pursuant to Section 3.02 of this Indenture (the “Purchase Price”) and that any Bonds that are not so delivered to the Trustee shall be deemed to have been tendered for purchase by the Owners and, provided that sufficient moneys have been deposited with the Trustee to pay the Purchase Price of the Bonds in full on the Mandatory Tender Date as provided herein, the Owners of the Bonds shall not be entitled to receive interest for any period on and after the Purchase Date; and

(iii) state that to the extent there has not been deposited with the Trustee sufficient moneys to pay the Purchase Price of the Bonds in full on a Mandatory Tender Date as provided herein, the Bonds will not be so purchased (and cannot be so purchased until the full Purchase Price has been so deposited) and an Event of Default under this Indenture shall occur which may result in the acceleration of the Bonds.

(b) At the time of sending the Mandatory Tender Notice, the Trustee shall give notice to the Issuer, the Borrower and the Remarketing Agent, if any, of the Mandatory Tender Date and the principal amount of Bonds to be purchased on such Mandatory Tender Date.

(c) Each Owner shall be required to tender its Bonds to the Trustee (or Tender Agent, if applicable) for purchase as provided herein and in the Mandatory Tender Notice, in whole, at a price equal to the Purchase Price on a Mandatory Tender Date. The Owner of any Bond shall tender such Bond to the Trustee (or Tender Agent, if applicable) for purchase hereunder, by delivering such Bond to the Trustee (or Tender Agent, if applicable), at the Office of the Trustee (or Tender Agent, if applicable), unless otherwise specified in the Mandatory Tender Notice, by not later than 10:30 a.m. New York, New York time on a Mandatory Tender Date, endorsed in blank or accompanied by a blank bond power. The moneys described below shall be deposited by the Trustee into a temporary fund or account established by the Trustee for the purpose of holding such moneys. To the extent sufficient moneys have been deposited with the Trustee to pay the full amount of the Purchase Price of the Bonds on the Mandatory Tender Date as provided herein, any such Bonds not delivered according to the terms of this Section 3.04(c) shall be deemed to be tendered for purchase and purchased from the Owners on a Mandatory Tender Date. IN THE EVENT AN OWNER FAILS TO DELIVER ITS BONDS AS REQUIRED FOLLOWING SUBMISSION OF A MANDATORY TENDER NOTICE AND SUFFICIENT MONEYS ARE ON DEPOSIT WITH THE TRUSTEE TO PAY THE PURCHASE PRICE FOR SUCH BONDS

AND ALL OTHER BONDS TENDERED FOR PURCHASE ON SUCH DATE IN ACCORDANCE WITH THIS INDENTURE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE ON OR SUBSEQUENT TO THE DATE DESIGNATED FOR PURCHASE IN THE APPLICABLE NOTICE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFITS OF THIS INDENTURE, EXCEPT FOR THE PAYMENT OF THE PURCHASE PRICE THEREFOR UPON PRESENTATION OF SUCH BONDS AND SUCH BONDS SHALL NO LONGER BE DEEMED TO BE OUTSTANDING HEREUNDER. The foregoing legend shall appear on each Bond.

(d) Not less than [ten (10) days] prior to a Mandatory Tender Date, the Trustee shall direct the Borrower to irrevocably deposit or cause to be deposited in the Bond Fund on or prior to the Mandatory Tender Date an amount sufficient to pay, together with any other moneys on deposit in the Bond Fund, the Purchase Price of the Bonds tendered or deemed tendered for purchase on the Mandatory Tender Date. On the Mandatory Tender Date, the Trustee shall pay to each of the Owners an amount equal to the Purchase Price of its Bonds.

(e) Not less than thirty-five (35) days prior to a Mandatory Tender Date, the Borrower will appoint a Remarketing Agent for the Bonds in accordance with the provisions of Section 10.23 hereof and will notify the Issuer and the Trustee of such appointment in writing. The Borrower will promptly enter into a written agreement with the Remarketing Agent (a “Remarketing Agreement”) in which, among other things, (i) the Remarketing Agent shall designate its principal office to the Borrower, the Issuer and the Trustee, (ii) the Remarketing Agent shall agree to perform the duties and obligations imposed upon it hereunder, (iii) the Remarketing Agent shall agree to hold all money delivered to it hereunder in trust for the benefit of the Person which shall have so delivered such money until the Bonds to be purchased with such money shall have been delivered to or for the account of such Person, (iv) the Borrower and the Remarketing Agent shall agree upon the compensation to be paid to the Remarketing Agent by the Borrower for remarketing the Bonds and (v) if the appointment is made in regard to a proposed Floating Rate Period, the Remarketing Agent will agree to serve during the Floating Rate Period until the earliest of (A) a succeeding Fixed Rate Conversion Date, (B) the Maturity Date of the Bonds or (C) the date upon which a successor Remarketing Agent has been duly appointed.

(f) Not less than three (3) days prior to a Mandatory Tender Date, the Remarketing Agent shall determine and shall notify the Trustee and the Borrower in writing of (i) the Floating Rate to be in effect for any Floating Rate Period beginning on the Mandatory Tender Date, which rate shall be determined in accordance with the provisions of Section 2.02(b)(ii) hereof or (ii) the Fixed Rate to be in effect for any Fixed Rate Period beginning on the Mandatory Tender Date, which rate shall be determined in accordance with the provisions of Section 2.02(b)(i) hereof. The Remarketing Agent shall offer for sale and use its best efforts to remarket the Bonds tendered or deemed tendered for purchase pursuant to this Section 3.04 for delivery on the Mandatory Tender Date at a price of par plus accrued unpaid interest. The proceeds of the sale of Bonds remarketed by the Remarketing Agent shall be delivered by the Remarketing Agent to the Trustee for deposit as provided in subsection (c) of this Section. Any Remarketing Agent shall have no obligation under any circumstances to advance its own money in connection with the remarketing of Bonds hereunder.

(g) Not later than the Business Day immediately preceding a Mandatory Tender Date, the Remarketing Agent shall provide the Trustee in writing with the names, addresses, tax identification numbers and all other information requested by the Trustee relating to the purchasers of Bonds which have been remarketed by the Remarketing Agent, as of that time and the Trustee shall prepare new Bonds (with appropriate changes, deletions and insertions) for each Bond purchased on the Mandatory Tender Date, shall register such new Bonds in any Bond register in the name of the Persons identified by the Remarketing Agent as the purchasers thereof and shall deliver such new Bonds to such purchasers; provided, however, that no Bond shall be purchased on such date unless all Bonds are purchased and the current Fixed Rate Period or Floating Rate Period shall not end until all Bonds are purchased or deemed to be purchased on the Purchase Date at the Purchase Price.

(h) Notwithstanding the foregoing or anything to the contrary contained herein, the Purchase Price for each of the Bonds Outstanding shall be due and payable to each of the Owners on a Mandatory Tender Date under all circumstances and regardless of whether or not the Remarketing Agent or Borrower is successful in remarketing the Bonds as contemplated in this Section 3.04.

Section 3.05. Extraordinary Optional Redemption. In the event the Borrower elects to prepay the Loan rather than to commence Restoration of the Project in accordance with Section 5.04 of the Loan Agreement (or to prepay the Loan in accordance with Sections 5.04(c) or 5.04(d) of the Loan Agreement), the Borrower must give notice (the “Extraordinary Optional Redemption Notice”) of its election not to commence Restoration (or to prepay the Loan in accordance with Sections 5.04(c) or 5.04(d) of the Loan Agreement) to the Issuer and the Trustee within one-hundred thirty-five (135) days of the event of Eminent Domain or casualty which caused the loss (or the event that gave rise to the right to prepay the Loan in accordance with Sections 5.04(c) or 5.04(d) of the Loan Agreement) (the “Event”); and, if the Borrower does not give such notice by such time, the Borrower will be deemed to have elected to commence Restoration, as applicable and/or not to prepay the Loan in connection with such Event. Such notice must clearly designate a date for redemption of the Bonds (the “Extraordinary Optional Redemption Date”) which date shall be no later than one-hundred eighty (180) days after the Event and no less than forty-five (45) days after the date the Borrower gives the Extraordinary Optional Redemption Notice. Upon (a) the Extraordinary Optional Redemption Date or (b) in the case of a redemption of Bonds in accordance with the last sentence of Section 6.10(b), upon the earliest practicable redemption date for which notice can be given, from moneys remaining in the Insurance and Condemnation Proceeds Fund, then, in either case, the Trustee shall redeem all or a portion of the Bonds (as the case may be) at a redemption price equal to 100% of the outstanding principal amount of Bonds to be redeemed plus accrued interest (which accrued interest shall be paid from amounts deposited by the Borrower into the Bond Fund) to the redemption date.

Section 3.06. Purchase in Lieu of Redemption.

(a) Any Bonds called for optional redemption under Section 3.02 of this Indenture may be purchased by the Borrower or by any other party designated in writing by the Borrower, on the date upon which such Bonds were to have been redeemed (the “Purchase in Lieu of Redemption Date”), at a purchase price equal to the redemption price thereof (being the principal amount of such Bonds, plus accrued interest to the Purchase in Lieu of Redemption Date, plus applicable

premium, if any. The Borrower shall give immediate written notice on or before the designated Purchase in Lieu of Redemption Date to the Issuer, the Tender Agent, the Trustee, the Credit Facility Provider, if any, and the Remarketing Agent of the aggregate principal amount of Bonds, if any, for which an election to purchase pursuant to this Section 3.06 is being made. Bonds to be purchased pursuant to this Section 3.06 which are not delivered to the Trustee on the Purchase in Lieu of Redemption Date shall be deemed to have been so purchased and the purchaser of such Bonds shall be the Owner of such Bonds for all purposes under this Indenture and interest accruing on such Bonds on and after the Purchase in Lieu of Redemption Date shall be payable solely to the purchaser of the Bonds or any assignee(s) of its interest in such Bonds.

(b) The purchase of Bonds in accordance with this Section 3.06 is not intended and shall not be deemed to constitute, a redemption of such Bonds nor an extinguishment of the debt evidenced thereby.

(c) Prior to any purchase of Bonds in lieu of redemption in accordance with this Section the Issuer and Trustee must be provided with a Favorable Tax Opinion addressed to them and upon which they may rely.

Section 3.07. Notice of Redemption and/or Purchase in Lieu.

(a) In the event any of the Bonds are called for redemption, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Bonds, which notice shall (i) specify the Bonds to be redeemed, the redemption date, the redemption price and the place or places where amounts due upon such redemption will be payable (which shall be the Principal Office of the Trustee) and, if less than all of the Bonds are to be redeemed, the numbers of the Bonds and the portions of Bonds to be redeemed, (ii) state any condition to such redemption and (iii) state that on the redemption date and upon the satisfaction of any such condition, the Bonds to be redeemed shall cease to bear interest; provided that the Borrower may purchase the Bonds in lieu of redemption pursuant to Section 3.06 hereof. Such notice may set forth any additional information relating to such redemption. Such notice shall be given by Mail at least ten (10) days prior to the date fixed for redemption to the Owners of Bonds to be redeemed (with a copy to the Paying Agent); provided, however, that failure to give such notice by Mail to any Owner or any defect therein, shall not affect the validity of any proceedings for the redemption of any other of the Bonds; provided, further, however, that if a Bond delivered on or after the Special Record Date established for a proposed redemption of Bonds shall be deemed to have been selected for redemption pursuant to Section 3.02 hereof, such notice shall be given to the address of the Owner, confirmed in writing, as promptly as practicable. If a notice of redemption shall be unconditional or if the conditions of a conditional notice of redemption shall have been satisfied, then upon presentation and surrender of Bonds so called for redemption at the place or places of payment, such Bonds, subject to Section 3.06, shall be redeemed.

(b) The notice provided for in Section 3.07(a) hereof shall be given by the Trustee regardless of whether the Borrower intends to purchase the Bonds in lieu of redemption.

(c) With respect to any notice of redemption of Bonds in accordance with Section 3.02 hereof unless, upon the giving of such notice, such Bonds shall be deemed to have been paid within the meaning of Article VIII hereof, such notice may state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys

sufficient to pay the principal of and interest on such Bonds to be redeemed and that if such moneys shall not have been so received said notice shall be of no force and effect and the Issuer shall not be required to redeem such Bonds. In the event that such notice of redemption contains such a condition and such moneys are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

(d) Any Bonds which have been duly selected for redemption and which are deemed to be paid in accordance with Article VIII hereof shall cease to bear interest on the specified redemption date.

Section 3.08. Selection of Bonds. In the event that the Bonds are to be redeemed in part, but not in whole, Bonds shall be redeemed through the application of funds from the prepayment of the Note and from other available amounts. If less than all the Bonds shall be called for redemption under any provisions of this Indenture permitting such partial redemption, the particular Bonds or integral multiples of the Authorized Denomination thereof to be redeemed shall be selected by the Trustee at random, but only in such amount that will result in any Bonds remaining Outstanding being in Authorized Denominations, as directed in writing by the Borrower, in connection with the prepayment of the Note as provided in Section 5.05 of the Loan Agreement.

ARTICLE IV

USE OF BOND PROCEEDS

Section 4.01. Use of Bond Proceeds. The proceeds of the sale of the Bonds and other funds received from the Borrower shall be deposited with the Trustee as follows:

- (a) \$[PROJECT FUND DEPOSIT] to the Project Fund; and
- (b) \$[COI FUND DEPOSIT] to the Cost of Issuance Fund.

ARTICLE V

GENERAL COVENANTS

Section 5.01. Payment of Principal Premium, if any, and Interest; No General Obligations.

(a) The Issuer covenants that it will promptly pay the principal of, premium, if any, and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in the Bonds, provided that the principal, premium, if any, and interest are payable by the Issuer solely from the Trust Estate, and nothing in the Bonds or this Indenture shall be considered as assigning or pledging any other funds or assets of the Issuer other than the Trust Estate.

(b) Each and every covenant made herein by the Issuer is predicated upon the condition that none of the Issuer, the City of San Diego, the State nor any political subdivision thereof shall

in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the payment of the Purchase Price of the Bonds or the performance of any pledge, mortgage, obligation or agreement created by or arising under this Indenture or the Bonds from any property other than the Trust Estate; and, further, that neither the Bonds nor any such obligation or agreement of the Issuer shall be construed to constitute an indebtedness of the Issuer, the City of San Diego, the State or any political subdivision thereof within the meaning of any constitutional or statutory provision whatsoever or as a pledge of the general credit, full faith or taxing power of the Issuer or the State or any political subdivision thereof.

Section 5.02. Performance of Covenants by Issuer; Authority; Due Execution. 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 of its proceedings pertaining hereto. The Issuer covenants that it is duly authorized under the constitution and laws of the State, including particularly the Act, to issue the Bonds and to execute this Indenture, to execute and deliver the Loan Agreement, to assign the Loan Agreement and amounts payable thereunder and to pledge the amounts hereby pledged in the manner and to the extent herein set forth. The Issuer further covenants that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture and the Loan Agreement has been duly and effectively taken and that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the Issuer according to the terms thereof and hereof.

Section 5.03. Recording and Filing; Instruments of Further Assurance. The Issuer agrees that the Trustee may defend the Issuer's rights to the payments and other amounts due under the Loan Agreement, for the benefit of the Owners of the Bonds, against the claims and demands of all Persons whomsoever. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming to the Trustee all and singular the rights assigned hereby and the amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds. The Issuer covenants and agrees that, except as herein and in the Loan Agreement provided, it will not sell, convey, assign, pledge, encumber or otherwise dispose of any part of the Trust Estate.

Section 5.04. Recording and Filing; Further Instruments.

(a) The Borrower will cause to be filed all necessary financing statements related to this Indenture, the Loan Agreement and the Mortgage as may be acceptable (i) to the Initial Bondholder during the Current Bondholder Period or (ii) to a majority in interest of the Bondholders after the Current Bondholder Period and at the cost of the Borrower, necessary to be kept and filed in such manner and in such places as may be required by law in order to preserve and protect fully the security of the Owners of the Bonds and the rights of the Trustee hereunder.

(b) The Issuer shall, upon the reasonable request of the Trustee, and at the sole expense of the Borrower, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to effectuate the purposes of this Indenture or any provision hereof; provided, however, that no such instruments or actions shall

pledge the general credit, the full faith or the taxing power of the Issuer, the State or any political subdivision thereof. Nothing herein shall obligate the Issuer whatsoever with respect to the preparation or filing of any financing statements or continuation statements.

Section 5.05. Rights Under Agreement. The Loan Agreement, duly executed counterparts of which have been filed with the Trustee, sets forth the covenants and obligations of the Issuer and the Borrower, including provisions that, subsequent to the issuance of the Bonds and prior to the payment in full or provision for payment thereof in accordance with the provisions hereof, of the Loan Agreement (except as expressly provided therein) may not be effectively amended, changed, modified, altered or terminated without the concurring written consent of the Trustee, as provided in Article XII hereof and reference is hereby made to the Loan Agreement for a detailed statement of such covenants and obligations of the Borrower and the Issuer agrees that the Trustee in its name or (to the extent required by law) in the name of the Issuer, shall have the power and authority to enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement for and on behalf of the Owners of Bonds, whether or not the Issuer is in default hereunder. Notwithstanding the foregoing, except with respect to acceleration of the Bonds, the Trustee is under no obligation to enforce the rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement unless the Trustee has been adequately indemnified as to its expenses, costs (including attorneys' fees) and liability. The Issuer shall cooperate with the Trustee in enforcing the obligations of the Borrower to pay or cause to be paid all amounts payable by the Borrower under the Loan Agreement.

Section 5.06. Tax Covenants. The Issuer agrees that:

(a) it shall neither make nor direct the Trustee to make any investment or other use of the proceeds of the Bonds that would cause the Bonds to be "arbitrage bonds" as that term is defined in section 148(a) of the Code and that it shall comply with the requirements of the Code throughout the term of the Bonds.

(b) it (i) shall take or use its best efforts to require to be taken, all actions that may be required of the Issuer for the interest on the Bonds to be and remain not included in gross income for federal income tax purposes and (ii) shall not take or authorize to be taken any actions within its control that would adversely affect that status under the provisions of the Code.

(c) it shall enforce or cause to be enforced all obligations of the Borrower under the Regulatory Agreement in accordance with its terms and seek to cause the Borrower to correct any violation of the Regulatory Agreement within a reasonable period after any such violation is first discovered.

In furtherance of the covenants in this Section, the Issuer and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Indenture and made a part of this Indenture and by its acceptance of this Indenture the Trustee acknowledges receipt of the Tax Certificate and acknowledges its incorporation into this Indenture by this reference. The Trustee agrees that in those instances where it exercises discretion over the investment of funds, it shall not knowingly make any investment inconsistent with subsection (a); provided that the Trustee shall be deemed to have

complied with such requirements to the extent it follows the written instructions of the Borrower, the Issuer or the Rebate Analyst.

The covenants of the Issuer in this Section 5.06 are made solely in reliance on the representations and covenants of the Borrower set forth in the Loan Agreement, the Tax Certificate and the Regulatory Agreement and a default by the Borrower with respect thereto shall not be considered a default of the Issuer hereunder. The covenants of the Issuer in this Section 5.06 are limited to those actions within its control and further limited to the extent that the costs and expenses of taking such actions are borne by the Borrower or a third party. Notwithstanding the foregoing, in the event of any conflict between the terms and requirements of this Section 5.06 and the terms and requirements of the Tax Certificate, the Tax Certificate shall control.

Section 5.07. No Disposition of Trust Estate. Except as permitted by this Indenture, the Issuer shall not sell, lease, pledge, assign or otherwise encumber or dispose of its interest in the Trust Estate and will promptly pay or cause to be discharged or make adequate provision to discharge, any lien or charge on any part thereof not permitted hereby.

Section 5.08. Access to Books. All books and documents in the possession of the Issuer relating to the Project, the Revenues of the Issuer from the Loan Agreement and the Trust Estate shall at all reasonable times be open to inspection by such accountants or other agents as the Trustee or the Credit Facility Provider, if any, may from time to time designate.

Section 5.09. Possession and Inspection of Mortgage and the Note. The Trustee or its designated depository agent shall retain possession of the Note and the Trustee covenants and agrees not to release the Mortgage and the Note except as permitted or required by this Indenture, the Loan Agreement and said documents. The Issuer and the Trustee covenant and agree that all books and documents in their possession relating to the Mortgage and the Note and to the distribution of proceeds thereof shall be open to inspection upon reasonable notice by such accountants or other agents as the other party may from time to time designate.

ARTICLE VI

FUNDS AND ACCOUNTS

Section 6.01. Source of Payment of Bonds. The Bonds are not general or moral obligations of the Issuer but are limited obligations payable solely and only from Bond proceeds, the Revenues and other amounts derived by the Issuer from the Borrower pursuant to the Loan Agreement and the Loan pledged to secure repayment of the Loan and all other rights and interests constituting a part of the Trust Estate. The Trust Estate has been pledged and assigned as security for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Bonds, except as may be otherwise expressly authorized in this Indenture or the Loan Agreement.

Section 6.02. Creation of Funds and Accounts. There are hereby created by the Issuer and ordered established the following funds and accounts to be held by the Trustee: (a) the Project Fund and therein a Borrower Equity Account; (b) the Bond Fund and therein an Interest Account,

a Redemption Account and a Fee Account; (c) the Cost of Issuance Fund; (d) the Insurance and Condemnation Proceeds Fund; and (e) the Rebate Fund.

Section 6.03. Project Fund.

The Trustee shall make payments from the Project Fund to pay costs of construction and development of the Project. Disbursements from the Project Fund shall be made by the Trustee upon receipt of a Requisition executed by the Authorized Borrower Representative with the prior written consent of the Bondholder Representative during the Current Bondholder Period.

The Trustee may fully rely on the representations of the Borrower contained in any Requisition delivered pursuant to the Loan Agreement and this Indenture and shall not be required to make any investigation or inspection of the Project or of any matter set forth herein in connection therewith.

Moneys (including investment proceeds but net of amounts to be retained to pay qualified project costs in accordance with the Tax Certificate (i) incurred but not then due and payable or (ii) allocated to construction contingency, marketing or operating expenses) held in the Project Fund shall be transferred immediately after completion of the construction of the Project to the Bond Fund.

Section 6.04. Bond Fund.

(a) **Deposits.** All moneys received by the Trustee pursuant to the Loan Agreement, the Note and the Mortgage and any other moneys furnished to the Trustee for deposit in the Bond Fund shall be deposited in the Bond Fund.

(b) **Use of Moneys in Bond Fund.** Amounts on deposit in the Bond Fund and available for such purpose shall be disbursed upon receipt in the following order of priority:

(i) To the Interest Account on the Business Day prior to each Bond Payment Date, an amount which, together with amounts already on deposit therein (as well as any amounts that are on deposit in the Redemption Account and will be available to pay the subject interest on the subject Bond Payment Date) is sufficient to pay interest on the Bonds coming due on such Bond Payment Date;

(ii) To the Redemption Account, such amounts at such times as set forth in subsection (d) below or as may otherwise be set forth in this Indenture.

(c) **Interest Account.** The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are Outstanding a separate account within the Bond Fund to be held by the Trustee to be known as the Interest Account. Moneys on deposit in the Interest Account shall be applied by the Trustee to pay interest on the Bonds as it becomes due.

(d) **Redemption Account.** The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are Outstanding a separate account within the Bond Fund to be known as the Redemption Account.

(i) The Trustee shall deposit in the Redemption Account, all moneys paid to it for optional redemption by or on behalf of the Borrower pursuant to the provisions of Section 3.02 hereof. Such moneys shall be paid by the Trustee to the Owners of Bonds called for redemption in accordance with the provisions of Section 3.02 hereof (or in the event of purchase in lieu of redemption pursuant to Section 3.06 hereof).

(ii) The Trustee shall deposit in the Redemption Account all moneys required to be deposited therein pursuant to Section 6.10 of this Indenture. Such moneys shall be applied in accordance with Section 3.05 of this Indenture.

(e) **Fee Account.** The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are outstanding a separate account within the Bond Fund to be known as the Fee Account. Money on deposit in the Fee Account shall be applied by the Trustee to pay the Issuer's Fee, the Trustee Fee and the Extraordinary Expenses.

Written notice of any insufficiency, which would result in the Issuer not receiving the Issuer's Fee on the applicable due date, shall be provided by the Trustee to the Issuer within ten (10) days of the respective due date.

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's Fee not later than thirty (30) days prior to the due date for payment of such Issuer's Fee, and shall remit moneys received by the Borrower to the Issuer for payment of such fee.

Section 6.05. Sources and Priority of Payment of Bonds. In making payments with respect to the principal of, premium, if any, and interest due on the Bonds on any Bond Payment Date, moneys derived from the following sources shall be used in the following order of priority:

(a) moneys received by the Trustee pursuant to the terms of the Loan Agreement, the Note or the Mortgage; and

(b) any other moneys furnished to and on deposit with the Trustee in the Bond Fund.

Section 6.06. Cost of Issuance Fund. On the Closing Date, the Borrower shall deliver or cause to be delivered to the Trustee, for deposit by the Trustee into the Cost of Issuance Fund, funds in an amount sufficient to pay all Costs of Issuance not otherwise paid, which shall not consist of any proceeds of the Bonds. Moneys in the Cost of Issuance Fund shall be used to pay all costs of issuing the Bonds, including, but not limited to, all printing expenses in connection with the Indenture, the Loan Agreement and the Bonds, all legal fees and expenses of Bond Counsel, counsel to the underwriter, if any, financial advisor fees and the Issuer's and the Trustee's initial fees, including legal fees and expenses for their respective counsel, not otherwise paid, upon the submission of requisitions by the Borrower substantially in the form set forth in Exhibit B hereto. Any funds remaining in the Cost of Issuance Fund ninety (90) days after the delivery of the Bonds and not otherwise committed to the payment of such costs shall be returned to the Borrower and thereafter the Cost of Issuance Fund shall be closed.

Section 6.07. Bonds Not Presented for Payment. In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date

fixed for redemption thereof or the acceleration of maturity if moneys sufficient to pay such Bonds are held by the Trustee, the Trustee shall segregate and hold such moneys in trust, without liability for interest thereon, for the benefit of Owners of such Bonds who shall, except as provided in the following paragraph, thereafter be restricted exclusively to such fund or funds for the satisfaction of any claim of whatever nature on their part under this Indenture or relating to said Bonds.

In the event any moneys deposited with the Trustee for the payment of the Purchase Price or principal of, premium, if any, and/or interest on, any Bond remain unclaimed for two (2) years after such Purchase Price, principal, premium or interest has become due and payable, the Trustee shall disburse such moneys to the Borrower; provided, however, that before the Trustee shall be required to make any such payment, the Trustee shall, promptly at the termination of such two year period, at the expense of the Borrower, cause notice to be given once by Mail to the effect that such moneys remain unclaimed and that, after a date specified therein, which shall not be less than thirty (30) days and not more than ninety (90) days from the date of such notice, any unclaimed balance of such moneys then remaining will be paid to the Borrower. After the payment of such unclaimed moneys to the Borrower, the Owner of such Bond shall thereafter be entitled to look only to the Borrower for payment, and then only to the extent of the amount so repaid and the Borrower shall not be liable for any interest thereon and shall not be regarded as a trustee of such moneys and all liability of the Issuer, the Trustee and the Paying Agent with respect to such moneys shall thereupon cease. Any amounts held by the Trustee pursuant to this Section 6.06 shall be held uninvested by the Trustee.

Section 6.08. Moneys Held in Trust. All moneys required to be deposited with or paid to the Trustee for deposit into the Bond Fund under any provision hereof and all moneys withdrawn from the Bond Fund and held by the Trustee, the Paying Agent or the Remarketing Agent shall be held by the Trustee, the Paying Agent or the Remarketing Agent, as the case may be, in trust and such moneys (other than moneys held pursuant to Section 6.07 hereof) shall, while so held, constitute part of the Trust Estate and be subject to the lien hereof.

Section 6.09. Payment to the Borrower. After the title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer (herein and in the Loan Agreement) shall have ceased, terminated and become void and shall have been satisfied and discharged in accordance with Article VIII hereof, any moneys remaining in any Fund shall be paid to the Borrower.

Section 6.10. Insurance and Condemnation Proceeds Fund.

(a) Moneys representing Net Proceeds deposited by the Borrower pursuant to subsection (b) of this Section 6.10 shall be deposited into an Insurance and Condemnation Proceeds Fund and notice of such deposit thereof shall be given by the Trustee to the Issuer. Such fund need not be created until required. Earnings on investments held in the Insurance and Condemnation Proceeds Fund shall be retained therein to be applied in accordance with this Section 6.10.

(b) To the extent the Borrower has made a determination pursuant to Section 5.04 of the Loan Agreement to restore the Project, the Net Proceeds shall be expended in accordance with the provisions of the Loan Agreement and with the following: Amounts on deposit in the Insurance

and Condemnation Proceeds Fund shall be disbursed by the Trustee for the repair or replacement of the Project upon the receipt by the Trustee from the Borrower of (i) requisitions specifying (A) the requisition number, the amount requested, and the names and addresses of the Persons to which such amounts shall be paid (B) certifying that (1) the amounts requested were made or incurred or financed and were necessary for the Project and were made or incurred in accordance with the construction contracts, plans and specifications, if any, theretofore in effect, (2) the amount paid or to be paid, as set forth in such requisition, represents a part of the amount due and payable for the cost of repairing or replacing the Project and such payment was not paid in advance of the time, if any, fixed for payment and is being made in accordance with the terms of any contracts applicable to the Project and in accordance with usual and customary practice under existing conditions, (3) no part of the amounts requisitioned in such requisition has been included within amounts referred to in any requisition previously filed with the Trustee from such Net Proceeds, as the case may be, under the provisions of this Section 6.10, (4) the amount remaining in the Insurance and Condemnation Proceeds Fund, together with expected investment earnings on the Insurance and Condemnation Proceeds Fund and other funds available to the Borrower, after payment of the amount requested in such requisition, will be sufficient to pay the entire cost of repairing or replacing the Project, as the case may be, substantially in accordance with the construction contracts, plans and specifications and building permits therefor, if any, currently in effect and (5) no event of default has occurred and is continuing under the Loan Agreement, the Regulatory Agreement, the Mortgage or the Note and nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations under this Indenture, the Loan Agreement, the Regulatory Agreement, the Mortgage or the Note and (ii) invoices or bills evidencing the amounts due in connection with such requisition. If at any time during the Restoration, the Net Proceeds are less than the estimated costs to repair or restore the Project, the Borrower shall provide the Trustee with cash or cash equivalents in an amount equal to the shortfall. If after completion of any such repairs or replacements, any funds remain in the Insurance and Condemnation Proceeds Fund, the remaining funds shall be transferred by the Trustee to the Redemption Account and used to prepay the Loan and to redeem Bonds pursuant to Section 3.05 hereof or, at the request of the Borrower, and with an opinion of Bond Counsel to the Issuer substantially to the effect that such transfer will not, in and of itself, adversely affect any exemption of interest on the Bonds from gross income for purposes of federal income taxation, transferred to the Borrower.

(c) In the event that the Borrower determines pursuant to the Loan Agreement not to restore the Project, the Net Proceeds shall be deposited to the Redemption Account and applied to the extraordinary optional redemption of Bonds in accordance with Section 3.05 hereof.

Section 6.11. Rebate Fund. The Issuer hereby directs the Trustee to establish a Rebate Fund to be held and applied as provided in the Tax Certificate. Within thirty (30) days after the end of every fifth Bond Year (as defined in the Tax Certificate) and within fifty-five (55) days after the date on which no Bonds are Outstanding, the Borrower shall cause the Rebate Analyst to deliver to the Trustee and the Issuer a certificate stating whether any rebate payment is required to be made, as set forth in the Tax Certificate and the Borrower shall deliver to the Trustee any amount so required to be paid.

All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust for payment, to the extent required under the Code and as calculated by the Rebate Analyst, for

payment to the United States Government. None of the Issuer, the Borrower or the Owners shall have any rights in or claim to such moneys. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and by the Tax Certificate.

ARTICLE VII

INVESTMENTS

The Trustee, pursuant to the direction as set forth below, shall invest and reinvest in Investment Securities all moneys held in the funds and accounts hereunder except (i) the funds in the Rebate Fund (which may only be invested in the obligations under paragraph (f) of the definition of Investment Securities), and (ii) monies held pursuant to Section 6.07 hereof (which shall be held uninvested). Subject to the further provisions of this Article VII, such investments in Investment Securities shall be made by the Trustee as directed and designated by the Borrower, and consented to by the Bondholder Representative during the Current Bondholder Period, in a certificate of, or telephonic advice promptly confirmed by a certificate of, an Authorized Borrower Representative and/or Authorized Bondholder Representative, as applicable. As and when any amounts thus invested may be needed for disbursements from any fund or account, the Trustee shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such fund or account. As long as no Event of Default (as defined in Section 9.01 hereof) shall have occurred and be continuing, the Borrower shall have the right to designate the investments to be sold and to otherwise direct the Trustee in the sale or conversion to cash of the investments made with the moneys in the Bond Fund provided that the Trustee shall be entitled to conclusively assume the absence of any such Event of Default unless it has notice thereof within the meaning of Section 10.05 hereof; if there has been an Event of Default, the Bondholder Representative shall have said right. No investment shall be made of any funds which would violate the covenant set forth in Section 5.06 hereof. Gains from investments shall be credited to and held in, and losses shall be charged to, the account or fund from which the investment is made. The Trustee shall have no liability for losses resulting from investments made pursuant to this Article VII nor any liability for any effect on the Bonds being considered arbitrage bonds under the Code as a result of investments made pursuant to this Article VII. The Trustee shall not be liable for failure to invest or to achieve maximum earnings.

ARTICLE VIII

DEFEASANCE

If the Issuer shall pay or cause to be paid to the Owner of any Bond secured hereby the principal of, premium, if any, and interest due and payable, and thereafter to become due and payable, upon such Bond, or any portion of such Bond in any integral multiple of the Authorized Denomination thereof, such Bond or portion thereof shall cease to be entitled to any lien, benefit or security under this Indenture. If the Issuer shall pay or cause to be paid the principal of, premium, if any, and interest due and payable on all Outstanding Bonds and thereafter to become due and payable thereon, and shall pay or cause to be paid all other sums payable hereunder by the Issuer, then, and in that case, the right, title and interest of the Trustee in and to the Trust Estate shall thereupon cease, terminate and become void. In such event, the Trustee shall assign, transfer, and turn over the Trust Estate, including, without limitation, any surplus in the Bond Fund and any

balance remaining in any other fund created under this Indenture in accordance with Section 6.09 hereof.

Any Bond shall be deemed to be paid within the meaning of this Article VIII and for all purposes of this Indenture when payment of the principal of and premium, if any, on such Bond, plus interest thereon to the due date thereof (whether such due date is by reason of maturity or upon redemption as provided herein) either (i) shall have been made or caused to be made in accordance with the terms thereof or (ii) shall have been provided for by irrevocably depositing with the Trustee in trust and irrevocably set aside exclusively for such payment, (A) moneys sufficient to make such payment and/or (B) Government Obligations, maturing as to principal and interest in such amount and at such time as will insure the availability of sufficient moneys to make such payment. At such times as a Bond shall be deemed to be paid hereunder, as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Government Obligations.

Notwithstanding the foregoing paragraph, no deposit under clause (ii) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until: (a) proper notice of redemption of such Bonds shall have been previously given in accordance with Section 3.07 hereof or in the event said Bonds are not to be redeemed within the next succeeding 60 days, until the Borrower shall have given the Trustee on behalf of the Issuer, in form satisfactory to the Trustee, irrevocable instructions to notify, as soon as practicable, the Owners of the Bonds in accordance with Section 3.07 hereof, that the deposit required by (ii)(A) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Article VIII and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal of and the applicable redemption premium, if any, on said Bonds, plus interest thereon to the due date thereof; or (b) the maturity of such Bonds.

ARTICLE IX

DEFAULTS AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute and is referred to in this Indenture as an “*Event of Default*”:

(a) a failure to pay any principal, premium, or Purchase Price when due, or a failure to pay any interest or any other sum due if such failure is not remedied on or before the third (3rd) Business Day following the date such payment is due;

(b) a failure by the Issuer to observe and perform any covenant, condition, agreement or provision (other than as specified in clause (a) of this Section 9.01) contained in the Bonds or in this Indenture on the part of the Issuer to be observed or performed, which failure shall continue uncured for a period of ninety (90) days after written notice, specifying such failure and requesting that it be remedied, shall have been given to the Issuer, the Credit Facility Provider, if any, and the Borrower by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, unless the Trustee, or the Trustee and Owners of a principal amount of Bonds not less than the principal amount of Bonds the Owners of which requested such notice, as the case may be, shall agree in writing to an extension of such period prior to its expiration; provided,

however, that the Trustee, or the Trustee and the Owners of such principal amount of Bonds, as the case may be, shall be deemed to have agreed to an extension of such period if corrective action is initiated by the Issuer, the Credit Facility Provider, if any, or the Borrower on behalf of the Issuer, within such period and is being diligently pursued; or

- (c) an Event of Default under the Loan Agreement.

If on any Bond Payment Date or on the date on which payment of the Purchase Price of Bonds is to be made by the Remarketing Agent, the Paying Agent or the Co-Paying Agent, sufficient moneys are not available to make such payment, the Trustee shall give written notice of such insufficiency to the Borrower.

Section 9.02. Acceleration; Other Remedies.

(a) Upon the occurrence and continuance of an Event of Default (i) described in Section 9.01(a) hereof (but not without the consent of the Initial Bondholder during the Current Bondholder Period) or simultaneously with any acceleration of the Loan pursuant to Section 8.03 of the Loan Agreement or (ii) described in Section 9.01(b) or (c) hereof, the Trustee shall at the written request of the Initial Bondholder during the Current Bondholder Period and at the written request of the Owners of not less than 25% in principal amount of Bonds then Outstanding during periods other than the Current Bondholder Period, declare the Bonds to be immediately due and payable, whereupon the Bonds shall, without further action, become and be immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding and the Trustee shall promptly give notice thereof to the Issuer, the Borrower, the Paying Agent, the Remarketing Agent, and, by Mail, to all Owners of Outstanding Bonds and the Trustee shall immediately draw sufficient moneys to the extent available from the Bond Fund to pay the principal of and accrued interest on all Bonds Outstanding. From and after the date the Borrower's payment obligations hereunder have become immediately due and payable as the result of an Event of Default, or the date that interest on the Loan is payable at the Default Rate pursuant to Section 8.03 of the Loan Agreement, interest on the unpaid principal amount of the Bonds shall accrue at the Default Rate.

(b) The provisions of the preceding paragraph are subject to the condition that if, after the principal of the Bonds shall have been so declared to be due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Issuer shall cause to be deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all Bonds and the principal of any and all Bonds which shall have become due otherwise than by reason of such declaration (with interest upon such principal and, to the extent permissible by law, on overdue installments of interest, at the rate per annum specified in the Bonds) and such amount as shall be sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee and all Events of Default hereunder other than nonpayment of the principal of Bonds which shall have become due by said declaration shall have been remedied, then, in every such case, such Event of Default shall be deemed waived and such declaration and its consequences rescinded and annulled and the Trustee shall promptly give written notice of such waiver, rescission or annulment to the Issuer, the Borrower, the Credit Facility Provider, if any, the Remarketing Agent and the Paying Agent and shall give notice thereof by Mail to all Owners of Outstanding Bonds; but no such waiver,

rescission and annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon.

(c) Upon the occurrence and continuance of any Event of Default, then and in every such case the Trustee in its discretion may, and upon the written direction of the Credit Facility Provider or Owners of not less than 25% in principal amount of the Bonds then Outstanding shall, in its own name and as the Trustee of an express trust:

(i) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners under, and require the Issuer and/or Borrower to carry out any agreements with or for the benefit of the Owners of Bonds and to perform its or their duties under, the Act, the Loan Agreement, the Mortgage and this Indenture, provided that any such remedy may be taken only to the extent permitted under the applicable provisions of the Loan Agreement, the Mortgage or this Indenture, as the case may be;

(ii) bring suit upon the Bonds;

(iii) by action or suit in equity require the Issuer to account as if it were the trustee of an express trust for the Owners of Bonds; or

(iv) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of Bonds.

Section 9.03. Restoration to Former Position. In the event that any proceeding taken by the Trustee to enforce any right under this Indenture shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then the Issuer, the Trustee and the Owners of Bonds 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 9.04. Owners' Right To Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the Owners of a majority in principal amount of the Bonds then Outstanding hereunder shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all remedial proceedings available to the Trustee under this Indenture or exercising any trust or power conferred on the Trustee by this Indenture (except Reserved Rights).

Section 9.05. Limitation on Owners' Right To Institute Proceedings. No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust or power hereunder, or any other remedy hereunder or on said Bonds, unless such Owner previously shall have given to the Trustee written notice of an Event of Default as hereinabove provided and unless also Owners of not less than 25% in principal amount of the Bonds then Outstanding shall have made written request of the Trustee so to do, after the right to institute said suit, action or proceeding under Section 9.02 hereof shall have accrued, and shall have afforded the Trustee a reasonable opportunity to proceed to institute the same in either its or their name and except with respect to the acceleration of the Bonds pursuant to Section 9.02 hereof, unless there also shall have been offered to the Trustee security and indemnity satisfactory to it against the costs, expenses (including attorneys' fees), 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 institution of said suit, action or proceeding; it being understood and intended that no one or more of the Owners shall have any right in any manner whatever by his 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 that all suits, actions and proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners.

Section 9.06. No Impairment of Right To Enforce Payment. Notwithstanding any other provision in this Indenture, the right of any Owner to receive payment of the principal of and interest on its Bond on or after the respective due dates expressed therein or to institute suit for the enforcement of any such payment on or after such respective due date, shall not be impaired or affected without the consent of such Owner.

Section 9.07. Proceedings by Trustee Without Possession of Bonds. 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 Owners, subject to the provisions of this Indenture.

Section 9.08. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Trustee or to Owners 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 under the Loan Agreement, or now or hereafter existing, at law or in equity or by statute; provided, however, that any conditions set forth herein to the taking of any remedy to enforce the provisions of this Indenture, the Bonds or the Loan Agreement, shall also be conditions to seeking any remedies under any of the foregoing pursuant to this Section 9.08.

Section 9.09. No Waiver of Remedies. No delay or omission of the Trustee or of any Owner 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 an acquiescence therein; and every power and remedy given by this Article IX to the Trustee and to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient.

Section 9.10. Application of Moneys. Any moneys received by the Trustee, by any receiver or by any Owner pursuant to any right given or action taken under the provisions of this Article IX, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee shall 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 had matured or otherwise become payable prior to such Event of Default or for the payment of interest due prior to such Event of Default) shall be applied as follows:

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

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

SECOND - To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds matured or called for redemption, for the payment of which money is held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they became due at the rate borne by the Bonds and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, 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; and

THIRD - To be held for the payment to the Persons entitled thereto as the same shall become due of the principal of and interest on the Bonds which may thereafter become due either at maturity or upon call for redemption prior to maturity and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with interest then due and owing thereon, payment shall be made ratably according to the amount of principal due on such date to the Persons entitled thereto without any discrimination or privilege.

(b) If the principal of all the Bonds shall have become due, all such money shall be applied to the payment of the principal 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 amount due respectively for principal and interest, to the Persons entitled thereto without any discrimination or privilege.

Whenever money is to be applied pursuant to the provisions of this Section 9.10, such money shall be applied at such times and from time to time, as the Trustee shall determine, having due regard for 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 of principal and interest to be paid on such date shall cease to accrue. The Trustee shall give notice of the deposit with it of any such moneys and of the fixing of any such date by Mail to all Owners of Outstanding Bonds and shall not be required to make payment to any Owner until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 9.11. Severability of Remedies. It is the purpose and intention of this Article IX to provide rights and remedies to the Trustee and the Owners 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 Owners shall be entitled, as above set forth, to every other right and remedy provided in this Indenture and by law.

Section 9.12. Notice to Owners of Event of Default. If an Event of Default described in paragraph (a) of Section 9.01 hereof with respect to a failure to pay the Purchase Price occurs of which the Trustee has notice and which continues for three days after the Trustee has notice of the same as provided in Section 10.05 hereof, the Trustee shall give notice to the Owners of Outstanding Bonds.

ARTICLE X

TRUSTEE; PAYING AGENT AND CO-PAYING AGENTS; REMARKETING AGENT

Section 10.01. Acceptance of Trusts. The Trustee hereby accepts and agrees to execute the trusts hereby created, but only upon the additional terms set forth in this Article X, to all of which the Issuer agrees and the respective Owners agree by their acceptance of delivery of any of the Bonds.

Section 10.02. No Responsibility for Recitals. The recitals, statements and representations contained in this Indenture or in the Bonds, save only the Trustee's or authenticating agent's authentication upon the Bonds, 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.

Section 10.03. Limitations on Liability. The Trustee and the Paying Agent 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, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee and the Paying Agent shall not be answerable for the default or misconduct of any such attorney, agent or employee selected by it with reasonable care. The Trustee and the Paying Agent shall not be answerable for the exercise of any discretion or power under this Indenture or for anything whatsoever in connection with the trust created hereby, except only for its own negligence and willful misconduct.

Section 10.04. Compensation, Expenses and Advances. The Trustee, the Paying Agent, any Co-Paying Agent and the Remarketing Agent under this Indenture shall be entitled to reasonable compensation for their services rendered hereunder (not limited by any provision of law in regard to the compensation of the trustee of an express trust) and to reimbursement for their actual out-of-pocket expenses (including counsel fees) reasonably incurred in connection therewith except as a result of their negligence or willful misconduct. 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 uncontrolled discretion and without notice to the Owners, 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 so to do; and any and all such advances may bear interest at a rate per annum not exceeding the rate of interest then in effect and as announced by the Trustee as its prime lending rate for domestic commercial loans in the city in which is located the Principal Office of the Trustee; but no such advance shall operate to relieve the Issuer from any default hereunder. In the Loan Agreement, the Borrower has agreed that it will pay to the Trustee, the Paying Agent and the Remarketing Agent, such compensation and reimbursement of expenses and advances, but the

Borrower may, without creating a default hereunder, contest in good faith the reasonableness of any such services, expenses and advances if done after payment. If the Borrower shall have failed to make any payment to the Trustee, the Paying Agent or the Remarketing Agent under the Loan Agreement and such failure shall have resulted in an Event of Default under the Loan Agreement, the Trustee, the Remarketing Agent and the Paying Agent shall have, in addition to any other rights hereunder, a claim, prior to the claim of the Owners, for the payment of its compensation and the reimbursement of its expenses and any advances made by it, as provided in this Section 10.04, upon the moneys and obligations in the Bond Fund, except for moneys or obligations deposited with or paid to the Trustee for the redemption or payment of Bonds which are deemed to have been paid in accordance with Article VIII hereof. In the event the Trustee incurs expenses or renders services in any proceedings which result from the occurrence or continuance of an Event of Default under Section 8.01(e) of the Loan Agreement or from the occurrence of any event which, by virtue of the passage of time, would become such Event of Default, the expenses so incurred and compensation for services so rendered are intended to constitute expenses of administration under the United States Bankruptcy Code or equivalent law. Notwithstanding any provision of this Indenture to the contrary, before taking any action at the direction of the Owners under this Indenture the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct (or ordinary negligence in the handling of funds received by it in accordance with the terms of this Indenture) by reason of any action so taken.

Section 10.05. Notice of Events of Default. The Trustee shall not be required to take notice or be deemed to have notice, of any default or Event of Default under this Indenture, other than an Event of Default under clause (a) of Section 9.01 hereof (except a failure to pay the Purchase Price), unless a Responsible Officer of the Trustee shall have been specifically notified in writing of such default or Event of Default by the Credit Facility Provider, if any, or by Owners of at least 25% in principal amount of the Bonds then Outstanding, by the Paying Agent or by the Remarketing Agent. The Remarketing Agent and the Paying Agent shall not be required to take notice or be deemed to have notice, of any default or Event of Default under this Indenture, other than a default or Event of Default of which it shall have actual knowledge.

Section 10.06. Action by Trustee. Except in the case of automatic acceleration of the Bonds pursuant to Section 9.02 hereof, the Trustee shall be under no obligation to take any action in respect of any default or Event of Default hereunder 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 so to do by the Credit Facility Provider, if any, or the Owners of at least 25% 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 indemnity satisfactory to it; but the foregoing provisions are intended only for the protection of the Trustee and shall not affect any discretion or power given by any provisions of this Indenture to the Trustee to take action in respect of any default or Event of Default without such notice or request from the Owners or without such security or indemnity.

Section 10.07. Good-Faith Reliance. The Trustee, the Remarketing Agent and the Paying Agent shall be protected and shall incur no liability in acting or proceeding in good faith

upon any resolution, notice, email, facsimile or other electronic transmission, 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 Loan Agreement or upon the written opinion of any attorney, engineer, accountant or other expert believed by the Trustee, the Remarketing Agent or the Paying Agent, as the case may be, to be qualified in relation to the subject matter and the Trustee, the Remarketing Agent, the Credit Facility Provider or the Paying Agent shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument or the due execution thereof, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. None of the Trustee, the Paying Agent or the Remarketing Agent shall be bound to recognize any Person as an Owner or to take any action at such Person's request unless the Bond owned by such Person shall be deposited with such entity or satisfactory evidence of the ownership of such Bond shall be furnished to such entity.

Section 10.08. Dealings in Bonds and With the Issuer and the Borrower. The Trustee, the Paying Agent or the Remarketing Agent, each in its commercial banking or any other capacity, may in good faith buy, sell, own, hold, and deal in any of the Bonds issued hereunder, and may join in any action which any Owner may be entitled to take with like effect as if it did not act in any capacity hereunder. The Trustee, the Paying Agent, the Credit Facility Provider, if any, or the Remarketing Agent, each in its commercial banking or any other capacity, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Issuer or the Borrower, and may act as depository, trustee or agent for any committee or body of Owners secured hereby or other obligations of the Issuer or the Borrower as freely as if it did not act in any capacity hereunder. The provisions of this Section shall extend to Affiliates of the named parties.

Section 10.09. Allowance of Interest. The Trustee may, but shall not be obligated to, allow and credit interest upon any moneys which it may at any time receive under any of the provisions of this Indenture, at such rate, if any, as it customarily allows upon similar funds of similar size and under similar conditions, provided that such allowance and credit shall not result in any violation of Section 5.06 hereof relating to arbitrage. All interest allowed on any such moneys shall be credited to the appropriate fund or account as provided in Article VII with respect to interest on investments.

Section 10.10. Construction of Indenture. The Trustee and Paying Agent may construe any of the provisions of this Indenture insofar as the same may appear to be ambiguous or inconsistent with any other provision hereof or of the Loan Agreement upon written notice of the same to the Issuer and any construction of any such provisions hereof by the Trustee or the Paying Agent in good faith shall be binding upon the Owners of the Bonds.

Section 10.11. Resignation of Trustee. The Trustee and the Paying Agent may resign and be discharged of the trusts created by this Indenture by executing any instrument in writing resigning such trust and specifying the date when such resignation shall take effect and filing the same with the Issuer, the Borrower, the Paying Agent, the Remarketing Agent and the Credit Facility Provider, if any, not less than sixty (60) days before the date specified in such instrument when such resignation shall take effect, and by giving notice of such resignation by Mail, not less than three weeks prior to such resignation date, to all Owners of Bonds. Such resignation shall

take effect on the day specified in such instrument and notice, unless previously a successor Trustee shall have been appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor Trustee, but in no event shall a resignation take effect earlier than the date on which a successor Trustee has been appointed. In the event that a successor Trustee has not been appointed within ninety (90) days, the Trustee has the right to seek appointment of a successor Trustee from a court of competent jurisdiction and shall be reimbursed for its costs and expenses (including reasonable attorney fees).

Section 10.12. Removal of Trustee. The Trustee may be removed at any time by the Credit Facility Provider, if any, or the Borrower, so long as the Borrower is not in default under any of the Bond Documents, or the Issuer, so long as the Issuer is not in default under any of the Bond Documents, by filing with the Issuer, the Trustee, the Borrower, the Paying Agent, the Remarketing Agent, and the Credit Facility Provider, if any, an instrument or instruments in writing appointing a successor, which successor must be acceptable to the Issuer.

Section 10.13. Appointment of Successor Trustee. In case, at any time, the Trustee shall be removed, or be dissolved, or if its property or affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy, or for any other reason, then a vacancy shall forthwith and ipso facto exist in the office of Trustee and a successor may be appointed, and in case at any time the Trustee shall resign, then a successor, which successor must be acceptable to the Issuer, may be appointed, by filing with the Issuer, the Borrower, the Paying Agent, the Remarketing Agent, and the Credit Facility Provider, if any, an instrument in writing, executed by Owners of not less than a majority in principal amount of Bonds then Outstanding or the Bondholder Representative. Copies of such instrument shall be promptly delivered by the Issuer to the predecessor Trustee and to the Trustee so appointed.

Until a successor Trustee shall be appointed by the Owners as herein authorized, the Borrower shall appoint a successor Trustee approved in writing by the Issuer and the Credit Facility Provider, if any. After any appointment by the Borrower, the Borrower shall cause written notice of such appointment to be given to the Remarketing Agent, the Paying Agent, and the Credit Facility Provider, if any, and by Mail to all Owners of Bonds. Any new Trustee so appointed by the Borrower shall immediately and without further act be superseded by a Trustee appointed by the Owners in the manner above provided.

Section 10.14. Qualifications of Successor Trustee. Every successor Trustee (a) shall be a national or state bank or trust company (other than the Credit Facility Provider) that is authorized by law to perform all the duties imposed upon it by this Indenture, (b) shall have a combined capital stock, surplus, and retained earnings of at least \$50,000,000 and (c) shall be permitted under the Act to perform the duties of Trustee, if there can be located, with reasonable effort, such an institution willing and able to accept the trust on reasonable and customary terms.

Section 10.15. Judicial Appointment of Successor Trustee. 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 X prior to the date specified in the notice of resignation as the date when such resignation is to take effect, the resigning Trustee shall 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 X, within six

(6) months after a vacancy shall have occurred in the office of Trustee, any Owner 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 and prescribe, appoint a successor Trustee.

Section 10.16. Acceptance of Trusts by Successor Trustee. Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become duly vested with all the estates, property, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named Trustee herein. Upon request of such Trustee, such predecessor Trustee and the Issuer shall execute and deliver an instrument transferring to such successor Trustee all the estates, property, rights, powers and trusts hereunder of such predecessor Trustee and, subject to the provisions of Section 10.04 hereof, such predecessor Trustee shall pay over to the successor Trustee all moneys and other assets at the time held by it hereunder.

Section 10.17. Successor by Merger or Consolidation. Any entity into which any Trustee hereunder may be merged or converted or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any entity resulting from any such conversion, sale, merger, consolidation or transfer to which any Trustee hereunder shall be a party, 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 in this Indenture to the contrary notwithstanding; provided, however, if such successor entity is not a trust company or state or national bank that has trust powers, the Trustee shall resign from the trusts hereby created prior to such merger or consolidation.

Section 10.18. Successors During Initial Fixed Rate Period. During the Initial Fixed Rate Period, there shall be no appointment or removal of a trustee, co-trustee, paying agent, co-paying agent, tender agent or remarketing agent without the prior written consent of the Bondholder Representative.

Section 10.19. Standard of Care. Notwithstanding any other provisions of this Article X, the Trustee shall, during the existence of an Event of Default of which the Trustee has notice as provided in Section 10.05 hereof, exercise such of the rights and powers vested in it by this Indenture and use the same degree of skill and care in their exercise as a prudent person would use and exercise under the circumstances in the conduct of his own affairs. If there is no Event of Default of which the Trustee is deemed to have knowledge as provided in Section 10.05 hereof, the Trustee has no duties other than those set forth herein, and no implied covenants or obligations shall be read herein against the Trustee.

Section 10.20. Intervention in Litigation of the Issuer. [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 the Owners, the Trustee may and shall, upon receipt of indemnity satisfactory to it at the written request of Owners of at least 25% in principal amount of the Bonds then Outstanding and if permitted by the court having jurisdiction in the premises, intervene in such judicial proceeding. Notwithstanding anything in this Indenture to the contrary, the Trustee shall not initiate or commence any proceeding for a declaratory judgment, interpleader or similar

action to determine the rights and duties of the parties hereunder or of the Owners of the Bonds, without prior written notice to the Issuer.]

Section 10.21. Paying Agent. The Borrower or the Issuer shall appoint the Paying Agent for the Bonds, which shall initially be the Trustee. The Paying Agent shall designate to the Issuer, the Trustee, the Borrower, the Remarketing Agent and the Credit Facility Provider, if any, its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer and the Trustee under which such Paying Agent will agree, particularly:

(a) to hold all sums held by it for the payment of the principal of or interest on Bonds in trust for the benefit of the Owners until such sums shall be paid to such Owners or otherwise disposed of as herein provided;

(b) to hold all moneys delivered to it hereunder for the purchase of Bonds in trust for the benefit of the Person which shall have so delivered such moneys until the Bonds purchased with such moneys shall have been delivered to or for the account of such Person;

(c) to keep such books and records as shall be consistent with prudent industry practice, to make such books and records available for inspection by the Issuer, the Trustee, the Borrower and the Credit Facility Provider at all reasonable times; and

(d) upon the written request of the Trustee, to forthwith deliver to the Trustee all sums so held in trust by the Paying Agent.

The Issuer, the Credit Facility Provider, if any, and the Borrower shall cooperate with the Trustee, who shall cause the necessary arrangements to be made and to be thereafter continued whereby funds derived from the Bond Fund will be made available for the payment when due of the principal of, premium, if any, and interest on the Bonds or for payment of the Purchase Price of the Bonds as presented at the Principal Office of the Paying Agent. The Paying Agent shall be entitled to rely on the notices provided by the Remarketing Agent or by the Trustee as to the interest rate on the Bonds.

Section 10.22. Qualifications of Paying Agent; Resignation; Removal. The Paying Agent shall be a corporation or association duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital, surplus and retained earnings of at least \$50,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Paying Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' notice to the Issuer, the Borrower, the Credit Facility Provider, if any, the Remarketing Agent and the Trustee. The Paying Agent may be removed for cause at any time at the request of the Borrower or the Issuer by an instrument signed by the Borrower, filed with the Issuer, Paying Agent, the Credit Facility Provider, if any, the Remarketing Agent and the Trustee. Any Paying Agent hereunder shall have an office or an agent with an office in New York City.

In the event of the resignation or removal of the Paying Agent, the Borrower or the Paying Agent shall pay over, assign and deliver any moneys held by it in such capacity to its successor or, if there be no successor, to the Trustee.

In the event that the Borrower or the Issuer shall fail to appoint a Paying Agent hereunder or in the event that the Paying Agent shall resign or be removed, or be dissolved, or if the property or affairs of the Paying Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the Borrower shall not have appointed its successor as Paying Agent, the Trustee shall ipso facto be deemed to be the Paying Agent for all purposes of this Indenture until the appointment by the Borrower of the Paying Agent or successor Paying Agent, as the case may be.

Section 10.23. Remarketing Agent and Tender Agent.

(a) ***Remarketing Agent.***

(i) The Borrower shall, if required by the terms hereof, and otherwise may, prior to any Purchase Date, appoint a Remarketing Agent, in each case with the consent of the Issuer, which shall not be unreasonably withheld, and shall provide notice thereof to the Issuer, the Trustee, the Credit Facility Provider, if any, and, during the Current Bondholder Period, the Owners. The Remarketing Agent shall designate its principal office to the Issuer, the Trustee, the Tender Agent, the Borrower, the Credit Facility Provider, if any, and each Owner, and signify its acceptance of the duties and obligations imposed upon it hereunder for the compensation provided for in the Remarketing Agreement under which the following obligations shall be imposed on the Remarketing Agent:

(A) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee, the Tender Agent, the Borrower and any Credit Facility Provider at all reasonable times; and

(B) to comply with the terms and conditions contained in this Indenture and the Remarketing Agreement with respect to the Remarketing Agent.

(ii) The Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' written notice to the Trustee, the Borrower, the Credit Facility Provider, if any, and, during the Initial Fixed Rate Period, the Owners; provided, however, that the Remarketing Agent may not resign unless and until a successor Remarketing Agent shall be appointed. The Remarketing Agent may be removed at any time by an instrument, signed by the Borrower and filed with the Remarketing Agent, the Issuer, the Trustee and the Credit Facility Provider, if any, but such removal will not take effect prior to the appointment of a successor Remarketing Agent. Any successor Remarketing Agent shall be appointed by the Borrower and must be authorized to perform all the duties imposed upon it by this Indenture.

(iii) In the event of the resignation or removal of the Remarketing Agent, the Remarketing Agent shall pay over, assign and deliver any money and Bonds held by it in such capacity to its successor or, if there is no successor, to the Trustee to be held in a separate account.

(b) ***Tender Agent.***

(i) For each Floating Rate Period, the Borrower shall, with the consent of the Issuer, which shall not be unreasonably withheld, appoint a bank or other entity with trust powers, or any other Person with authority, to serve as Tender Agent for the Bonds and shall provide notice of such appointment to the Issuer, the Trustee, the Credit Facility Provider, if any, and the Remarketing Agent, if any. In the absence of any such appointment, the Trustee shall serve as Tender Agent.

(ii) Any corporation or association into which the Tender Agent may be converted or merged or with which it may be consolidated or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall be and become the successor Tender Agent hereunder, without the execution or filing of any instrument or any further act, deed or conveyance on the part of the parties thereto.

(iii) The Tender Agent may resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' written notice to the Issuer, the Borrower, the Credit Facility Provider, if any, the Remarketing Agent and the Trustee; provided, however, that such resignation shall not take effect until the appointment of and acceptance by a successor Tender Agent.

(iv) The Tender Agent may be removed at any time by an instrument signed by the Borrower and filed with the Trustee, the Issuer, the Credit Facility Provider, if any, and the Remarketing Agent, provided, however, that such removal shall not take effect until the appointment of and acceptance by a successor Tender Agent.

(v) In the event that the Tender Agent shall default in its duties hereunder, shall resign or be removed, shall be dissolved or shall be in the course of dissolution or liquidation or otherwise shall become incapable of acting as Tender Agent, or in the event that the Tender Agent shall be taken under the control of any public officer or officers or of a receiver appointed by a court, then the Trustee shall serve as Tender Agent until a successor may be appointed. Any successor Tender Agent (other than the Trustee) shall be appointed by the Borrower. Written notice of the appointment of any successor Tender Agent shall be given immediately by the Borrower to the Issuer, Trustee, the Credit Facility Provider, if any, the Remarketing Agent and the Owners.

(vi) Any successor Tender Agent shall execute and deliver an instrument accepting such appointment and thereupon and upon payment of the fees and expenses of the predecessor such successor, without any further act, deed or conveyance, shall become vested fully with all rights, powers, duties and obligations of its predecessor, with like effect as if originally named as Tender Agent hereunder, but such predecessor, upon the written request of the Borrower, the Trustee or the Issuer, nevertheless shall execute and deliver such instruments and take such other actions as reasonably may be required to more fully and certainly vest and confirm in such successor all rights, powers, duties and obligations of such predecessor.

Section 10.24. Several Capacities. Anything in this Indenture to the contrary notwithstanding, the same entity may serve hereunder as the Trustee, the Paying Agent, the Tender Agent and authenticating agent and in any other combination of such capacities, to the extent permitted by law.

Section 10.25. Co-Trustees. It is the purpose of this Indenture that there 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 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, the Borrower or the Issuer appoint an additional individual or institution as a separate or co-trustee. In addition to the authority of the Borrower or the Issuer so to appoint, the Trustee is authorized to make such appointment upon notice to the Borrower and the Issuer, but shall be required to secure the Borrower's and the Issuer's consent to such appointment. The following provisions of this Section are adapted to these ends.

If the Borrower, the Issuer or 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.

Should any instrument in writing from the Borrower be required by the separate or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it or at such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. In case any separate or co-trustee or a successor to either shall 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, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate or co-trustee.

Section 10.26. Co-Paying Agent. The Paying Agent may appoint one or more Co-Paying Agents for the Bonds which meets the requirements set forth in Section 10.21 hereof, to perform any of its obligations hereunder. Each Co-Paying Agent shall designate to the Issuer, the Trustee, the Borrower, the Remarketing Agent, and the Credit Facility Provider its Principal 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 Trustee and the Paying Agent under which each such Co-Paying Agent will agree, particularly:

(a) to hold all sums held by such Co-Paying Agent for the payment of the principal of, or the redemption premium, if any, or the interest on, Bonds in trust for the benefit of the Owners until such sums shall be paid to such Owners or otherwise disposed of as herein provided;

(b) to keep such books and records as shall be consistent with prudent industry practice, to make such books and records available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times and, upon the request of the Paying Agent, to promptly furnish copies of such books and records to the Paying Agent;

(c) to hold all moneys delivered to it hereunder for the purchase of Bonds in trust for the benefit of the Person which shall have so delivered such moneys until the Bonds purchased with such moneys shall have been delivered to or for the account of such Person; and

(d) upon the request of the Paying Agent, to forthwith deliver to the Paying Agent all sums so held in trust by such Co-Paying Agent.

The Issuer shall cooperate with the Trustee and the Borrower to cause the necessary arrangements to be made and to be thereafter continued whereby funds derived from the sources set forth in Section 6.05 hereof will be made available for payment when due of the Bonds as presented at the Principal Offices of the Paying Agent and any Co-Paying Agent.

ARTICLE XI

REFERENCES TO CREDIT FACILITY PROVIDER; EXECUTION OF INSTRUMENTS BY OWNERS AND PROOF OF OWNERSHIP OF BONDS

Section 11.01. References to Credit Facility Provider. During the Initial Fixed Rate Period and at any other time when no Credit Facility is in effect, references to the Credit Facility Provider shall be ineffective, except with respect to amounts payable to a Credit Facility Provider which have not been paid.

If an Event of Default shall have occurred hereunder due to failure by the Credit Facility Provider to perform its payment obligations under the Credit Facility in accordance with the terms thereof, the rights of such Credit Facility Provider under Article X and Article XII hereof relating to actions taken by the Trustee with respect to such Event of Default shall be void.

Section 11.02. Execution of Instruments; Proof of Ownership. Any request, direction, consent, or other instrument in writing required or permitted by this Indenture to be signed or executed by Owners or on their behalf by an attorney-in-fact may be in any number of concurrent instruments of similar tenor and may be signed or executed by Owners in person or by an agent or attorney-in-fact appointed by an instrument in writing or as provided in the Bonds. Proof of the execution of any such instrument and of the ownership of 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 proved by the registration books kept under the provisions of Section 2.09 hereof.

Nothing contained in this Article XI shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of matters herein stated which it may deem sufficient. Any request, consent of or assignment by any Owner shall bind every future Owner of the same Bond or any Bond or Bonds issued in lieu thereof in respect of anything done by the Trustee or the Issuer in pursuance of such request or consent.

ARTICLE XII

MODIFICATION OF THIS INDENTURE AND THE LOAN AGREEMENT

Section 12.01. Supplemental Indentures Without Owner Consent. The Issuer and the Trustee may, from time to time and at any time, without the consent of or notice to the Owners, enter into Supplemental Indentures as follows:

(a) to cure any formal defect, omission, inconsistency or ambiguity in this Indenture or resolve any conflict between different terms and provisions of this Indenture or between any terms and provisions of this Indenture and the terms and provisions of any Loan Documents and any other Bond Documents;

(b) to add to the covenants and agreements of the Issuer in this Indenture other covenants, agreements or to surrender any right or power reserved or conferred upon the Issuer and which shall not materially adversely affect the interests of the Owners of the Bonds;

(c) to confirm, as further assurance, any pledge of or lien on the Revenues of the Issuer from the Loan Agreement or of any other moneys, securities or funds subject to the lien of this Indenture;

(d) to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended;

(e) to allow for any Person to issue a Credit Facility after the Trustee has received a Favorable Tax Opinion with respect to the addition of the Credit Facility;

(f) to effect a restatement of this Indenture;

(g) to add, delete or amend any provision as may be required by any Nationally Recognized Rating Agency from whom a rating on the Bonds is desired by the Borrower;

(h) to modify, alter, amend or supplement this Indenture in any other respect which is not materially adverse to the Owners of the Bonds at the time the change becomes effective; and

(i) to modify, alter, amend or supplement this Indenture in any other respect, including amendments which would otherwise be described in Section 12.02 if (A) such amendments will take effect on a Mandatory Tender Date following the purchase of Tendered Bonds or (B) if notice of the proposed supplemental indenture is given to the Owner (in the same manner as notices of

redemption are given) at least 30 days before the effective date of such amendment, modification, alteration or supplement and, on or before such effective date, the Owner shall have the right to demand purchase of the Bonds.

Before the Issuer and the Trustee shall enter into any Supplemental Indenture pursuant to this Section 12.01, there shall have been delivered to the Trustee, the Borrower and the Credit Facility Provider, if any, an opinion of Bond Counsel substantially stating that such Supplemental Indenture is authorized or permitted by this Indenture and the Act, complies with their respective terms, will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms and will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 12.02. Supplemental Indentures Requiring Owner Consent.

(a) Except for any Supplemental Indenture entered into pursuant to Section 12.01 hereof, subject to the terms and provisions contained in this Section 12.02 and not otherwise, Owners of not less than 60% 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 Supplemental Indenture deemed necessary or desirable by the Issuer for the purposes of modifying, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in this Indenture; provided, however, that, unless approved in writing by the Owners of all the Bonds then Outstanding, nothing herein contained shall permit or be construed as permitting, (i) a change in the times, amounts or currency of payment of the principal of or interest on any Outstanding Bond, a change in the terms of the purchase thereof by the Remarketing Agent, the Paying Agent or the Co-Paying Agent or a reduction in the principal amount or redemption price of any Outstanding Bond or the rate of interest thereon or (ii) the creation of a claim or lien upon or a pledge of, the Revenues of the Issuer from the Loan Agreement ranking prior to or on a parity with the claim, lien or pledge created by this Indenture or (iii) a reduction in the aggregate principal amount of Bonds the consent of the Owners of which is required for any such Supplemental Indenture or which is required, under Section 12.06 hereof, for any modification, alteration, amendment or supplement to the Loan Agreement.

(b) If at any time the Issuer shall request the Trustee to enter into any Supplemental Indenture for any of the purposes of this Section 12.02, the Trustee shall cause notice of the proposed Supplemental Indenture to be given by Mail to all Owners of Outstanding Bonds. 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 office of the Trustee for inspection by all Owners.

(c) Within six months (or such shorter time as consented to by 100% of the Owners) after the date of the first publication of such notice, the Issuer and the Trustee may enter into such Supplemental Indenture in substantially the form described in such notice, but only if there shall have first been delivered to the Trustee (i) the required consents, in writing, of Owners and (ii) an opinion of Bond Counsel substantially stating that such Supplemental Indenture is authorized or permitted by this Indenture and the Act, complies with their respective terms and, upon the execution and delivery thereof, will be valid and binding upon the Issuer in accordance with its terms and will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

(d) If Owners of not less than the percentage of Bonds required by this Section 12.02 shall have consented to and approved the execution and delivery thereof as herein provided, no Owner shall have any right to object to the execution and delivery of 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 of the execution and delivery thereof or to enjoin or restrain the Issuer or the Trustee from executing and delivering the same or from taking any action pursuant to the provisions thereof.

Section 12.03. Effect of Supplemental Indenture. Upon the execution and delivery of any Supplemental Indenture pursuant to the provisions of this Article XII, 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 Owners of Outstanding Bonds shall thereafter be determined, exercised and enforced under this Indenture subject in all respects to such modifications and amendments.

Section 12.04. Consent of the Borrower, the Initial Bondholder and the Credit Facility Provider is Required. No Supplemental Indenture under this Article XII and no amendment of the Loan Agreement shall become effective unless the Borrower, the Credit Facility Provider, if any, and, during the Current Bondholder Period, the Initial Bondholder shall have consented thereto in writing.

Section 12.05. Amendment of Agreement Without Owner Consent. Except as required pursuant to Section 12.04 hereof, without the consent of or notice to the Owners, the Issuer may modify, alter, amend or supplement the Loan Agreement, and the Trustee may consent thereto, as may be required (a) by the provisions of the Loan Agreement and this Indenture; (b) for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or resolving any conflict between different terms and provisions of the Loan Agreement, or between any terms and provisions of the Loan Agreement and the terms and provisions of the Bond Documents or any other Loan Documents; (c) in connection with any other change therein which is not materially adverse to the Owners at the time the change becomes effective; or (d) to add, delete or amend any provision as may be required by any Nationally Recognized Rating Agency from whom a rating on the Bonds is desired by the Borrower, which changes will not restrict, limit or reduce the obligation of the Issuer to pay the principal of and premium, if any, and interest on the Bonds as provided in this Indenture or otherwise materially adversely affect the Owners under this Indenture.

Before the Issuer shall enter into, and the Trustee shall consent to, any modification, alteration, amendment or supplement to the Loan Agreement pursuant to this Section 12.05, there shall have been delivered to the Issuer and the Trustee an opinion of Bond Counsel substantially stating that such modification, alteration, amendment or supplement is authorized or permitted by this Indenture and the Act, complies with their respective terms, will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms and will not adversely affect the exemption of interest on the Bonds from federal income taxation.

Section 12.06. Amendment of Agreement Requiring Owner Consent. Except in the case of modifications, alterations, amendments or supplements referred to in Section 12.05 hereof, the Issuer shall not enter into and the Trustee shall not consent to, any amendment, change or

modification of the Loan Agreement without the written approval or consent of the Credit Facility Provider, if any, and the Owners of not less than 60% in aggregate principal amount of the Bonds then Outstanding, given and procured as provided in Section 12.02 hereof; provided, however, that, unless approved in writing by the Owners of all Bonds then Outstanding, nothing herein contained shall permit, or be construed as permitting, a change in the obligations of the Borrower under Sections 5.01 and 5.03 of the Loan Agreement. If at any time the Issuer shall request the consent of the Trustee to any such proposed modification, alteration, amendment or supplement, the Trustee shall cause notice thereof to be given in the same manner as provided by Section 12.02 hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed modification, alteration, amendment or supplement and shall state that copies of the instrument embodying the same are on file at the Principal Office of the Trustee for inspection by all Owners. The Issuer may enter into, and the Trustee may consent to, any such proposed modification, alteration, amendment or supplement subject to the same conditions and with the same effect as provided in Section 12.02 hereof with respect to Supplemental Indentures.

ARTICLE XIII

SPECIAL COVENANTS

Section 13.01. Enforcement of Obligations. The Issuer and the Trustee shall perform all reasonable actions to seek to enforce all obligations of the Borrower under the Loan Agreement and the Borrower Documents. In addition, the Trustee, acting jointly with or independently of, but, if necessary, in the name of, the Issuer, shall have, and is hereby assigned and granted the full and complete right and power to enforce all obligations of the Borrower under the Loan Agreement, the Borrower Documents and all other documents and instruments relating to the issuance, payment and security of the Bonds (except Reserved Rights) and to act in the name, place and stead of the Issuer for that purpose.

Section 13.02. Sale, Transfer of Trust Estate. Except for this Indenture, the Issuer will not sell, transfer or otherwise dispose of, assign or encumber its interest in any part or all of the Trust Estate and any such purported sale, transfer or other disposition, assignment or encumbrance shall be void and of no force and effect.

Section 13.03. Further Instruments and Actions. The Issuer, the Trustee and the Borrower will from time to time execute and deliver such further instruments and take such further actions as may be reasonably required to perfect the security interests herein granted and to carry out the purposes hereof.

Section 13.04. Payment of Bonds. Subject to Section 2.04 hereof, the Issuer shall duly and punctually pay or cause to be paid, as herein provided, the principal of, premium, if any, and the interest on the Bonds, at the dates and places and in the manner stated in the Bonds, according to the true intent and meaning thereof.

Section 13.05. Authority to Issue Bonds and Pledge Revenues and Other Property. The Issuer hereby represents that it is duly authorized by law to authorize and borrow money through the issuance of the Bonds and to enter into, execute and deliver this Indenture and the Loan Agreement, and to pledge the assets and revenues purported to be pledged hereby and thereby

in the manner and to the extent herein and therein provided. The assets and revenues so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto, prior to, or of equal rank with, the pledge created hereby, and all corporate or other action on the part of the Issuer to that end has been or will be duly and validly taken. The Bonds and the provisions of this Indenture and the Loan Agreement are and will be the valid and legally enforceable obligations of the Issuer in accordance with their terms and the terms of this Indenture. The Issuer hereby directs that the Trustee shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the revenues and other assets, including rights therein pledged under this Indenture, and all the rights of the Owners of Bonds under this Indenture against all claims and demands of all Persons whomsoever, and the Issuer shall cooperate in all such matters.

Section 13.06. Unrelated Bond Issues. The Issuer has, prior to the issuance of the Bonds, issued and, subsequent to the issuance of the Bonds the Issuer expects to issue, various series of bonds in connection with the financing of other projects (said bonds together with any bonds issued by the Issuer between the date hereof and issuance of the Bonds shall be referred to herein as the “Other Bonds”). Any pledge, mortgage or assignment made in connection with any Other Bonds shall be protected, and any funds pledged or assigned for the payment of principal, premium, if any, or interest on the Other Bonds shall not be used for the payment of principal, premium, if any, or interest on the Bonds. Correspondingly, any pledge, mortgage or assignment made in connection with the Bonds shall be protected, and any funds pledged or assigned for the payment of the Bonds shall not be used for the payment of principal, premium, if any, or interest on the Other Bonds.

Section 13.07. Issuer’s Further Assurance. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered by the parties within its control, such instruments supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, mortgaging, conveying, pledging, assigning and confirming unto the Trustee, the Issuer’s interest in and to all interests, revenues, proceeds and receipts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds in the manner and to the extent contemplated herein. The Issuer shall be under no obligation to prepare, record or file any such instruments or transfers.

Section 13.08. Supplemental Agreement. The parties acknowledge that pursuant to Section [33] of the Supplemental Agreement, in the event of conflict between any provision contained in the Supplemental Agreement and any provision contained in the Bond Documents, the provisions of the Supplemental Agreement shall control if the Supplemental Agreement is then in effect; provided that the provisions of the Tax Certificate shall control with respect to any matter relating to the tax-exempt status of the Bonds.

Section 13.09. Compliance with Conditions Precedent. All conditions, acts and things required by law or by this Indenture to exist, to have happened or to have been performed by the Issuer and the Trustee precedent to or in the execution and delivery of this Indenture and in the issuance of the Bonds exist, have happened and have been performed by the Issuer or the Trustee, respectively, in due time, form and manner as required by law.

Section 13.10. Performance. The Issuer and the Trustee shall do and perform or cause to be done and performed all acts and things required to be done or performed by the Issuer or the

Trustee under the provisions of the Act, the Code and this Indenture in accordance with the terms of such provisions.

ARTICLE XIV

MISCELLANEOUS

Section 14.01. Successors and Assigns. All covenants and agreements in this Indenture by the Issuer shall bind its successors and assigns, whether so expressed or not.

Section 14.02. Parties in Interest. Except as herein otherwise specifically provided, nothing in this Indenture expressed or implied is intended or shall be construed to confer upon any Person, firm or corporation other than the Issuer, the Paying Agent and any Co-Paying Agent, the Remarketing Agent, the Borrower, the Credit Facility Provider, the Trustee and any co-trustee, and the Owners of Bonds issued hereunder 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, the Paying Agent and any Co-Paying Agent, the Remarketing Agent, the Borrower, the Credit Facility Provider, the Trustee and any co-trustee, and the Owners of Bonds issued hereunder.

Section 14.03. Severability. In case any one or more of the provisions of this Indenture or of the Loan Agreement, or of the Bonds issued hereunder shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Indenture, the Loan Agreement, or of such Bonds, and this Indenture, the Loan Agreement and such Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.

Section 14.04. Exempt From Individual Liability. No recourse shall be had for the payment of the principal of, or premium, if any, or interest on, the Bonds or for any claim based thereon or upon any obligation, provision, covenant or agreement contained in this Indenture, against any past, present or future director, member, trustee, officer, official, employee or agent of the Issuer, or any director, member, trustee, officer, official, employee or agent of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such director, trustee, officer, official, employee or agent as such is hereby expressly waived and released as a condition of and in consideration for the execution of this Indenture and the issuance of the Bonds. Neither the officers of the Issuer nor any person executing the Bonds shall be personally liable on the Bonds by reason of the issuance thereof.

Section 14.05. Bonds Owned by the Issuer or the Borrower. In determining whether the Owners of the requisite aggregate principal amount of the Bonds have concurred in any direction, consent or waiver under this Indenture, Bonds which are owned by the Issuer or the Borrower or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrower (unless the Issuer, the Borrower, or such Person owns all Bonds which are then Outstanding, determined without regard to this Section 14.05) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such

direction, consent or waiver, only Bonds which the Trustee knows are so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer or the Borrower or any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrower. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 14.06. Counterparts. This Indenture may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Indenture.

Section 14.07. Governing Law. This Indenture shall be governed by and shall be enforceable in accordance with the laws of the State.

Section 14.08. Notices. All direction to the Trustee, the Borrower or the Issuer by any other party to take any action shall be given in writing. Except as otherwise provided in this Indenture, all notices, certificates, directions, requests, requisitions or other communications by the Issuer, the Borrower, the Trustee, the Paying Agent, the Remarketing Agent, or the Credit Facility Provider pursuant to this Indenture shall be in first class registered or certified mail, postage prepaid, return receipt requested, or by private courier service which provides evidence of delivery, or sent by electronic means which produces evidence of transmission, confirmed by first class mail, postage prepaid, and in each case will be deemed to have been given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission addressed as follows:

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
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As to the Trustee/Paying Agent:	U.S. Bank National Association [NOTICE ADDRESS]
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As to the Borrower:	Scripps MRU Owner, L.P., a California limited partnership and Scripps AU Owner, L.P., a California limited partnership c/o Monarch Essex Scripps, LLC 1100 Park Place, Suite 200 San Mateo, CA 94403 Attention: Legal Department
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And

7727 Herschel Avenue
La Jolla, CA 92037
Attention: Sarah Kruer Jager

and with a copy to:

Chernove & Associates, Inc.
16027 Ventura Boulevard, Suite 600
Encino, California 91436
Attention: Sheldon Chernove, Esq.
Telephone: (818) 377-8102
Facsimile: (818) 377-9132

As to Initial Bondholder:

Bank of America, N.A.
One Bryant Park, 9th Floor
New York, New York 10036
Attention: Daniel Nussbaum
Telephone: (646) 743-1377
Facsimile: (646) 855-0634

with a copy to:

Kutak Rock LLP
303 Peachtree Street, N.E., Suite 2750
Atlanta, Georgia 30308-1731
Attention: Andrew Egan, Esq.
Telephone: (404) 222-4688
Facsimile: (404) 222-4654

Any of the foregoing may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder. The Remarketing Agent and Credit Facility Provider shall provide notice addresses upon taking such roles.

Section 14.09. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Indenture, shall not be a Business Day, such payment may, unless otherwise provided in this Indenture or the Loan Agreement, be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Indenture, and no interest shall accrue for the period after such nominal date.

Section 14.10. Rights of Bondholders During Current Bondholder Period. Until termination of the Current Bondholder Period, whenever the Indenture or the Loan Agreement require the consent, determination, election, approval, waiver, acceptance, satisfaction of, expression of opinion of or the taking of any discretionary act by, the Trustee (which term for purposes of this Section 14.10 shall include any Co-Trustee, Tender Agent, Paying Agent or Co-Paying Agent) (all of the foregoing being hereinafter referred to as "Consent"), the right, power, privilege and option of the Trustee to withhold or grant its Consent shall be deemed to be the sole right, power, privilege and option of the Initial Bondholder to withhold or grant such

Consent and the Trustee shall have no responsibility for any action or inaction with respect thereto, except as may otherwise be set forth in the Indenture. The Initial Bondholder shall designate in a written certificate delivered to the Trustee and the Borrower, one or more representatives (each a “Bondholder Representative”), who shall have the authority to bind the Initial Bondholder for purposes of exercising the rights of the Initial Bondholder under the Indenture and the other Loan Documents; provided that, unless Bank of America, N.A., provides notice to the contrary, the Initial Bondholder shall be deemed the sole Bondholder Representative during any period that the Initial Bondholder or one of its Affiliates or designees is the holder or beneficial holder of any of the Bonds or any interest therein. During the Current Bondholder Period, the Trustee and the Borrower shall be entitled to rely upon the acts or Consents of any such Bondholder Representative as binding upon the Initial Bondholder, and the Initial Bondholder shall in fact be so bound. Consent of the Bondholder Representative shall be deemed the consent of 100% of the Owners.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Issuer has caused this Indenture to be executed by its Authorized Issuer Representative and U.S. Bank National Association has caused this Indenture to be executed by one of its authorized officers, all as of the day and year first above written.

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

By _____
Richard C. Gentry,
Executive Director

[Signature page – Trust Indenture – Scripps Mesa Apartments]

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Authorized Officer

[Signature page – Trust Indenture – Scripps Mesa Apartments]

EXHIBIT A

FORM OF BOND

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “1933 ACT”).

SALES OR TRANSFERS OF THIS BOND MAY BE MADE ONLY TO AN “APPROVED INSTITUTIONAL BUYER” AS DEFINED IN THE INDENTURE (I.E., ANY INSTITUTION THAT IS EITHER (I) A “QUALIFIED INSTITUTIONAL BUYER” AS THAT TERM IS DEFINED UNDER RULE 144A OF THE 1933 ACT OR (II) AN “ACCREDITED INVESTOR” AS DEFINED IN RULE 501(A)(1), (2) OR (3) OF REGULATION D OF THE 1933 ACT) OR AS OTHERWISE PERMITTED UNDER THE INDENTURE.

The Bonds are subject to a significant degree of risk and are suitable for consideration solely for Approved Institutional Buyers (as defined in the Indenture) who are experienced in the field of unrated multifamily housing bonds. No rating for the Bonds has been applied for and there is no assurance given that any rating would be received if an application for a rating had been made. By the purchase of the Bonds, the purchaser is avowing that such purchaser (i) is an Approved Institutional Buyer, (ii) is purchasing the Bonds solely for its own account, (iii) can bear the economic risk of its investment in the Bonds, (iv) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of purchasing the Bonds, (v) has made the decision to purchase the Bonds based on its own independent investigation regarding the Bonds and (vi) has received the information it considers necessary to make an informed decision to invest in the Bonds. If the purchaser of the Bonds is a trust or custodial arrangement, in lieu of the foregoing representations, the depositor or trustor of the custodial arrangement or trust represents that the beneficial owners of the interests in the trust or custodial arrangement are required to make representations substantially the same as those contained in this paragraph.

The Issuer and the Trustee shall have no liability or responsibility for determining the suitability of any Owner of Bonds, nor shall any documentation therefor be required. Except as otherwise provided in the Indenture, this Bond may not be sold in denominations of less than \$500,000. The Bonds are unrated and not secured by a credit facility. By the purchase and acceptance of this Bond the owner acknowledges and agrees that the Bond shall not be offered, sold, assigned, pledged or otherwise transferred except to Permitted Transferees as provided in the Indenture.

No. R-__

**HOUSING AUTHORITY OF THE CITY OF SAN DIEGO
MULTIFAMILY HOUSING REVENUE BONDS
(SCRIPPS MESA APARTMENTS) 2020 SERIES E**

Initial Interest Rate	Maturity Date	Dated Date	CUSIP NO.
[.]%	[MATURITY DATE]	[CLOSING DATE], 2020	[]

REGISTERED OWNER:

PRINCIPAL AMOUNT:

Housing Authority of the City of San Diego (the “Issuer”), a public instrumentality and a political subdivision of the State of California (the “State”), for value received, hereby promises to pay (but only out of the Revenues, as hereinafter defined and other moneys pledged therefor) to the registered owner specified above or registered assigns, on the Maturity Date set forth above subject to prior redemption provided for in the Indenture, the principal sum specified above and, except as provided in the Indenture with respect to defaulted interest, interest on said principal sum from the Interest Payment Date next preceding the date of authentication hereof or if such date of authentication is an Interest Payment Date to which interest has been paid or duly provided for, from such Interest Payment Date or if no interest has been paid on the Bonds, from the Dated Date set forth above until payment of said principal sum has been made or duly provided for, at the rates and on the dates set forth herein. The principal of and premium, if any, on this Bond is payable at the designated corporate trust office of [PAYING AGENT] (the Paying Agent, which term shall include any successor paying agent). Payment of interest on this Bond shall be made to the owner hereof by check or draft mailed to the owner at its address as it appears on the registration books maintained by the Paying Agent as registrar on behalf of the Issuer on the Record Date (as defined in the Indenture), or at such other address as is furnished to the Paying Agent in writing by such owner. Payment of interest on the Bonds may, at the option of any owner of Bonds in an aggregate principal amount of at least \$1,000,000, be transmitted by wire transfer within the United States to such owner to the bank account number on file with the Paying Agent as of the Record Date. Payment of the principal of and interest on this Bond shall be in any coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public and private debts.

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.

This Bond shall not be entitled to any right or benefit under the Indenture, or be valid or become obligatory for any purpose, until this Bond shall have been authenticated by the execution by the Paying Agent or by an authenticating agent, of the certificate of authentication inscribed hereon.

This Bond is one of an authorized issue of Bonds entitled “Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (Scripps Mesa Apartments) 2020 Series E,” in an aggregate principal amount of \$[PAR AMOUNT] (the “Bonds”), issued under and secured by a Trust Indenture, dated as of April 1, 2020 (as the same may be amended from time to time, the “Indenture”), between the Issuer and U.S. Bank National Association, as trustee (the “Trustee,” which term shall include any successor trustee).

The Bonds are being issued for the purpose of financing a 264-unit multifamily rental housing development located in San Diego, California (the “Project”), by making a loan (the “Loan”) to Scripps MRU Owner, L.P., a California limited partnership and Scripps AU Owner, L.P., a California limited partnership (together with any successors, together, the “Borrower”), which will be made pursuant to the provisions of a Loan Agreement dated as of April 1, 2020, between the Borrower and the Issuer (as the same may from time to time be amended or supplemented, the “Agreement”) and certain documents evidencing and securing the Loan. Pursuant to the Loan Agreement and pursuant to a promissory note executed by the Borrower (the “Note”), the Borrower has agreed to pay to the Trustee amounts which are intended, in the aggregate, to be sufficient to pay principal of, premium, if any, Purchase Price and interest on all of the Bonds.

Pursuant to the Indenture, the Issuer will endorse, assign and pledge to the Trustee all its rights in (excluding Reserved Rights) and to the Loan Agreement, the Loan, the Note and all moneys and securities held by the Trustee under the Indenture (excluding amounts in the Cost of Issuance Fund and the Rebate Fund), all to secure payment of the principal of and interest on the Bonds. Reference is hereby made to the Indenture, the Bond Documents, the Loan Agreement, the Loan Documents and certain resolutions of the Issuer adopting and approving such instruments for a description of the provisions, among others, with respect to the custody and application of the proceeds of the Bonds issued under the Indenture, the funds charged with and pledged to the payment of the principal of and interest on the Bonds and the nature and extent of such security, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and of the Trustee, the rights of the owners of the Bonds, and the provisions regulating the manner in which the terms of the Loan Agreement, the Indenture, this Bond, and the rights of the registered owner hereof may be modified, to all of which provisions the registered owner of this Bond, on behalf of himself and his successors in interest, assents by acceptance hereof.

Any capitalized term used but not defined herein shall have the meaning ascribed to it in the Indenture.

Floating Rate Provisions.

The provisions under this heading shall apply during any period during which the Bonds bear interest at a Floating Rate.

Optional Tender. Any Bond shall be purchased in Authorized Denominations, provided that the remaining principal amount of the Bond is not less than an Authorized Denomination, on the demand of the owner thereof, at a purchase price equal to the principal amount thereof plus accrued interest, if any, to the date of purchase, upon:

(a) delivery to the Tender Agent, with a copy to the Remarketing Agent, of an irrevocable written notice which (i) states the principal amount and serial numbers of Bonds to be purchased and (ii) states the date on which such Owner desires such Bonds to be purchased, which shall be a Business Day not prior to the [seventh (7th)] day next succeeding the date of delivery of such notice to the Tender Agent (which date shall be a Purchase Date with respect to the requested purchase of Bonds) and not later than a Fixed Rate Conversion Date; and

(b) delivery of such Bond (with all necessary endorsements or a blank bond power) to the Tender Agent, not later than 10:00 a.m., New York City time, on the Purchase Date specified in the aforesaid notice.

The Borrower may from time to time remove or replace the Remarketing Agent.

During any Floating Rate Period interest on the Bonds shall be paid on the first Business Day of each calendar month, and shall be computed on the basis of a year of 365 or 366 days, as appropriate, for the actual number of days elapsed.

Floating Rate. During any Floating Rate Period, the interest rate borne by the Bonds shall be determined weekly as follows:

The Floating Rate for each Calculation Period shall be calculated by the Remarketing Agent on the Floating Rate Determination Date with respect to such Calculation Period. Subject to the next succeeding paragraph, such Floating Rate shall be the minimum rate of interest per annum that would be necessary for the Bonds to bear during such Calculation Period, in the opinion of the Remarketing Agent, in light of prevailing conditions in the financial markets, in order to allow the Bonds to be remarketed in a secondary market transaction on and as of the first day of such Calculation Period at a price of par plus accrued interest. The Remarketing Agent shall give immediate notice to the Trustee and the Tender Agent of such Floating Rate on each such Floating Rate Determination Date. In no event shall the Floating Rate exceed the Maximum Rate.

In the event that the Remarketing Agent fails to determine the Floating Rate for any Calculation Period as required by the preceding paragraph or the Floating Rate as so established has been held to be invalid or unenforceable by a court of competent jurisdiction for any period during a Calculation Period, the Trustee shall notify the Remarketing Agent and the Borrower by

telephone, facsimile, electronic or other practical means to obtain immediate notice of the Floating Rate for such Calculation Period. If such failure is not cured by 12:00 noon on the Business Day following the applicable date on which the Floating Rate is required to be determined, then the Floating Rate for such Calculation Period shall be the Floating Rate in effect for the immediately preceding Calculation Period, unless the Bonds bore interest at a Fixed Rate on the day immediately prior to the day on which such Calculation Period began, in which case the Floating Rate with respect to such Calculation Period shall be [_____ percent (___%)] of the Index Rate. In such event, the Trustee shall compute such Floating Rate and shall give notice thereof to the Tender Agent, the Remarketing Agent and the Borrower.

Fixed Rate Provisions.

The provisions under this heading shall apply during any Fixed Rate Period.

Each Fixed Rate (other than the Initial Fixed Rate) shall be the rate determined by the Remarketing Agent to be the minimum Fixed Rate that would be necessary, in its opinion in light of prevailing conditions in the financial markets on the date of such calculation, for the Bonds to bear during a Fixed Rate Period of the length specified, in order to allow the Bonds to be remarketed in a secondary market transaction on and as of the Fixed Rate Conversion Date at a price of par plus accrued interest.

During any Fixed Rate Period payment of interest on the Bonds shall be made on each January 1, April 1, July 1 and October 1, interest shall be computed on the basis of a 360-day year for the actual number of days elapsed and the owner shall have no right to require purchase of this Bond by the Remarketing Agent or the Paying Agent.

Redemption and Tender Provisions

THE BONDS ARE SUBJECT TO EXTRAORDINARY OPTIONAL, OPTIONAL, AND MANDATORY REDEMPTION AND MANDATORY TENDER AND PURCHASE PRIOR TO THEIR RESPECTIVE STATED MATURITIES, ON THE DATES, IN THE AMOUNTS, AT THE REDEMPTION OR PURCHASE PRICES AND UPON NOTICE AS PROVIDED IN THE INDENTURE.

IN THE EVENT AN OWNER FAILS TO DELIVER ITS BONDS AS REQUIRED FOLLOWING SUBMISSION OF A MANDATORY TENDER NOTICE AND SUFFICIENT MONEYS ARE ON DEPOSIT WITH THE TRUSTEE TO PAY THE PURCHASE PRICE FOR SUCH BONDS AND ALL OTHER BONDS TENDERED FOR PURCHASE ON SUCH DATE IN ACCORDANCE WITH THE INDENTURE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE ON OR SUBSEQUENT TO THE DATE DESIGNATED FOR PURCHASE IN THE APPLICABLE NOTICE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFITS OF THE INDENTURE, EXCEPT FOR THE PAYMENT OF THE PURCHASE PRICE THEREFOR UPON PRESENTATION OF SUCH BONDS AND SUCH BONDS SHALL NO LONGER BE DEEMED TO BE OUTSTANDING UNDER THE INDENTURE.

IN THE EVENT AN OWNER FAILS TO DELIVER ITS BONDS AS REQUIRED FOLLOWING SUBMISSION OF A PURCHASE NOTICE AND SUFFICIENT MONEYS ARE ON DEPOSIT WITH THE TRUSTEE TO PAY THE PURCHASE PRICE FOR SUCH BONDS AND ALL OTHER BONDS TENDERED FOR PURCHASE ON SUCH DATE IN ACCORDANCE WITH THE INDENTURE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE ON OR SUBSEQUENT TO THE DATE DESIGNATED FOR PURCHASE IN THE APPLICABLE NOTICE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFITS OF THE INDENTURE, EXCEPT FOR THE PAYMENT OF THE PURCHASE PRICE THEREFOR UPON PRESENTATION OF SUCH BONDS AND SUCH BONDS SHALL NO LONGER BE DEEMED TO BE OUTSTANDING UNDER THE INDENTURE.

General Provisions.

The Bonds are equally and ratably secured, to the extent provided in the Indenture, by the pledge thereunder of the Revenues, which includes all moneys paid or payable to the Trustee for the account of the Issuer in accordance with the Loan Agreement, the Loan and the Note and all receipts credited under the provisions of the Indenture against such payments.

The Bonds may be subject to acceleration upon the occurrence of certain events of default under the Indenture and/or the Loan Agreement.

The Borrower may, at its option, provide for a Credit Facility.

The term “*Business Day*” means a day other than a Saturday, a Sunday, or a legal holiday on which banks located in the State of New York or in any city where the Trustee maintains its place of business for performance of its obligations under the Indenture are not open for general banking business and, in respect of any action to be taken by the Issuer, any California state holiday on which the Issuer is authorized or required to remain closed.

Subject to the transfer restrictions set forth in the Indenture, the transfer of this Bond shall be registered upon the books kept at the Principal Office of the Paying Agent, at the written request of the owner hereof or his attorney duly authorized in writing, upon surrender of this Bond at said office, together with a written instrument of transfer satisfactory to the Paying Agent duly executed by the owner or his duly authorized attorney.

The Bonds are issuable only as fully registered Bonds in Authorized Denominations.

Upon payment of any required tax or other governmental charge and subject to such conditions, upon surrender at the Principal Office of the Paying Agent, Bonds may, at the option of the owner thereof, be exchanged for an equal aggregate principal amount of Bonds of an Authorized Denomination.

In the event any of the Bonds are called for redemption, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Bonds, which notice shall (i) specify the Bonds to be redeemed, the redemption date, the redemption price, and the place or places where amounts due upon such redemption will be payable (which shall be the Principal Office of the Paying Agent

for the Bonds) and, if less than all of the Bonds are to be redeemed, the numbers of the Bonds, and the portions of Bonds so to be redeemed, (ii) state any condition to such redemption and (iii) state that on the redemption date and upon satisfaction of any such condition the Bonds to be redeemed shall cease to bear interest. Subject to certain exceptions, such notice shall be given by mailing a copy of the redemption notice by mail at least ten (10) days prior to the date fixed for redemption to the owners of the Bonds to be redeemed at the addresses shown on the registration books; provided, however, that failure duly to give such notice by mailing to any owner or any defect therein, shall not affect the validity of any proceedings for the redemption of any other of the Bonds.

If a notice of redemption shall be unconditional or if the conditions of a conditional notice of redemption shall have been satisfied, then upon presentation and surrender of Bonds so called for redemption at the place or places of payment, such Bonds shall be redeemed. Any Bonds and portions of Bonds which have been duly selected for redemption and which are deemed to be paid in accordance with the Indenture shall cease to bear interest on the specified redemption date and shall thereafter cease to be entitled to any lien, benefit or security under the Indenture.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any default under the Indenture, or to institute, appear in, or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

With certain exceptions as provided therein, the Indenture and the Loan Agreement may be modified or amended only with the consent of the owners of 60% in aggregate principal amount of all Bonds Outstanding under the Indenture.

The Issuer, the Trustee, the Borrower, the Paying Agent, the Co-Paying Agent, the Credit Facility Provider, if any, and the Remarketing Agent shall treat the Person in whose name this Bond is registered as the absolute owner hereof for all purposes, whether or not this Bond is overdue, and shall not be bound by any notice to the contrary.

It is hereby certified, recited and declared that all acts, conditions and things required by the Constitution and laws of the State to exist, to have happened, and to have been performed, precedent to and in the execution and delivery of the Indenture and the issuance of this Bond, do exist, have happened, and have been performed in regular and due form as required by law.

No recourse shall be had for the payment of the principal of, or premium, if any, or interest on, this Bond or for any claim based thereon or upon any obligation, provision, covenant or agreement contained in the Indenture, against any past, present or future director, member, trustee, officer, official, employee or agent of the Issuer, or any director, member, trustee, officer, official, employee or agent of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such director, trustee, officer, official, employee or agent as such is hereby expressly waived and released as a condition of and in consideration for the execution of the Indenture and the issuance of this Bond. Neither the officers of the Issuer nor any person executing this Bond shall be personally liable on this Bond by reason of the issuance thereof.

[Remainder of Page Intentionally Left Blank]

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

[SEAL]

By _____
Richard C. Gentry,
Executive Director

Attest:

By: _____
Deputy Secretary

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Indenture.

Date of Authentication:

**[PAYING AGENT],
as Paying Agent**

By _____
Authorized Officer

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with the right of survivorship and not as tenants in common

UNIFORM TRANS MIN ACT - _____ Custodian _____
(Cust) (Minor)

under Uniform Trans to Minors Act _____ (State)

Additional abbreviations may also be used though not in the above list.

[FORM OF ASSIGNMENT FOR TRANSFER]

FOR VALUE RECEIVED, the undersigned, hereby sells, assigns and transfers unto _____ (Tax Identification or Social Security No. _____) the within bond and all rights thereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Date: _____

Signature

Signature Guaranteed:

NOTICE: Signature(s) must be Guaranteed by a signature guarantor institution that is a participant in a nationally recognized signature guarantor program.

NOTICE: The signature to this assignment must correspond with the name of the registered owner of the within bond as it appears on the face hereof in every particular, without alteration or enlargement or any change whatever and the Social Security number or federal employer identification number must be supplied.

EXHIBIT B

FORM OF REQUISITION FOR COSTS OF ISSUANCE

Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(Scripps Mesa Apartments) 2020 Series E

TO: U.S. Bank National Association, Trustee under the Trust Indenture dated as of April 1, 2020, with Housing Authority of the City of San Diego (the “Trust Indenture”).

This Requisition is made pursuant to Section 6.06 of the Indenture to pay the Costs of Issuance.

The Trustee is hereby directed to pay sums out of the Cost of Issuance Fund as set forth on Exhibit A attached hereto.

[Remainder of Page Intentionally Left Blank]

Dated: _____.

SCRIPPS MRU OWNER, L.P.,
a California limited partnership

[SIGNATURE BLOCK]

SCRIPPS AU OWNER, L.P.,
a California limited partnership

[SIGNATURE BLOCK]

**EXHIBIT A TO FORM OF REQUISITION FOR COSTS OF ISSUANCE
DISBURSEMENT SCHEDULE**

Payee (Name and Address)*

Amount

TOTAL \$ _____

* See attached Wire Instructions and/or Invoice for payment instructions

EXHIBIT C

FORM OF INVESTOR LETTER

Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (Scripps Mesa Apartments) 2020 Series E

Housing Authority of the City of San Diego
San Diego, California

U.S. Bank National Association
Los Angeles, California

Ladies and Gentlemen:

The undersigned (the “Purchaser”) hereby acknowledges receipt of the above-captioned bonds (the “Bonds”), dated [CLOSING DATE], 2020, in fully registered form and in the outstanding principal amount of \$[PAR AMOUNT]. The Bonds have been checked, inspected and approved by the Purchaser.

The undersigned acknowledges that the Bonds have been issued pursuant to a Trust Indenture, dated as of April 1, 2020 (the “Indenture”), between Housing Authority of the City of San Diego (the “Issuer”) and U.S. Bank National Association, as trustee (the “Trustee”) for the purpose of providing funds to make a loan (the “Loan”) to Scripps MRU Owner, L.P., a California limited partnership and Scripps AU Owner, L.P., a California limited partnership (together, the “Borrower”), in order to finance and refinance, along with certain other amounts, the construction and equipping of the 264-unit multifamily rental housing development to be known as Scripps Mesa Apartments (the “Project”), located in the City of San Diego, California and that the Loan will be originated pursuant to a Loan Agreement, dated as of the date of the Indenture (the “Loan Agreement”), by and between the Issuer and the Borrower. Capitalized terms used here that are not defined herein shall have the meanings assigned thereto in the Indenture.

In connection with the acquisition of the Bonds by the Purchaser, the Purchaser hereby makes the following representations upon which you may rely:

1. The Purchaser has authority to acquire the Bonds and to execute this Investor Letter and any other instruments and documents required to be executed by the Purchaser in connection with the acquisition of the Bonds.

2. The Purchaser is an Approved Institutional Buyer, *i.e.*, any institution that is either (i) a “qualified institutional buyer” as that term is defined under Rule 144A of the Securities Act of 1933 or (ii) an “accredited investor” as defined in Rule 501(a)(1), (2) or (3) of Regulation D of the Securities Act of 1933.

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

4. The Purchaser understands that (a) the principal, premium and interest on the Bonds are limited obligations of the Issuer payable solely from the revenues and receipts derived by the Issuer pursuant to the Loan Agreement, which revenues and receipts have been pledged and assigned to secured the payment thereof, (b) the Bonds do not constitute a debt or liability of the Issuer, the City of San Diego (the “City”) or the State of California (the “State”) for which the faith and credit of the Issuer, the City or the State or any political subdivision thereof, is pledged, but shall be payable solely from Revenues and (c) the liability of the Issuer with respect to the Bonds is limited to the Trust Estate as set forth in the Indenture.

5. The Purchaser covenants that unless the Bonds are rated within one of the three highest whole rating categories by a Nationally Recognized Rating Agency, it will not sell or transfer the Bonds or beneficial interests therein except to Permitted Transferees or transferees approved by the Issuer in writing.

6. The Purchaser 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 Purchaser has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Borrower, the Project and the Bonds and the security therefor so that, as a reasonable investor, the Purchaser has been able to make its decision to purchase the Bonds. The Purchaser acknowledges that it has not relied upon the addressees hereof for any information in connection with the Purchaser’s purchase of the Bonds, other than information relating solely to such addressees.

7. The Purchaser hereby expressly waives any right to receive any information from the addressees hereof, other than information relating solely to such addressees, and hereby irrevocably releases and relieves such addressees and their officers, employees or agents of any liability for failure to provide such information. The Purchaser understands that the holders of the Bonds have no right to demand payment from the Issuer for any sums other than those limited rights described in the Bonds and the Indenture. The Purchaser is aware that the business of the Borrower involves certain economic variables and risks that could adversely affect the security for the Bonds. The Purchaser acknowledges that in the event of a default on the Bonds, the risk of loss lies entirely with the Purchaser.

8. Neither the addresses hereof, nor any of their officers, employees or agents will have responsibility to the Purchaser for the accuracy or completeness of information obtained by the Purchaser from any source regarding the Project, the Issuer and the Borrower, or their assets, businesses, circumstances, financial condition, or regarding the Bonds, the provision for payment thereof or the sufficiency of any security therefor. The Purchaser has assumed responsibility for

obtaining such information and making such review as the Purchaser has deemed necessary or desirable in connection with its decision to purchase the Bonds.

9. The Purchaser has based its decision to invest in the Bonds solely on its own investigation, including, without limitation, its review of such documents, records, reports, financial statements and other information concerning the Project, the Issuer and the Borrower, their assets, businesses, circumstances, financial condition, and concerning the Bonds, the provision for payment thereof, or the sufficiency of any security therefor, as it deemed necessary.

10. The Purchaser is duly and validly organized under the laws of its jurisdiction of incorporation or organization, and it can bear the economic risk of the purchase of the Bonds (including the total loss of its investment) and has such knowledge and experience in business and financial matters including analysis of the purchase of similar investments, as to be capable of evaluating the merits and risks of an investment in the Bonds.

11. The Purchaser acknowledges and understands that you are relying and will continue to rely on the statements made herein.

Very truly yours,

[PURCHASER]

By: _____
Authorized Signatory

EXHIBIT D

FORM OF REQUISITION FOR PROJECT FUND WITHDRAWALS

Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(Scripps Mesa Apartments) 2020 Series E

TO: U.S. Bank National Association, Trustee under the Trust Indenture dated as of April 1, 2020, with Housing Authority of the City of San Diego (the “Trust Indenture”).

1. Capitalized terms used but not defined in this Requisition shall have the meaning ascribed to such terms in the Indenture.
2. This Requisition is made pursuant to Section 6.03 of the Indenture to pay the costs of rehabilitating the Project.
3. The Trustee is hereby directed to pay sums out of the Project Fund as follows:

<u>Payee</u>	<u>Amount</u>
--------------	---------------

The Borrower certifies to the Trustee and the Initial Bondholder that: (a) no Event of Default under the Indenture has occurred; (b) the funds being requisitioned hereby constitute “good costs” under the Code; (c) all lien waivers or releases from any contractors have been or will be obtained, as applicable; (d) the representations and warranties of the Borrower in the Loan Agreement, as of the date hereof, are hereby ratified and confirmed; (e) none of the items for which payment is requested have formed the basis for any previously made payment from the Project Fund; and (f) nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations under the Loan Documents.

[Remainder of Page Intentionally Left Blank]

Dated: _____.

SCRIPPS MRU OWNER, L.P.,
a California limited partnership

[SIGNATURE BLOCK]

SCRIPPS AU OWNER, L.P.,
a California limited partnership

[SIGNATURE BLOCK]

CONSENTED TO:

BANK OF AMERICA, N.A.,

By: _____
Authorized Officer

LOAN AGREEMENT

between

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

and

**SCRIPPS MRU OWNER, L.P., A CALIFORNIA LIMITED PARTNERSHIP
and
SCRIPPS AU OWNER, L.P., A CALIFORNIA LIMITED PARTNERSHIP,
as Borrower**

relating to

**[\$[PAR AMOUNT]]
Housing Authority of the City of San Diego
Multifamily Housing Revenue Bonds
(Scripps Mesa Apartments) 2020 Series E**

Dated as of April 1, 2020

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LOAN AGREEMENT

THIS LOAN AGREEMENT (this “Loan Agreement”) made and entered into as of April 1, 2020, 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 **SCRIPPS MRU OWNER, L.P.**, a California limited partnership and **SCRIPPS AU OWNER, L.P.**, a California limited partnership (together, the “Borrower”).

ARTICLE I

RECITALS; DEFINITIONS AND INTERPRETATION

Section 1.01. Incorporation of Recitals. The Recitals to that certain Trust Indenture, dated as of April 1, 2020, by and between the Issuer and U.S. Bank National Association, a national banking association, as trustee, are incorporated into and made a part of this Loan Agreement.

Section 1.02. Definitions. The following are defined terms under this Loan Agreement and shall for all purposes hereof have the meanings herein specified, unless the context clearly otherwise requires. In addition, terms used herein and not otherwise defined herein shall have the meaning specified in the Indenture and the Regulatory Agreement.

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

“*Act of Bankruptcy*” means (a) application by the Borrower, any general partner of the Borrower, any member of the general partner of the Borrower, or consent to the appointment of or taking or possession by, a receiver, custodian, trustee or liquidator of the Borrower, any general partner of the Borrower, any member of the general partner of the Borrower of all or a substantial part of its property, (b) admission by the Borrower, any general partner of the Borrower, any member of the general partner of the Borrower that it shall be generally unable to pay its debts as such debts become due, (c) making by the Borrower, any general partner of the Borrower, any member of the general partner of the Borrower of a general assignment for the benefit of its creditors, (d) commencement by the Borrower, any general partner of the Borrower, any member of the general partner of the Borrower of a voluntary case under Title 11 of the United States Code (as now or hereafter in effect), (e) filing by the Borrower, any general partner of the Borrower, any member of the general partner of the Borrower of a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization or winding up, (f) the filing against the Borrower, any general partner of the Borrower, any member of the general partner of the Borrower of any petition in an involuntary case under Title 11 of the United States Code or any bankruptcy law or similar law for the relief of debtors, which shall continue for a period exceeding ninety (90) days, or (g) the taking by the Borrower, any general partner of the Borrower, any member of the general partner of the Borrower of any action for the purpose of effecting any of the foregoing.

“*Administrative General Partner*” means Monarch Essex Scripps, LLC, a Delaware limited liability company and its successors and assigns.

“*CERCLA*” has the meaning set forth in the definition of Environmental Laws.

“*Change of Law*” has the meaning set forth in Section 5.04(d) of this Loan Agreement.

“*Completion Date*” has the meaning given to that term in Section 4.04.

“*County*” means the County of San Diego.

“*Environmental Laws*” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“*CERCLA*”), 42 U.S.C. §§ 9601 *et seq.*; the Hazardous Materials Transportation Authorization Act of 1994, 49 U.S.C. §§ 5101 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*; the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. §§ 6901 *et seq.*; the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*; the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*; any other federal or state statutes or city or county ordinances regulating the generation, storage, containment or disposal of any Hazardous Substance or providing for the protection, preservation, or enhancement of the natural environment; any rules or regulations promulgated pursuant to any of the foregoing statutes or ordinances; and any amendments, modifications, or supplements of any such statutes, ordinances, rules, or regulations.

“*Event of Default*” means any of the events described as an event of default in Section 8.01 hereof.

“*Extraordinary Optional Redemption*” has the meaning set forth in Section 5.04(a) of this Loan Agreement.

“*Extraordinary Optional Redemption Price*” has the meaning set forth in Section 5.04(a) of this Loan Agreement.

“*General Partner*” means collectively Administrative General Partner and Managing General Partner, and their respective successors and assigns.

“*Ground Lease*” means that certain Ground Lease and Joint Occupancy Agreement dated September 6, 2018 by and between San Diego Unified School District, as lessor and Monarch Scripps Mesa, LLC, as lessee as predecessor in interest to Scripps Mesa Apartments, L.P.

“*Hazardous Substance*” means any dangerous, toxic, or hazardous pollutant, contaminant, chemical, material, waste, or substance defined as hazardous, toxic or as a pollutant or contaminant in, or the release or disposal of which is regulated by, any Environmental Law, and also including urea formaldehyde, polychlorinated biphenyls, asbestos and asbestos containing materials, nuclear fuel or water, petroleum products, industrial solvents, pesticides, flammables, and explosives.

“*Indemnified Parties*” shall have the meaning set forth in Section 7.01 of this Agreement.

“*Loan Payments*” has the meaning set forth in Section 5.01 hereof.

“*Managing General Partner*” means AOF Pacific Affordable Housing Corporation, a California nonprofit public benefit corporation and its successors and assigns.

“*Note*” means the promissory note executed by the Borrower, evidencing Borrower’s obligation to the Issuer in form and substance substantially similar to Exhibit B hereof, as amended, restated and/or supplemented from time to time.

“*Permitted Encumbrances*” means, as of any particular time: (a) liens for ad valorem taxes and special assessments not then delinquent; (b) the Mortgage and any security interests or other liens created thereby; (c) utility, access, and other easements and rights of way, mineral rights, restrictions, and other exceptions that appear as exceptions in the Title Insurance Policy, or that, in the opinion of an architect, engineer or surveyor, will not interfere with or impair the operations being conducted on the Mortgaged Property (as defined in the Mortgage); (d) the Regulatory Agreement; (e) leases of the Project subject to and as contemplated by the Mortgage; (f) documents required in connection with subordinate financing approved by the Initial Bondholder in accordance with Section 6.16 hereto; and (g) [as may be otherwise acceptable to the Initial Bondholder, including in connection with Section 6.03 hereof.]

“*Restoration*” has the meaning set forth in Section 5.04(a) of this Loan Agreement.

“*Title Insurance Policy*” means the Mortgagee’s policy of Title Insurance, issued by Chicago Title Insurance Company, naming the Trustee as an insured, in an amount not less than the original principal amount of the Bonds.

“*Treasury Regulations*” means the regulations promulgated or proposed by the United States Department of the Treasury pursuant to the Code and applicable to the Project, as amended from time to time.

“*Regulatory Agreement*” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of April 1, 2020, among the Issuer, the Borrower and the Trustee.

Section 1.03. Rules of Construction.

(a) The singular form of any word used herein, including the terms defined in Section 1.02, shall include the plural, and vice versa, unless the context otherwise requires. The use herein of a pronoun of any gender shall include correlative words of the other genders.

(b) All references herein to “Articles,” “Sections,” and other subdivisions hereof are to the corresponding Articles, Sections or subdivisions of this Loan Agreement as originally executed; and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Loan Agreement as a whole and not to any particular Article, Section, or subdivision hereof.

(c) The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not limit or otherwise affect the meaning, construction, or effect of this Loan Agreement or describe the scope or intent of any provisions hereof.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with applicable generally accepted accounting principles as in effect from time to time.

(e) Every “request,” “order,” “demand,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent,” or similar action hereunder by any party shall, unless the form thereof is specifically provided, be in writing signed by a duly authorized representative of such party with a duly authorized signature.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.01. Representations of the Issuer. The Issuer makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Issuer is a public body, corporate and politic, organized and existing under the laws of the State. The Issuer has all necessary power and authority to issue the Bonds and to execute and deliver the Issuer Documents (as defined in the Indenture), and to perform its duties and discharge its obligations hereunder and thereunder.

(b) Each of the Issuer Documents has been duly validly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and general equitable principles.

(c) To the best knowledge of the Issuer, the Issuer has complied with the provisions of the Act and the laws of the State which are prerequisites to the consummation of the transactions on the part of the Issuer described or contemplated in the Issuer Documents. To the best knowledge of the Issuer, the execution and delivery of the Issuer Documents, the consummation of the transactions on the part of the Issuer contemplated thereby and the fulfillment of or compliance with the terms and conditions thereof do not conflict with or result in the breach of any of the terms, conditions or provisions of any agreement or instrument or judgment, order or decree to which the Issuer is now a party or by which it is bound, nor do they constitute a default under any of the foregoing.

(d) To the best knowledge of the Issuer, no authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution and delivery by the Issuer of, and performance by the Issuer of its obligations under the Issuer Documents, which has not been obtained as of the Closing Date.

(e) To the best knowledge of the Issuer, there is no action, suit, proceeding, inquiry or investigation pending or threatened against the Issuer by or before any court, governmental agency or public board or body, nor, to the Issuer’s knowledge, any basis therefor, which (i) affects or questions the existence or the territorial jurisdiction of the Issuer or the title to office of any member of the governing body of the Issuer; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any documents or the issuance, execution or delivery of the Bonds, as applicable; (iii) affects or questions the validity or enforceability of the Bonds; or (iv) questions

the power or authority of the Issuer to perform its obligations under the Bonds or to carry out the transactions contemplated by the Issuer Documents.

Section 2.02. Representations, Warranties and Covenants of the Borrower. The Borrower represents, warrants, and covenants as follows:

(a) Each Borrower is a California limited partnership and is qualified to do business in the State and in every other state in which the nature of its business requires such qualification. The Borrower has full power and authority to own its properties and to carry on its business as now being conducted and as contemplated to be conducted with respect to the Project, and to enter into, and to perform and carry out the transactions provided for in this Loan Agreement, all other Loan Documents and the Bond Documents contemplated hereby. This Loan Agreement, the other Loan Documents and the Bond Documents to which the Borrower is a party, and all other documents to which the Borrower is a party and contemplated hereby or thereby have been duly authorized, executed, and delivered by the Borrower and constitute the legal, valid, and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting the rights of creditors generally and general equitable principles.

(b) The Administrative General Partner (i) is a limited liability company validly existing under the laws of the State of Delaware, and is qualified to transact business in the State, (ii) has full power and authority under its organizational documents and the laws of the State of Delaware to execute and deliver on behalf of the Borrower, solely in its capacity as a general partner of the Borrower, those Loan Documents and Bond Documents to which the Borrower is a party, (iii) by proper action has duly authorized the execution and delivery on behalf of the Borrower of those Loan Documents and Bond Documents to which the Borrower is a party, and (iv) on behalf of the Borrower, has executed and delivered to the Issuer the Loan Documents and Bond Documents to which the Borrower is a party and, when validly executed and delivered by the other parties thereto, such Loan Documents and Bond Documents will constitute legal, valid and binding agreements of the Borrower, enforceable by and against it in accordance with their respective terms, except as the enforceability thereof may be subject to (A) the exercise of judicial discretion in accordance with general equitable principles, and (B) applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied, and except that enforceability of indemnification and contribution provisions may be limited, in whole or in part, by applicable security laws or public policy.

(c) The Managing General Partner (i) is a corporation validly existing under the laws of the State of California, and is qualified to transact business in the State of California, (ii) has full power and authority under its organizational documents and the laws of the State of California to execute and deliver on behalf of the Borrower, solely in its capacity as a general partner of the Borrower, those Loan Documents and Bond Documents to which the Borrower is a party, (iii) by proper action has duly authorized the execution and delivery on behalf of the Borrower of those Loan Documents and Bond Documents to which the Borrower is a party, and (iv) on behalf of the Borrower, has executed and delivered to the Issuer the Loan Documents and Bond Documents to which the Borrower is a party and, when validly executed and delivered by the other parties thereto, such Loan Documents and Bond Documents will constitute legal, valid and binding agreements of

the Borrower, enforceable by and against it in accordance with their respective terms, except as the enforceability thereof may be subject to (A) the exercise of judicial discretion in accordance with general equitable principles, and (B) applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied, and except that enforceability of indemnification and contribution provisions may be limited, in whole or in part, by applicable security laws or public policy.

(d) The execution, delivery, and performance by the Borrower of the Bond Documents and the Loan Documents to which it is a party and the consummation of the transactions herein and therein contemplated, do not and will not (i) to its knowledge, violate any law, regulation, ordinance, judgment, or court order of any federal, state, or local government applicable to any of them, or (ii) conflict in any respect with or constitute a breach of or a default under the organizational documents of such entity or under the terms and conditions of any instrument, document, agreement, commitment, indenture, security agreement, mortgage, lease, or other instrument to which it is a party or by which it, or a substantial portion of its assets, are bound; or properties, or, except as provided hereunder, result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the Project or assets of the Borrower, except for Permitted Encumbrances.

(e) The Borrower will have, immediately after closing, a ground leasehold interest in the Project, subject to the Permitted Encumbrances. The Borrower is the sole borrower under the Loan.

(f) Except as otherwise set forth in Exhibit D of this Loan Agreement, no litigation or proceeding is pending or, to the knowledge of the Borrower, the Administrative General Partner, or the Managing General Partner, threatened against the Borrower, the Administrative General Partner, or the Managing General Partner, or with respect to the Project which has a reasonable probability of having a material adverse effect on the Borrower's financial condition or business, or the transactions contemplated by this Loan Agreement, the Indenture, the other Loan Documents, or the Bond Documents, or which in any way would adversely affect the validity or enforceability of the Bonds, the Indenture, this Loan Agreement, the other Loan Documents, or the Bond Documents, or the ability of the Borrower to perform its obligations under this Loan Agreement, the other Loan Documents, or the Bond Documents.

(g) 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 will obtain all requisite zoning, planning, building, and environmental and other permits which may become necessary with respect to the Project. The Borrower has obtained or will obtain, immediately after closing, all licenses, permits, and approvals necessary for the ownership, operation, and management of the Project, including all approvals essential to the transactions contemplated by this Loan Agreement, the Indenture, the other Bond Documents, the other Loan Documents, and any other documents contemplated hereby or thereby.

(h) The financial statements which have been furnished by or on behalf of the Borrower to the Initial Bondholder are complete and accurate in all material respects and present fairly the

financial condition of the Borrower as of their respective dates in accordance with generally accepted accounting principles, applied by the Borrower on a consistent basis, and since the date of the most recent of such financial statements there has not been any material adverse change, financial or otherwise, in the condition of the Borrower, and there has not been any material transaction entered into by the Borrower other than transactions in the ordinary course of business, and the Borrower does not have any material contingent obligations which are not otherwise disclosed in its financial statements. There (i) is no completed, pending, or threatened bankruptcy, reorganization, receivership, insolvency, or like proceeding, whether voluntary or involuntary, affecting the Project, the Borrower or the General Partner, and (ii) has been no assertion or exercise of jurisdiction over the Project, the Borrower or the General Partner by any court empowered to exercise bankruptcy powers.

(i) No event has occurred and no condition exists with respect to the Borrower or the Project that would constitute an Event of Default or which, with the passage of time (including the expiration of any applicable cure periods), or with the giving of notice, or both, would become an Event of Default. The Borrower is not in default under the Regulatory Agreement, the Mortgage or any other document executed in connection with the Loan.

(j) The Borrower has not taken and will not take any action, or permit any action that is within the Borrower's control to be taken, that would impair the exclusion from gross income for federal income tax purposes of the interest payable on the Bonds. As of the Closing Date, the Borrower is in compliance with all requirements of the Regulatory Agreement and the Tax Certificate. The Borrower has complied and will comply with all the terms and conditions of the Regulatory Agreement and the Tax Certificate, including the terms and conditions of the exhibits thereto, and the representations set forth in the Regulatory Agreement and the Tax Certificate pertaining to the Borrower and the Project are true and accurate.

(k) The Project is, as of the Closing Date, in compliance with all requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code. 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. All leases will comply with all applicable laws and the Regulatory Agreement. The Project meets the requirements of this Loan Agreement, the Regulatory Agreement, the Act, and the Code with respect to multifamily rental housing.

(l) No information, statement, or report furnished in writing to the Issuer, the Initial Bondholder or the Trustee by the Borrower in connection with this Loan Agreement, the other Loan Documents, or the Bond Documents or the consummation of the transactions contemplated hereby and thereby (including, without limitation, any information furnished by the Borrower in connection with the preparation of any materials related to the issuance, delivery, or offering of the Bonds on the Closing Date) contains as of the date of such information, statement, or report, any material misstatement of fact or omits 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; and the representations and warranties of the Borrower and the statements, information, and descriptions contained in the Borrower's closing certificates, as of the Closing Date, are true, correct, and complete, do not contain any untrue statement or misleading statement of a material fact, and do not omit to state a material fact required to be stated therein or 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; and the estimates and the assumptions contained herein and in any certificate of the Borrower delivered as of the Closing Date are reasonable and based on the best information available to the Borrower.

(m) To the best knowledge of the Borrower, no member, officer, agent, or employee of the Issuer has an interest, directly or indirectly, in that Person's own name or in the name of any other Person, in the Bonds, the Bond Documents, the Loan 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 Bond Documents or the Loan Documents.

(n) No authorization, consent, approval, order, registration, declaration, or withholding of objection on the part of or filing of or with any governmental authority not already obtained or made (or to the extent not yet obtained or made the Borrower has no reason to believe that such authorizations, consents, approvals, orders, registrations, or declarations will not be obtained or made in a timely fashion) is required for the execution and delivery or approval, as the case may be, of this Loan Agreement, the other Loan Documents, the Bond Documents, or any other documents contemplated by this Loan Agreement or the other Loan Documents or the Bond Documents, or the performance of the terms and provisions hereof or thereof by the Borrower.

(o) The Borrower is not presently under any cease or desist order or other orders of a similar nature, temporary or permanent, of any federal or state authority which would have the effect of preventing or hindering performance of its duties hereunder, nor are there any proceedings presently in progress or to its knowledge contemplated which would, if successful, lead to the issuance of any such order.

(p) 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 the transactions contemplated by this Loan Agreement and the Indenture or otherwise relied on by the Issuer in any manner.

(q) The Borrower has not received any notice that it is not in compliance with any provisions of the Superfund Amendments and Reauthorization Act of 1986 or any Environmental Laws, or with any rules, regulations, and administrative orders of any governmental agency, or with any judgments, decrees, or orders of any court of competent jurisdiction with respect thereto; and the Borrower has not received any assessment, notice (primary or secondary) of liability or financial responsibility, and no notice of any action, claim, or proceeding to determine such liability or responsibility, or the amount thereof, or to impose civil penalties with respect to a site listed on any federal or state listing of sites containing or believed to contain Hazardous Substances, nor has the Borrower received notification that any hazardous substances (as defined under CERCLA) that it has disposed of have been found in any site at which any governmental agency is conducting an investigation or other proceeding under any Environmental Law.

(r) The Borrower has not received any notice that it is not in full compliance with the Employee Retirement Income Security Act of 1974, as amended and from time to time in effect, and Department of Labor regulations thereunder, with the Code and Treasury Regulations thereunder and with terms of such plan or plans with respect to each pension or welfare benefit plan to which the Borrower is a party or makes any employer contributions with respect to its employees, for the current or prior plan years of such plans.

(s) The Borrower agrees to immediately notify the Trustee, the Initial Bondholder, the Credit Facility Provider, if any, and the Issuer in writing of any Event of Default as such term is defined under, or any event which with notice or the passage of time would constitute an Event of Default as such term is defined under, this Loan Agreement, the other Loan Documents, the Bond Documents or any other documents contemplated by this Loan Agreement or the other Loan Documents or the Bond Documents.

(t) The Borrower has not and shall not discriminate on the basis of race, creed, religion, color, sex, marital status, age, or national origin in the lease, use, or occupancy of the Project or in connection with the employment or application for employment of Persons for the operation and management of the Project. The Borrower specifically agrees that the Borrower will not refuse to lease units in the Project to persons whose family includes minor dependents who will occupy such unit, unless such refusal is based upon factors not related to the presence of such minors in the family, which factors may include, but shall not be limited to, negative credit, rental history or potential overcrowding of a unit.

(u) Except (i) as described in Section 6.03 hereof or (ii) as has been disclosed to the Issuer and the Initial Bondholder, the Borrower intends to hold the Project for its own account and has no current plans to sell and has not entered into any agreement to sell any of the Project.

(v) The Borrower will construct or cause the Project to be constructed and operated in accordance with the terms of the Ground Lease and the Loan Agreement.

(w) The Borrower covenants to pay all third-party fees of the financing “Additional Payments,” including but not limited to the following:

(i) All taxes and assessments of any type or character charged to the Issuer or to the Trustee affecting the amount available to the Issuer or the Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments 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 Trustee and taxes based upon or measured by the net income of the Trustee; provided, however, that the Borrower shall have the right to protest any such taxes or assessments and to require the Issuer or the Trustee, at the Borrower’s expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Issuer or the Trustee;

(ii) All reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Issuer or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Loan Agreement, the Regulatory Agreement or the Indenture;

(iii) The Issuer's Fee, as described in and payable as set forth in Section 20 of the Regulatory Agreement, and the reasonable fees and expenses of the Issuer or any agents, attorneys, accountants, consultants selected by the Issuer to act on its behalf in connection with this Loan Agreement, the Regulatory Agreement and the other Bond Documents, Loan Documents, the Bonds or the Indenture, including, without limitation, any and all reasonable expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds or in connection with any litigation which may at any time be instituted involving this Loan Agreement, the Regulatory Agreement, the other Bond Documents, Loan Documents, the Bonds or the Indenture 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; and

(iv) All amounts due and payable by the Borrower to the Trustee as are required of it under Section 6.11 of the Indenture as well as the expenses of any Rebate Analyst engaged in accordance with that Section. The obligation of the Borrower to make such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Indenture.

Such Additional Payments shall be billed to the Borrower by the Issuer or the Trustee from time to time, together with a statement certifying that the amount billed has been incurred or paid by the Issuer or the Trustee for one or more of the above items. After such a demand, amounts so billed shall be paid by the Borrower within thirty (30) days after the date of invoice. Notwithstanding the foregoing, the Issuer shall not be required to submit a bill to the Borrower for payment of the Issuer's Fee or any amounts due with respect to arbitrage rebate under Section 148 of the Code, the calculation and payment of which is the responsibility of the Borrower.

(x) The obligations to pay Additional Payments set forth above and those in Section 7.01 hereof shall remain valid and in effect notwithstanding repayment of the loan hereunder or termination of this Loan Agreement or the Indenture.

ARTICLE III

THE LOAN AND DISPOSITION OF THE LOAN

Section 3.01. Loan by the Issuer.

(a) The Issuer, pursuant to the terms of this Loan Agreement, agrees to loan and hereby loans to the Borrower the proceeds in the principal amount of \$[PAR AMOUNT] received by the Issuer from the sale of the Bonds. Upon issuance of the Bonds, the full amount of the Loan hereunder shall be deemed to be advanced to the Borrower. The repayment obligations of the Borrower under this Loan Agreement shall be evidenced by the Note in the principal amount equal

to the aggregate principal amount of the Bonds, executed by the Borrower concurrently with the issuance of the Bonds, made payable to the Issuer and endorsed by the Issuer, without recourse, to the Trustee.

(b) Concurrently with the execution and delivery of this Loan Agreement and prior to any disbursement of any Bond proceeds, the Borrower shall cause the Note to be executed and delivered to the Issuer and assigned to the Trustee (unless previously executed and delivered); and cause the Regulatory Agreement, the Mortgage and any applicable financing statements to be executed, assigned and/or delivered to the appropriate parties. Concurrently with or prior to the execution and delivery hereof, the Borrower shall pay or cause to be paid to the Trustee for deposit to the Costs of Issuance Fund an amount equal to the Costs of Issuance not otherwise provided for. It is expressly agreed that the Borrower will cause to be carried out and performed all of its obligations under the Note, this Loan Agreement, the Indenture, the Mortgage and the Regulatory Agreement.

(c) Concurrently with the execution and delivery of this Loan Agreement and prior to any disbursement of any Bond proceeds, the Borrower shall cause the Regulatory Agreement, the Mortgage and any applicable financing statements to be recorded in the records of the County, or other appropriate offices; and deliver or cause to be delivered to the Trustee the Title Insurance Policy.

(d) The Borrower acknowledges and agrees that it is the intent of the Borrower to make and the Borrower agrees to make payments required under this Loan Agreement and the Note in such amounts, and at such times, sufficient to pay, after applying all amounts otherwise available for making such payments, (i) all amounts required to pay the principal of, redemption premium, if any, interest, Purchase Price, and any other amount due on the Bonds (including any interest at the Default Rate as set forth in the Indenture) on or prior to the date when and as due and payable, whether by stated maturity date, by optional or mandatory redemption, by optional or mandatory tender or by acceleration or otherwise; (ii) all amounts required to be paid under the Note; and (iii) all fees, expenses, and indemnification (including reasonable counsel fees on any and all tribunal levels), without duplication, of the Issuer, Bond Counsel, the Trustee and counsel for the Trustee (including the Trustee Fee and Extraordinary Expenses) provided for herein or in the Indenture.

Section 3.02. Disbursement of Loan Proceeds. Upon delivery of the Bonds and closing of the Loan, the Issuer will cause the proceeds of the sale of the Bonds to be applied as described in Section 4.01 of the Indenture.

Section 3.03. Disposition of Loan in Event of Default. In the event of the occurrence of any Event of Default under this Loan Agreement, and the acceleration of the Borrower's obligations under the Note and thereunder, the Trustee has been instructed to accelerate the Borrower's obligations under the Loan and collect or otherwise convert into money the whole or any part of the Loan, and sell, assign, and deliver the Loan at public or private sale, in such manner and upon such terms and conditions as the Trustee may deem proper. Notwithstanding the foregoing, the Trustee is under no obligation to enforce the obligations of the Borrower under the Loan unless the Trustee has been adequately indemnified as to its expenses, costs (including reasonable attorneys' fees) and liability. Upon consummation of any such sale, the Trustee shall

have the right to assign, transfer, endorse and deliver to the purchaser or purchasers thereof the Loan, or any portion thereof or any interest therein, so sold. Each such purchaser at any such sale shall hold the Project sold absolutely free from any claim or right on the part of the Issuer, and the Issuer and the Borrower hereby waive (to the extent permitted by law) all rights of redemption, stay and/or appraisal which the Issuer or the Borrower now has or may at any time in the future have under rule of law or statute now existing or hereafter enacted.

In the event of sale, collection, or conversion into money of the Loan or any part thereof, after deducting actual costs and expenses incurred in connection with the disposition thereof, the Trustee has been instructed to apply such residue of the proceeds thereof to the payment of all the obligations arising under the Loan Agreement, and any default premium payable under the Note, and to pay the excess, if any, in accordance with Section 6.09 of the Indenture.

ARTICLE IV

ACQUISITION, CONSTRUCTION AND EQUIPPING OF PROJECT

Section 4.01. Acquisition, Construction and Equipping of Project. The Borrower agrees that, on behalf of the Issuer, it will acquire, construct and equip the Project in accordance with the Project plans and specifications delivered to the Issuer and the Bondholder Representative on or before the Closing Date.

Section 4.02. Disbursements of Bond Proceeds. Bond proceeds shall be disbursed in accordance with the provisions of the Indenture and Sections 3.02 and 4.03 hereof.

Section 4.03. Application of Bond Proceeds. Bond proceeds shall, upon the written direction of an Authorized Borrower Representative and on the conditions provided in the Indenture, be applied by the Borrower to pay only the following costs and items of expense paid by or on behalf of the Borrower or the Issuer on or after the date which is 60 days prior to June 25, 2019, except as may otherwise be provided under the Tax Certificate:

- (a) the cost of preparing the Project plans and specifications (including any preliminary study or planning of the Project or any aspect thereof);
- (b) all costs of acquiring, constructing and equipping the Project (including environmental audits, architectural, engineering and supervisory services with respect to the Project);
- (c) all fees, taxes, charges and other expenses for recording or filing, as the case may be, the instrument or instruments conveying the land to the Borrower, and any other documents that the Issuer or the Trustee may deem desirable in order to protect or perfect the title to the land and any security interest contemplated by the Mortgage or other documents relating to the security for the Loan;
- (d) the premium on any fee or mortgagee title insurance procured on the land and the improvements;

(e) in the case of moneys now held or hereafter deposited in the Interest Account of the Bond Fund, interest payable on the Bonds during the construction period and interest payable during the construction period on such interim financing as the Borrower may have secured with respect to the Project in contemplation of the issuance of the Bonds;

(f) all legal, accounting and any other fees, costs and expenses incurred in connection with the preparation, printing, reproduction, authorization, issuance, execution, sale and distribution of the Bonds and Loan Documents and all other documents in connection herewith or therewith, with the acquisition of title to the Project and with any other transaction contemplated by this Loan Agreement or the Indenture;

(g) any administrative fee and fee for services of the Issuer;

(h) any Costs of Issuance not otherwise described above; and

(i) reimbursement to the Borrower for any of the above-enumerated costs and expenses.

Section 4.04. Certificates of Completion. Upon completion of the acquisition, construction and equipping of the Project as of a specific date (the “Completion Date”), the Borrower shall deliver to the Issuer, the Trustee and the Bondholder Representative a certificate of completion signed by an Authorized Borrower Representative, which certificate of completion shall (a) state that acquisition, construction and equipping of the Project has been completed in accordance with the Project plans and specifications therefore delivered to the Issuer and the Bondholder Representative on or before the Closing Date; (b) state that, except for amounts retained in the Project Fund for the payment of incurred, but unpaid, items of the costs of the Project, the payment of all labor, services, materials and supplies used in such acquisition, construction and equipping has been made or provided for; and (c) be accompanied by such other certificates or documents evidencing completion of the Project as may be satisfactory to the Bondholder Representative, including without limitation, if applicable, a temporary certificate of occupancy and/or evidence of filing of applicable notices of completion for the buildings constituting the Project for recording in the real property records of San Diego County, California. The Borrower agrees to complete the acquisition, construction and equipping of the Project on or before [October 1, 2022], unless such date has been extended by the Bondholder Representative. Such certificate shall further certify as to the determination of the rebate amount as provided in the Tax Certificate and the Indenture and shall direct the Trustee to make any transfer to, or make payments of amounts for deposit in, the Rebate Fund.

Section 4.05. Completion by Borrower.

(a) In the event that the proceeds of the Bonds are not sufficient to pay in full all costs of acquiring, construction and equipping the Project in accordance with the Project plans and specifications, the Borrower agrees to pay, for the benefit of the Issuer, the Trustee and the Bondholders, all such sums required to complete the acquisition, construction and completion of the Project in excess of the amount available from proceeds of the Bonds.

(b) The Borrower shall not be entitled to any reimbursement for such excess costs or expense from the Issuer or the Trustee or the Owner of the Bonds nor shall it be entitled to any

diminution or abatement of any other amounts payable by the Developer under this Loan Agreement.

ARTICLE V

THE LOAN; PREPAYMENTS; RECOURSE PROVISIONS; CHANGE OF INTEREST RATE

Section 5.01. Loan and Other Payments. The Borrower agrees to repay the Loan hereunder by paying to the Trustee for the account of the Issuer an amount equal to principal of, premium, if any, when due, in the manner and in the amounts provided in the Indenture and an amount equal to interest on the Bonds at the rate or rates of interest as provided in the Indenture, in each case, on the Business Day next preceding each Bond Payment Date. The Borrower shall pay hereunder to the Trustee for deposit into the appropriate funds and accounts under the Indenture any additional amounts required, at the times required, by the Note and this Loan Agreement (together, the “Loan Payments”). Amounts so paid to the Trustee by the Borrower shall be in immediately available funds. The balance of the account from which such payment is due on such Business Day shall be credited against the amount due.

Section 5.02. No Setoff. The obligation of the Borrower to make any payments required to be made under this Loan Agreement (including, but not limited to, payments due by reason of acceleration of the Borrower’s obligations hereunder pursuant to Article VIII hereof and obligations of the Borrower under Article VII hereof) and under the Note shall be absolute and unconditional and shall not be subject to offset, abatement, diminution, postponement, or deduction, or to any defense other than payment or to any right of setoff, counterclaim, or recoupment arising out of any breach under the Loan Documents or the Indenture or otherwise by the Issuer, the Trustee, any Owner of Bonds, or any other Person, or out of any obligation or liability at any time owing to the Borrower by any of the foregoing.

Section 5.03. Mandatory Prepayment. The Borrower’s obligations under the Loan shall be paid or prepaid on the following dates in the following manner:

(a) on any date, in an amount equal to the outstanding principal balance of the Loan, plus accrued interest, due to the acceleration of the Loan by reason of an Event of Default by the Borrower under this Loan Agreement; or

(b) on any date, in an amount equal to the outstanding principal balance of the Loan, plus accrued interest, due to the Bonds becoming immediately due and payable as a result of an Event of Default under the Indenture.

Upon such prepayment, the principal amount of the Loan outstanding shall be reduced by the principal amount of Bonds paid with the amounts described above. No reduction in interest payable on the Loan shall occur, however, until the applicable payment of the Bonds. Thereafter, the outstanding principal balance of the Loan, if any, shall continue to bear interest at the rate thereof (which shall mean at the Default Rate to the extent applicable) upon the reduced principal amount.

Section 5.04. Extraordinary Optional Prepayment. The Borrower shall have the right to prepay the entire outstanding principal balance of the Loan, upon the occurrence of the following events, at a prepayment price equal to the principal balance of the Loan outstanding, plus accrued interest to the date the Bonds are redeemed, without premium:

(a) **Eminent Domain.**

(i) In the event of any taking by Eminent Domain other than a Total Taking, so long as no Event of Default then exists, the Borrower may, at its election, commence and complete with due diligence the restoration, replacement or rebuilding of the Project as nearly as possible to its value, condition and character immediately prior to such Eminent Domain (such restoration, replacement and rebuilding of the Project, together with any temporary repairs and property protection pending completion of the work, being herein referred to as “Restoration”), and no consent shall be required in connection therewith. If the Borrower elects to commence and complete the Restoration, all Net Proceeds received as a result of such Eminent Domain shall be deposited in the Insurance and Condemnation Proceeds Fund. If the Borrower elects not to commence and complete the Restoration, then the Bonds shall be subject to immediate mandatory redemption (such immediate redemption being an “Extraordinary Optional Redemption”) at a redemption price equal to the outstanding principal amount of Bonds to be redeemed plus accrued interest thereon to the date of redemption and no premium (the “Extraordinary Optional Redemption Price”); provided, however, if a taking does not adversely affect access to the Project or parking at the Project or the buildings at the Project, then Borrower’s election to not commence Restoration shall not constitute Borrower’s election to cause an Extraordinary Optional Redemption of the Bonds. If the Borrower elects to make an Extraordinary Optional Redemption under this Section 5.04(a)(i), the Net Proceeds received as a result of such Eminent Domain shall be deposited in the Redemption Account and applied toward the redemption of the Bonds.

(ii) In the event of a Total Taking, so long as no Event of Default then exists, the Borrower may, with the consent of the Owners of a majority of the principal amount of Bonds Outstanding, commence and complete with due diligence a Restoration, and no other consent shall be required in connection therewith. If the Borrower elects to commence and complete the Restoration, all Net Proceeds received as a result of such Eminent Domain shall be deposited in the Insurance and Condemnation Proceeds Fund. If the Borrower elects not to commence and complete the Restoration, then all of the Bonds shall be subject to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price. If the Borrower elects to make an Extraordinary Optional Redemption under this Section 5.04(a)(ii), the Net Proceeds received as a result of such Eminent Domain shall be deposited in the Redemption Account and applied toward the redemption of the Bonds.

(iii) Notwithstanding anything in the Loan Documents to the contrary, during the Current Bondholder Period, (A) the terms and provisions contained in subparts (i) and (ii) of this Section 5.04(a) shall be of no force or effect, (B) the terms and provisions of the Supplemental Agreement pertaining to eminent domain shall govern and control, and (C) any Net Proceeds required under the Supplemental Agreement to be applied to the

redemption of the Bonds shall be applied to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price.

(iv) The Extraordinary Optional Redemption referred to in this Section 5.04(a) shall be made in accordance with the provisions hereof and Section 3.05 of the Indenture.

(b) Casualty.

(i) In the event of any damage to or destruction of the Project, or any part thereof, other than a Total Destruction, so long as no Event of Default then exists, the Borrower may, at its election, commence and complete with due diligence the Restoration of the Project, and no consent shall be required in connection therewith. If the Borrower elects to commence and complete the Restoration, all Net Proceeds received as a result of such destruction shall be deposited in the Insurance and Condemnation Proceeds Fund. If the Borrower elects not to commence and complete the Restoration, then the Bonds shall be subject to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price. If the Borrower elects to make an Extraordinary Optional Redemption under this Section 5.04(b)(i), the Net Proceeds received as a result of such destruction shall be deposited in the Redemption Account and applied toward the redemption of the Bonds.

(ii) In the event of a Total Destruction, so long as no Event of Default then exists, the Borrower may, with the consent of the Owners of a majority of the principal amount of Bonds Outstanding, commence and complete with due diligence a Restoration, and no other consent shall be required in connection therewith. If the Borrower elects to commence and complete the Restoration, all Net Proceeds received as a result of such Total Destruction shall be deposited in the Insurance and Condemnation Proceeds Fund. If the Borrower elects not to commence and complete the Restoration, then all of the Bonds shall be subject to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price. If the Borrower elects to make an Extraordinary Optional Redemption under this Section 5.04(b)(ii), the Net Proceeds received as a result of such Total Destruction shall be deposited in the Redemption Account and applied toward the redemption of the Bonds.

(iii) Notwithstanding anything in the Loan Documents to the contrary, during the Current Bondholder Period, (A) the terms and provisions contained in subparts (i) and (ii) of this Section 5.04(b) shall be of no force or effect, (B) the terms and provisions of the Supplemental Agreement pertaining to casualty shall govern and control, and (C) any Net Proceeds required under the Supplemental Agreement to be applied to the redemption of the Bonds shall be applied to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price.

(iv) The Extraordinary Optional Redemption referred to in this Section 5.04(b) shall be made in accordance with the provisions hereof and Section 3.05 of the Indenture.

(c) Funds Not Applied to Restoration.

(i) Except as otherwise provided in Sections 5.04(a)(iii) and 5.04(b)(iii), the Bonds shall also be subject to Extraordinary Optional Redemption at the Extraordinary

Optional Redemption Price to the extent that (A) Net Proceeds are not applied to Restoration of the Project, or (B) the Borrower reasonably determines that it cannot carry on its normal operation of the Project.

(ii) The Extraordinary Optional Redemption referred to in this Section 5.04(c) shall be made in accordance with the provisions hereof and Section 3.05 of the Indenture.

(d) **Change of Law.**

(i) If, as a result of changes in the Constitution of the State, or of final legislative or administrative action by the State or any political subdivision thereof, or by the United States, or by reason of a final, non-appealable judgment in any action instituted in any court (a “Change of Law”), unreasonable burdens or excessive liabilities are imposed on the Borrower with respect to the continued operation or financing of the Project, the Borrower may at its election, determine that all of the Bonds shall be subject to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price, and no consent shall be required in connection therewith.

(ii) The Extraordinary Optional Redemption referred to in this Section 5.04(d) shall be made in accordance with the provisions hereof and Section 3.05 of the Indenture.

The Borrower must exercise the option reserved in this Section 5.04 within the earlier, as applicable, of (i) six (6) months following the date it becomes apparent to the Borrower that any of the foregoing conditions has occurred which gives rise to a right of prepayment under this Section; or (ii) such other time period as may be set forth in Section 3.05 of the Indenture.

Section 5.05. Optional Prepayment. On or after [_____ 1, 2024], during the Initial Fixed Rate Period, the Borrower, shall have the option, exercisable by written notice to the Issuer, the Trustee and the Owner given at least thirty (30) days prior to the proposed prepayment date, to prepay the outstanding principal balance of the Note in whole or otherwise cause funds to be deposited with the Trustee in an amount equal to the principal balance of the Note to be prepaid plus accrued interest and premium, if any, thereon to the date of prepayment, for the purpose of effecting a redemption of all of the Outstanding Bonds. In connection with any such action, the Borrower shall cause to be deposited with the Trustee on or before the date of the corresponding redemption an amount sufficient to effect the redemption of Bonds, as specified in such notice, in accordance with the terms and provisions of the Indenture, and the Borrower shall deliver such certifications and shall satisfy such conditions as are set forth in the Indenture with respect to the optional redemption of Bonds.

During any Floating Rate Period, the Borrower shall have the option, exercisable by written notice to the Trustee, the Credit Facility Provider, if any, the Remarketing Agent, if any, and the Tender Agent, if any, given at least forty-five (45) days prior to the proposed prepayment date, to prepay the outstanding principal balance of the Note in whole or in part, or otherwise cause funds to be deposited with the Trustee on or before the date of the corresponding redemption in an amount equal to the principal balance of the Note to be prepaid, plus accrued interest and premium, if any, thereon to the date of prepayment, for the purpose of effecting a redemption of Bonds in accordance with the terms and provisions of the Indenture, and the Borrower shall deliver such

certifications and shall satisfy such conditions as are set forth in the Indenture with respect to the optional redemption of Bonds. The Note shall be deemed prepaid on the date when the corresponding redemption of Bonds is effected. The Borrower may not prepay a portion of the outstanding principal balance of the Note in an amount other than would result in a redemption of Bonds in an Authorized Denomination or in any amount that would result, following redemption of Bonds as a result of such prepayment, in any Bond remaining Outstanding in an amount other than an Authorized Denomination.

During any Fixed Rate Period other than the Initial Fixed Rate Period, the Borrower shall have the option, exercisable by written notice to the Trustee, the Credit Facility Provider, if any, the Remarketing Agent, if any, and the Tender Agent, if any, given at least forty-five (45) days prior to the proposed prepayment date, to prepay the outstanding principal balance of the Note in whole or in part, or otherwise cause funds to be deposited with the Trustee on or before the date of the corresponding redemption in an amount equal to the principal balance of the Note to be prepaid, plus accrued interest and premium, if any, thereon to the date of prepayment, for the purpose of effecting a redemption of Bonds in accordance with the terms and provisions of the Indenture, and the Borrower shall deliver such certifications and shall satisfy such conditions as are set forth in the Indenture with respect to the optional redemption of Bonds. The Note shall be deemed prepaid on the date when the corresponding redemption of Bonds is effected. The Borrower may not prepay a portion of the outstanding principal balance of the Note in an amount other than that which would result in a redemption of Bonds in an Authorized Denomination or in any amount that would result, following redemption of Bonds as a result of such prepayment, in any Bond remaining Outstanding in an amount other than an Authorized Denomination.

On or prior to any date of prepayment of the Note pursuant to this Section 5.05, the Borrower may elect, by providing written notice to the Issuer, the Trustee and the Remarketing Agent, if any, to have the Bonds purchased in lieu of redemption pursuant to Section 3.06 of the Indenture, in which case the Note shall not be prepaid, and, upon receipt by the Trustee of a Favorable Tax Opinion, the Bonds which would otherwise be redeemed shall be purchased by the Borrower or its designee for an amount equal to the redemption price of the Bonds so purchased, and the Bonds and Note shall remain outstanding under the terms and provisions of the Indenture and this Loan Agreement with the same rate of interest in effect as was in effect immediately prior to such purchase in lieu of redemption.

In the event of any prepayment of the Note pursuant to this Section 5.05, the Borrower shall be required to pay, on the optional prepayment date, accrued interest on the outstanding principal balance of the Note so prepaid to the date of the Bond redemption resulting from such prepayment. In the event that the Borrower prepays the principal amount of the Note in part pursuant to the provisions of this Section 5.05, the principal balance of the Note shall be reduced in the amount of such prepayment; provided, however, that no reduction in interest payable on the Note shall occur until on and after the date of redemption of the corresponding amount of Bonds resulting from such prepayment.

Section 5.06. Mandatory Purchase of Bonds/Additional Borrower Covenants. In addition to its obligation to repay the Note and its other obligations under this Loan Agreement, the Borrower agrees and acknowledges that it is obligated to pay or to cause to be paid moneys in an amount sufficient to pay the Purchase Price of Bonds tendered or deemed tendered for a

purchase pursuant to the Indenture. The Borrower shall pay to the Tender Agent, on any date on which Bonds delivered to the Tender Agent pursuant to Section 3.01 of the Indenture are to be purchased, an amount equal to the Purchase Price of Bonds so tendered less the amount of any remarketing proceeds. The Borrower shall pay to the Trustee on a Mandatory Tender Date an amount equal to the Purchase Price of the Outstanding Bonds less the amount of any remarketing proceeds.

Section 5.07. Costs of Issuance. The Borrower shall pay all Costs of Issuance not otherwise paid from funds made available under the Indenture.

Section 5.08. Nonrecourse, Limited Recourse, and Recourse Provisions of Loan.

(a) The Issuer expressly agrees that, except as may be expressly stated otherwise, the personal liability of the Borrower, the partners in the Borrower, and the officers, directors, shareholders and members of the partners of the Borrower shall be strictly and absolutely limited to the Project encumbered by the Mortgage and other security documents, and the leases, rents, profits, and issues thereof and any other collateral securing the Loan, except as provided in paragraph (b) herein below. If an Event of Default under this Loan Agreement or under the Indenture shall occur, nothing herein shall prohibit judicial proceedings to foreclose the Mortgage or other security documents securing the obligations of the Borrower hereunder or a judgment or decree of specific performance of agreements and covenants hereunder (or the exercise of any remedy available under the Regulatory Agreement, excluded from the limitations of this paragraph (a) by the first sentence hereof (other than a remedy for the payment of principal and interest on the Note, if any)), other than Loan payment covenants. In the event any suit is brought on this Loan Agreement, or concerning the Loan or any amount secured by the Mortgage or other Loan Documents as part of judicial proceedings to foreclose the Mortgage lien and/or security interest, or to confirm any foreclosure or sale pursuant to power of sale thereunder, any judgment obtained in such suit shall constitute a lien on and will be and can be enforced only against, the Project encumbered by the Mortgage and other Loan Documents, and the leases, rents, profits, and issues thereof and not against any other asset of the Borrower or the partners in the Borrower, and the terms of such judgment shall expressly so provide.

(b) Notwithstanding paragraph (a) above, or anything to the contrary in this Loan Agreement or any other Loan Documents, the Borrower (but not the limited partners of the Borrower) and its general partners shall be personally liable for, and the Trustee shall have the right to seek a judgment for money damages (including a deficiency judgment) to enforce, payment of:

- (i) expenses and indemnification of the Issuer;
- (ii) intentional misapplication of Project leases, rents, profits, and issues following any payment default (without regard to the expiration of any cure period, if any) to the extent misapplied;
- (iii) liability for intentional physical waste, destruction, or damage to the Project or any part thereof [(provided, however, the failure to pay taxes or the failure to repair or restore the Project after any damage, destruction, or partial condemnation, notwithstanding

the availability of insurance or condemnation proceeds, shall not constitute intentional physical waste)];

(iv) tenant security deposits, to the extent not properly accounted for, or prepaid rent, to the extent misapplied;

(v) liability and indemnification for removal or cleanup of environmental hazards on the Project premises;

(vi) any obligations under the Regulatory Agreement or Tax Certificate;

(vii) misapplication of any Net Proceeds; and

(viii) fraud or intentional misrepresentation,

all of which foregoing obligations shall bear interest at a rate equal to the lesser of (i) the maximum rate of interest permitted under applicable law or (ii) [eighteen percent (18%)] per annum from the due date thereof (or, in the case of liability and indemnification for removal or cleanup of environmental hazards, from the date demand for payment thereof is made) until the date paid in full.

Section 5.09. Payment of Bonds. The parties hereto agree (a) that payments hereunder and under the Note are designed to provide the Issuer and the Trustee with funds adequate in amount to pay the outstanding principal balance due and owing on the Bonds, premium, if any, Purchase Price, redemption price and interest as the same become due and payable, and (b) that, subject to the provisions of Section 5.08 hereof, to the extent that such payments are not sufficient to provide the Issuer and the Trustee with funds sufficient for the purposes aforesaid, the Borrower shall be obligated to pay, and the Borrower does hereby covenant and agree to pay, upon demand therefor, such further sums of money, in immediately available funds, as may from time to time be required for such purposes.

Section 5.10. Conversion of Bond Interest Rate at Request of Borrower.

(a) During any Floating Rate Period, the Borrower may elect to have the Bonds convert from bearing interest at a Floating Rate to bearing interest at a Fixed Rate by providing the following to the Trustee, the Issuer, the Credit Facility Provider, if any, and the Remarketing Agent, if any:

(i) written notice, at least forty-five (45) days prior to the proposed Fixed Rate Conversion Date, written notice specifying such proposed Fixed Rate Conversion Date and stating that the Borrower has requested to have the Bonds convert from bearing interest at a Floating Rate to bearing interest at a Fixed Rate, and specifying the length of the Fixed Rate Period that will follow the current Floating Rate Period, which shall be a period of at least one (1) year ending on a January 1, April 1, July 1 or October 1 or on the date of maturity of the Bonds; and

(ii) on or prior to the Fixed Rate Conversion Date, a Favorable Tax Opinion as to the conversion of the Bonds from bearing interest at a Floating Rate to bearing interest at a Fixed Rate at the request of the Borrower hereunder and under the Indenture.

The parties hereto agree that, subject to satisfaction of all conditions to such conversion set forth in Section 2.02(b) of the Indenture, the Bonds will convert from bearing interest at a Floating Rate to bearing interest at a Fixed Rate.

In the event the Fixed Rate determined and announced by the Remarketing Agent, or by the Borrower in the absence of a Remarketing Agent, on any Fixed Rate Determination Date pursuant to Section 2.02(b)(i) of the Indenture following an election made by the Borrower under this Section 5.10 exceeds by more than [0.25]% per annum the Fixed Rate previously estimated by the Remarketing Agent or the Borrower with respect to the applicable Fixed Rate Conversion Date pursuant to Section 2.02(b) of the Indenture, the Borrower may provide immediate written notice, by no later than the Business Day immediately following such Fixed Rate Determination Date, to the Trustee, the Remarketing Agent, if any, the Tender Agent, if any, and the Credit Facility Provider, if any, of its request that the Bonds will bear interest at the Fixed Rate as so determined, despite any contrary provisions of Section 2.02(b)(i)(C) of the Indenture. The Borrower acknowledges that failure to give such immediate notice will result in cancellation of the Fixed Rate Conversion Date and will cause the Bonds to continue to bear interest at the Floating Rate.

(b) Before the end of any Fixed Rate Period (unless such Fixed Rate Period ends on the date of maturity of the Bonds), the Borrower may elect to have the Bonds bear interest at a new Fixed Rate by providing the following to the Issuer, the Trustee, the Credit Facility Provider, if any, and the Remarketing Agent, if any:

(i) written notice, at least [forty-five (45) days] prior to the end of the Fixed Rate Period, stating that the Borrower has requested to have the Bonds bear interest at a new Fixed Rate as of the end of the Fixed Rate Period then in effect, and specifying the length of the new Fixed Rate Period which shall be a period of at least one (1) year ending on a January 1, April 1, July 1 or October 1 or on the date of maturity of the Bonds; and

(ii) on or prior to the end of the Fixed Rate Period, a Favorable Tax Opinion as to the establishment of the interest rate on the Bonds in accordance with the request of the Borrower made pursuant to subsection (i) immediately above.

The parties hereto agree that, subject to satisfaction of all conditions to the setting of the interest rate on the Bonds in accordance with the notice described in (b)(i) above, as set forth in Section 2.02(b)(i) of the Indenture, the interest rate on the Bonds will be set in accordance with such notice and the procedures set forth in such Section 2.02(b)(i) of the Indenture.

In the event the Fixed Rate determined and announced by the Remarketing Agent, if any, or the Borrower on any Fixed Rate Determination Date pursuant to Section 2.02(b)(i) of the Indenture following an election made by the Borrower under this Section 5.10 exceeds by more than [0.25]% per annum the Fixed Rate previously estimated by the Remarketing Agent or the Borrower with respect to the applicable Fixed Rate Conversion Date pursuant to Section 2.02(b)

of the Indenture, the Borrower may provide immediate written notice, by no later than the Business Day immediately following such Fixed Rate Determination Date, to the Trustee, the Remarketing Agent, if any, the Tender Agent, if any, and the Credit Facility Provider, if any, of its request that the Bonds will bear interest at the Fixed Rate as so determined, despite any contrary provisions of Section 2.02(b)(i)(C) of the Indenture. The Borrower acknowledges that failure to give such immediate notice will result in cancellation of the Fixed Rate Conversion Date and will cause the Bonds to continue to bear interest at the Fixed Rate in effect immediately prior to such Fixed Rate Conversion Date.

(c) Before the end of any Fixed Rate Period (unless such Fixed Rate Period ends on the date of maturity of the Bonds) the Borrower may elect to have the Bonds convert to bearing interest at a Floating Rate by providing the following to the Trustee, the Credit Facility Provider, if any, and the Remarketing Agent, if any:

(i) written notice, at least forty-five (45) days prior to the end of the Fixed Rate Period, stating that the Borrower has requested, as of the end of the Fixed Rate Period then in effect, to have the Bonds convert to bearing interest at a Floating Rate; and

(ii) on or prior to the end of the Fixed Rate Period, a Favorable Tax Opinion as to the conversion of the Bonds from bearing interest at a Fixed Rate to bearing interest at a Floating Rate at the request of the Borrower hereunder and under the Indenture.

The parties hereto agree that, subject to satisfaction of all conditions to the setting of the interest rate on the Bonds in accordance with the notice described in (c)(i) above, as set forth in Section 2.02(b)(ii) of the Indenture, the interest rate on the Bonds will be set in accordance with such notice and the procedures set forth in such Section 2.02(b)(ii) of the Indenture.

(d) The Borrower hereby covenants that if a Conversion Date has not already occurred, the Borrower shall cause the Bonds to convert to a different Fixed Rate pursuant to subsection (b) of this Section 5.10 and Section 2.02(b)(1) of the Indenture with said Conversion Date occurring on [April 1, 2040].

ARTICLE VI

FURTHER AGREEMENTS

Section 6.01. Recorded Regulatory Agreement. The Borrower agrees that before accepting the Loan, it will execute the Regulatory Agreement. Concurrently with execution and delivery of this Loan Agreement and prior to any disbursement of any Bond proceeds, the Borrower will cause the executed Regulatory Agreement to be recorded in the official public records of the County prior to the Mortgage for the Project.

The Borrower hereby covenants that it will comply with the terms of the Regulatory Agreement. The Regulatory Agreement shall be amended, whether before or after execution by the Borrower, if necessary in the opinion of Bond Counsel, to comply with the requirements of Section 142(d) of the Code.

Section 6.02. Terms of Loan. The Loan terms shall be as provided in the Loan Documents, this Loan Agreement and the Regulatory Agreement.

If the Borrower's obligations under this Loan Agreement are assigned with the consent of the Issuer and the acknowledgement of the Trustee, the Borrower's assignee shall be required to deliver an opinion of counsel, in form and substance acceptable to the Issuer and the Trustee, to the effect that this Loan Agreement and the Regulatory Agreement previously filed in the official public records of the County are valid, binding and enforceable against such new Borrower in accordance with their respective terms.

Section 6.03. [Division of Property.] Borrower has disclosed to Issuer and Initial Bondholder that, following the Closing Date, Borrower expects to seek a map waiver pursuant to the Subdivision Map Act (or alternatively a parcel map or tentative/final map) and condominium plan to establish the Market Rate Parcel and the Affordable Parcel as separate legal parcels or condominium units to be owned by the Market Rate Owner and the Affordable Owner, respectively. Documents required to complete this process are anticipated to include: (a) map waiver (or alternatively a parcel map or tentative/final map); (b) condominium plan; (c) a Master Declaration of Covenants, Conditions, and Restrictions; (d) optionally a Residential Declaration of Covenants, Conditions and Restrictions; (e) articles and bylaws for a master association; (f) grant deeds to convey the property interests; (g) amendments to the Density Bonus Agreement and associated deed of trust and subordination agreement; and (h) a partial reconveyance to release the condominium unit consisting of the makerspace/STEAM facility and separate parking lot for San Diego Unified School District from the Loan and Deed of Trust. [Such proceedings shall be subject to the provisions set forth in Exhibit E hereto.]

Section 6.04. Consent to Assignment. The Issuer has made an assignment to the Trustee under the Indenture for the benefit of the Owners of the Bonds of all rights and interest of the Issuer in and to the Note, the Loan, and this Loan Agreement including any consent rights (except for its Reserved Rights), and the Borrower hereby consents to all such assignments and the filing of such financing statements or other documents as may be necessary or desirable to perfect the lien of the Indenture.

Section 6.05. Recording and Filing. The Borrower shall cause or permit to be filed all necessary financing statements related to the Indenture, this Loan Agreement and the Mortgage, at the cost of the Borrower, as may be necessary to be kept and filed in such manner and in such places as may be required by law in order to preserve and protect fully the security of the Owners of the Bonds and the rights of the Trustee under the Indenture.

Section 6.06. Compliance With Laws. The Borrower shall, throughout the term of this Loan Agreement and at no expense to the Issuer or the Trustee or the Credit Facility Provider, if any, promptly comply or cause compliance with all laws, ordinances, rules, regulations and requirements of duly constituted public authorities which may be applicable to the Project or to the construction/rehabilitation, repair and alteration thereof, or to the use or manner of use of the Project, including, but not limited to, the Americans With Disabilities Act and all federal, State, and local environmental, labor, health, and safety laws, rules and regulations. Subject to the provisions of the Loan Documents, the Borrower may, at its expense and in its own name, in good faith contest the need to comply with or the compliance with any such legal requirement and, in

the event of any such contest, upon notice to the Issuer, the Trustee and the Credit Facility Provider, if any, may permit the legal requirement so contested to remain in noncompliance during the pendency of such contest and any appeal therefrom, unless the Issuer, the Trustee or the Credit Facility Provider, if any, shall notify the Borrower that, in the opinion of counsel to the Issuer, the Trustee or the Credit Facility Provider, if any, by noncompliance with any such legal requirement the Project or any part thereof may be subject to being closed, lost or forfeited, in which event such legal requirement shall be complied with; provided that notwithstanding such compliance, the Borrower shall retain the right to contest the same.

Section 6.07. Maintenance of Legal Existence. During the term of this Loan Agreement, the Borrower shall maintain its existence as set forth in Section 2.02 and shall not terminate, dissolve, or dispose of all or substantially all of its assets; provided, however, that the Borrower may consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, or transfer all or substantially all of its assets to another entity, but only on the condition that the assignee entity or the entity resulting from or surviving such merger or consolidation (if other than the Borrower), or the entity to which such transfer shall be made, shall be duly organized and existing, in good standing and qualified to do business under the laws of the State, shall remain so continuously during the term hereof, and shall expressly assume in writing and agree to perform all of the Borrower's obligations hereunder and under all other documents executed by the Borrower in connection with the issuance of the Bonds; provided, further, that (a) the Borrower delivers an opinion of Bond Counsel substantially to the effect that such consolidation or merger will not cause interest on the Bonds to be included in gross income for federal income tax purposes and (b) any transfer of the Project shall be effected in accordance with the Regulatory Agreement and Loan Documents. Nothing in this Section 6.07 shall be deemed to relieve the Borrower of its obligations to comply with the provisions of the Loan Documents. In any event, the foregoing shall not prohibit the (i) sale, transfer, or disposition of the Project if the Administrative General Partner or an Affiliate of such Administrative General Partner retains the direct or indirect control of any such purchaser or transferee or other entity which owns the Project; and (ii) sale or transfer of any interest in the Borrower from one partner to another or to an Affiliate of a partner. "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.

Section 6.08. Access to Project and Records; Reports.

(a) Subject to reasonable prior notice, the Issuer and the Trustee, and the respective duly authorized agents of each, shall have the right at all reasonable times and during normal business hours to enter the Project and any other location containing the records relating to the Project, the Loan, the Indenture, the Regulatory Agreement, this Loan Agreement and the Borrower and to inspect and audit the same, and shall have the right at all such reasonable times to make copies of any records that the Credit Facility Provider, if any, the Trustee, the Issuer, or their respective duly authorized agents, may reasonably require. The Borrower shall make available to the Issuer, the Trustee, and the Credit Facility Provider, if any, such information concerning the Project, the Loan, the Indenture, the Regulatory Agreement, and this Loan Agreement as any of them may reasonably request.

(b) The Borrower shall file such certificates and other reports with the Issuer, the Trustee, and the Credit Facility Provider, if any, as are required by the Regulatory Agreement.

(c) The Borrower agrees to provide to the Issuer all information necessary to enable the Issuer to complete and file all forms and reports required by the laws of the State and the Code in connection with the Project and the Bonds.

Section 6.09. Operation of Project. The Borrower will not sell, transfer, or otherwise dispose of the Project except as provided in the Regulatory Agreement, the Mortgage, and Section 6.07 of this Loan Agreement.

Section 6.10. Tax Covenants. The Borrower covenants that it will not take, or permit to be taken on its behalf, any action which would cause the interest payable on the Bonds to be included in gross income, for federal income tax purposes, and will take such action as may be necessary in the opinion of Bond Counsel to continue such exclusion from gross income, including, without limitation the following:

(a) the preparation and filing of all statements required to be filed by it in order to maintain the exclusion (including, but not limited to, the filing of all reports and certifications required by the Regulatory Agreement);

(b) the timely payment to the United States of America of any rebate amount required to be paid by the Issuer or the Borrower pursuant to section 148(f) of the Code and the U.S. Treasury regulations under Section 148; and

(c) the use of not less than 97% (95% with an opinion of Bond Counsel) of the net proceeds of the Bonds (within the meaning of section 150(a)(3) of the Code) for qualified costs of the Project.

In furtherance of the covenants in this Section, the Issuer and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Loan Agreement and made a part hereof.

Section 6.11. Further Assurances and Corrective Instruments. The parties hereto agree that they will, from time to time, execute, acknowledge, and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and to the other documents contemplated hereby as may reasonably be required to carry out the intention of or to facilitate the performance of this Loan Agreement, the other Loan Documents or the Bond Documents or to perfect or give further assurances of any of the rights granted or provided for herein, in the other Loan Documents or in the Bond Documents.

Section 6.12. Compliance With Other Documents. The Borrower shall make all payments and shall observe and perform all covenants, conditions, and agreements required to be paid, observed, or performed by the Borrower under the Note, the Mortgage, the Supplemental Agreement, the Ground Lease, the other Loan Documents, the Regulatory Agreement and all other documents, instruments or agreements which may at any time, or from time to time, be entered into by the Borrower with respect to the Project or the operation, occupancy, or use thereof. The Indenture has been submitted to the Borrower for examination, and the Borrower, by execution of

this Loan Agreement, acknowledges and agrees that it has participated in the drafting of the Indenture, that it has approved and agreed to each of the provisions of the Indenture and that it is bound by, shall adhere to the provisions of, and shall have the rights set forth by the terms and conditions of, the Indenture and covenants and agrees to perform all obligations required of the Borrower pursuant to the terms of the Indenture.

Section 6.13. Notice of Certain Events. The Borrower hereby covenants to advise the Issuer, the Trustee and the Credit Facility Provider, if any, promptly in writing of the occurrence of any default by the Borrower in the performance or observance of any covenant, agreement, representation, warranty, or obligation of the Borrower set forth in this Loan Agreement, in any of the other Loan Documents, in any of the Bond Documents or any other documents contemplated hereby or thereby, or of any Event of Default hereunder known to it or of which it has received notice, or any event which, with the passage of time or service of notice, or both, would constitute an Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto. Such notice shall be given promptly, and in no event less than [ten (10) Business Days] after the Borrower receives notice or has knowledge of the occurrence of any such event.

Section 6.14. Continuing Disclosure.

(a) For purposes of this Section 6.14, the following terms have the following meanings, in addition to capitalized terms defined elsewhere in this Loan Agreement.

“MSRB” means the Municipal Securities Rulemaking Board, or any successor.

“Rule 15c2-12” shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

(b) During any period that the Bonds are subject to Rule 15c2-12, the Borrower shall, within one hundred twenty (120) days after the close of each fiscal year, furnish to the MSRB (i) a copy of the financial statements of the Borrower prepared in accordance with generally accepted accounting principles and audited by its independent auditors (or, if not available as of such date, the unaudited financial statements of the Borrower and, as soon thereafter as available, such audited financial statements of the Borrower) and (ii) the operating data of the Borrower agreed to by the Borrower and any underwriter or remarketing agent for the Bonds at the time the Bonds become subject to the continuing disclosure requirements of Rule 15c2-12. The Borrower will also provide timely notice of any failure by the Borrower to provide annual financial information.

(c) During any period that the Bonds are subject to Rule 15c2-12, the Borrower, to the extent the Borrower has knowledge of the same, shall disseminate to the Issuer and the MSRB, in a timely manner (but not in excess of ten (10) days after the occurrence of the event), notice of any of the following events with respect to the Bonds, required to be disclosed pursuant to the provisions of Rule 15c2-12.

(d) The Borrower’s obligations under this Section 6.14 shall terminate upon the defeasance, prior redemption, or payment in full of all of the Bonds.

(e) The Borrower shall provide the Issuer and the Trustee with a copy of any annual financial information under paragraph (b) or any event notice under paragraph (c) simultaneously with the transmission of the same to the MSRB, as applicable, and the Trustee may provide a copy of the same to any Owner upon request of such Owner.

(f) The provisions of this Section 6.14 may be amended, upon written consent of the Issuer, by a written instrument executed by the Borrower if the Borrower receives an opinion of counsel substantially to the effect that the amendment is in compliance with Rule 15c2-12 and all current amendments thereto and interpretations thereof that are applicable to the undertaking made by the Borrower.

(g) If an amendment is made to this Section 6.14 pursuant to paragraph (g), the Borrower shall describe in the next annual financial report submitted to the MSRB pursuant to paragraph (b) the substance of the amendment, the reasons for such amendment and the impact of such amendment on the type of operating data or financial information required to be provided under this Section 6.14.

(h) Nothing in this Section 6.14 shall be deemed to prevent the Borrower from disseminating any other information, or including any other information in any report or notice made hereunder, in addition to that which is required by this Section 6.14. If the Borrower chooses to include any information in any report or notice made hereunder in addition to that which is specifically required by this Section 6.14, the Borrower shall have no obligation hereunder to update such information or include it in any future report or notice.

Section 6.15. Change in Management. In the event of a change in management of the Project the Borrower shall notify the Issuer within [ten (10) days] of such change, which notice shall provide complete contact information for the new property manager.

Section 6.16. Subordinate Liens Permitted. Anything in this Loan Agreement or the Loan Documents to the contrary notwithstanding, neither this Loan Agreement nor any of the Loan Documents shall be construed as prohibiting, and there shall be permitted, any lien, security interest or encumbrance on the Project, but only if such lien, security interest or encumbrance is junior, inferior, and subordinate to the liens, security interests, and encumbrances on the Project created under and by the Loan Documents and is consented to by the Initial Bondholder or, in the alternative, Holders of more than 50% of the principal amount of Outstanding Bonds.

Section 6.17. Payment for Extraordinary Services.

(a) The Borrower hereby covenants and agrees to pay all reasonable fees of Bond Counsel, counsel to the Issuer and the Trustee, and other professionals engaged by the Issuer or Trustee in connection with rendering advice and opinions after the issuance of the Bonds which are contemplated by the Indenture, the Regulatory Agreement and this Agreement.

(b) If, upon or after the occurrence of any Event of Default and during the continuance of such Event of Default, the Issuer, the Trustee and/or the Initial Bondholder 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, or in the Regulatory Agreement or any other Borrower Document, the Borrower will on demand therefor reimburse the

Issuer, the Trustee and/or the Initial Bondholder for, or pay directly, reasonable fees of such attorneys and such other reasonable expenses so incurred.

ARTICLE VII

INDEMNIFICATION

Section 7.01. Indemnification of the Issuer.

(a) To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Issuer and 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, 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) 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 Bond Documents, or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including, as applicable, the issuance, issuance, sale or resale of the Bonds;

(ii) any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with 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 or construction of, the Project or any part thereof;

(iii) any lien (other than a Permitted Encumbrance) or charge upon payments by the Borrower to the Issuer hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Issuer in respect of any portion of the Project;

(iv) any violation of any environmental regulations with respect to, or the release of any hazardous substances from, the Project or any part thereof during the period in which the Borrower is in possession or control of the Project;

(v) the defeasance and/or redemption, in whole or in part, of the Bonds;

(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 or continuing disclosure document for the Bonds or any of the documents relating to the Bonds, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for the Bonds 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;

except in the case of the foregoing indemnification of the Issuer or any related Indemnified Party, they shall not be indemnified by the Borrower with respect to liabilities arising from their own gross negligence. 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; provided however the Issuer has the absolute right to employ separate counsel at the expense of the Borrower. The Borrower shall pay the reasonable fees and expenses of such separate counsel.

In addition thereto, the Borrower will pay upon demand all of the fees and expenses paid or incurred by the Issuer in enforcing the provisions hereof, as more fully set forth in this Loan Agreement.

The rights of any persons to indemnity hereunder and rights to payment of fees and reimbursement of expenses pursuant this Loan Agreement shall survive the final payment or defeasance of the Bonds and in the case of the Trustee any resignation or removal. The provisions of this Section shall survive the termination of this Loan Agreement.

Nothing contained in this Section 7.01 shall in any way be construed to limit the indemnification rights of the Issuer contained in Section 9 of the Regulatory Agreement. The Regulatory Agreement shall control in any conflicts between this Section 7.01 and Section 9 of the Regulatory Agreement.

Section 7.02. Indemnification of Trustee. Subject to the provisions of the succeeding sentences of this Section, but without regard to Section 5.08 of this Loan Agreement, the Borrower agrees to indemnify and hold the Trustee (in its capacity as such, in its individual capacity, and in any other capacity it assumes under or pursuant to any Bond Document or Loan Document), its employees, officers, representatives and agents harmless from and against any and all losses, costs, damages, expenses and liabilities of whatsoever nature or kind (including but not limited to, any documentary stamp taxes or intangible taxes due and payable in connection with the Loan, reasonable attorneys' fees (including any and all of those incurred prior to litigation and at all tribunal levels), litigation and court costs, amounts paid in settlement by or with the approval of the Borrower and amounts paid to discharge judgments) paid to third parties directly or indirectly resulting from, arising out of, or related to (i) the issuance, offering, remarketing, sale or delivery or resale on the secondary market of the Bonds; (ii) the enforcement of provisions of this Loan Agreement, the Note, the Indenture, the Mortgage, the Regulatory Agreement or any other Bond Document or Loan Document; (iii) any written statements or representations made or given by the Borrower or by any Authorized Borrower Representative to any indemnified persons; (iv) the design, construction, installation, operation, use, occupancy, maintenance or ownership of the Project; or (v) the administration of the trusts created by the Indenture; provided, however, the Trustee shall not be indemnified hereunder for any claims or damages arising from its own

negligent acts or omissions or from any willful misconduct by the Trustee in carrying out its duties set forth in the Indenture; and provided, further, absent fraud by the Borrower or by an Authorized Borrower Representative, nothing contained herein shall be construed to require the Borrower to indemnify the Trustee for the principal and interest due under the Note and this Loan Agreement. Notwithstanding any provisions of any Loan Document to the contrary, the Trustee's rights under this Section 7.02 shall survive the Trustee's resignation or removal and the discharge of the Indenture.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default. Each of the following shall be an 'Event of Default' under this Loan Agreement:

(a) the Borrower shall fail to pay any principal, premium, if any, Purchase Price or interest on the Loan when the same shall become due or payable in accordance with the terms thereof or any other amounts payable by the Borrower hereunder and, in the case of amounts other than principal, premium, or Purchase Price payable by the Borrower hereunder, the continuation thereof for a period of five (5) Business Days after such payment is due;

(b) the Loan or this Loan Agreement does not continue to be in full force and effect for any reason prior to expiration of its terms other than payment in full thereof upon the terms and conditions provided therein and herein and such failure shall continue for the period and after the notice specified in Section 8.02 hereof;

(c) the Borrower shall fail to perform or observe any of its covenants or agreements contained in this Loan Agreement (other than as specified in paragraphs (a) or (b) above), and such failure shall continue for the period and after the notice specified in Section 8.02 hereof;

(d) the Borrower shall fail to perform or observe any of its covenants or agreements contained in the Regulatory Agreement or other Loan Documents which is not cured within the periods, if any, provided therein and such failure shall continue for the period and after the notice specified in Section 8.02 hereof;

(e) an Act of Bankruptcy shall occur;

(f) failure to make any payment of the Purchase Price or any redemption price required by the Indenture according to the terms of the Indenture; or

(g) an Event of Default under the Supplemental Agreement shall occur.

Section 8.02. Notice of Default; Opportunity to Cure. No default under subsections (b), (c), or (d) of Section 8.01 hereof shall constitute an Event of Default until:

(a) the Trustee or the Issuer, by registered or certified mail, shall give notice to the Borrower of such default specifying the same and stating that such notice is a "Notice of Default;" and

(b) the Borrower shall have had sixty (60) days after receipt of such notice to correct the default and shall not have corrected it, unless the Borrower has promptly begun to cure such default, has proceeded with reasonable diligence to effect such cure, but the default cannot be cured within such sixty (60) day period.

Section 8.03. Remedies. Whenever any Event of Default under Section 8.01 hereof shall have happened and be continuing, any or all of the following remedial steps shall be available:

(a) Upon the occurrence of an Event of Default as set forth in subsections (a), (b), or (e) of Section 8.01 hereof, the Trustee shall (but not without the consent of the Initial Bondholder during the Current Bondholder Period, except for an Event of Default as set forth in subsection (e)), or simultaneously with any acceleration of the Bonds pursuant to Section 9.02 of the Indenture, the Trustee shall and upon the occurrence of an Event of Default set forth in subsections (c), (d), (f), or (g) of Section 8.01 hereof the Trustee may (and shall at the direction of the Bondholder Representative or 100% of the Owners) declare the obligations of the Borrower under this Loan Agreement and all payments required to be made by the Borrower hereunder to be immediately due and payable, whereupon the same shall become immediately due and payable.

(b) The Trustee shall, for and on behalf of the Issuer (and/or the Initial Bondholder during the Current Bondholder Period), at the written request or consent of the Issuer (and only with the written request or consent of the Initial Bondholder during the Current Bondholder Period) or the Initial Bondholder during the Current Bondholder Period take whatever action at law or in equity may appear necessary or desirable to collect the payments required to be made by the Borrower under Article V hereof then due and thereafter to become due, or to enforce performance and observance of any obligation or agreement of the Borrower under this Loan Agreement or the Loan.

Any amounts collected as payments made pursuant to Article V hereof or applicable to such payments and any other amounts which would be applicable to payment of principal of, premium, if any, and interest on the Bonds collected pursuant to action taken under this Section, less costs of collection incurred by the Trustee or the Issuer, shall be paid into the Bond Fund under the Indenture and applied in accordance with the provisions of the Indenture.

The annulment of a declaration that all the Bonds Outstanding under the Indenture are immediately due and payable shall also constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this Section and a waiver and rescission of the consequences of such declaration and of the Event of Default with respect to which such declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

Notwithstanding the foregoing, the Trustee is under no obligation to enforce the obligations of the Borrower under the Loan unless the Trustee has been adequately indemnified as to its expenses, costs (including attorneys' fees), and liability.

From and after the date the Borrower's payment obligations hereunder have become immediately due and payable as the result of an Event of Default, interest on the unpaid principal amount of the Loan shall accrue at the Default Rate.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Entire Agreement; Supplemental Agreement. This Loan Agreement and the other Loan Documents and the Bond Documents constitute all of the agreements and understandings between the Borrower and the Issuer with respect to the Project and supersede all prior agreements and understandings, both written and oral, between the Borrower and the Issuer with respect to the subject matters thereof.

Notwithstanding the foregoing, the Issuer and the Borrower agree that provisions of the Supplemental Agreement creating further obligations, duties, and exceptions to the nonrecourse liability of the Borrower shall be in addition to the terms and provisions hereof; provided, however, the provisions of the Supplemental Agreement shall control over any similar provisions contained in the Bond Documents. In addition, prior to the termination of the Supplemental Agreement, to the extent of any inconsistency between the Supplemental Agreement and the other Bond Documents such that the Borrower cannot comply with both the provisions of the Supplemental Agreement and the other Bond Documents, the Supplemental Agreement shall control.

Section 9.02. References to Credit Facility Provider. During the Initial Fixed Rate Period and at any other time when no Credit Facility is in effect, references to the Credit Facility Provider shall be ineffective, except with respect to amounts payable to a Credit Facility Provider which have not been paid.

Section 9.03. Notices. Any notices or other communication required or permitted hereunder shall be sufficiently given if delivered, by registered or certified mail, postage prepaid or overnight delivery service or electronic means, to the Borrower, the Issuer, the Trustee, and the Owners at their respective Notice Address set forth in Section 14.08 of the Indenture or at such other address or telephone numbers as shall be furnished in writing by any party to the other, and shall be deemed to have been given as of the date of the signed receipt.

Section 9.04. Severability. If any provision of this Loan Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 9.05. 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 9.06. Amendments, Changes and Modifications. Except as otherwise provided in this Loan Agreement or in the Indenture, subsequent to the issuance of the Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Indenture), this Loan Agreement may not be effectively amended, changed, modified, altered, or terminated without the written consent of the Issuer (which right is assigned to the Trustee pursuant to Section 6.04 hereof) and the Borrower; provided, however, that this Loan Agreement may be amended without the consent of the Issuer or the Borrower to the full

extent necessary in the opinion of Bond Counsel to comply with the requirements of the Code in order to maintain the tax exempt status of interest on the Bonds.

Section 9.07. Governing Law. This Loan Agreement shall be governed by the laws of the State without regard to choice of law principles.

Section 9.08. Term of Loan Agreement. This Loan Agreement shall be in full force and effect from the date hereof and shall continue in effect (a) so long as any Bonds are Outstanding; (b) for a period of ninety one (91) days after the Borrower, any general partner of the Borrower, any member of a general partner of the Borrower or the Issuer is obligated to make any payments under this Loan Agreement during which no bankruptcy filing by or against the Borrower, any general partner of the Borrower, and any member of a general partner of the Borrower or the Issuer occurs; and/or (c) so long as the Trustee holds any moneys under the Indenture other than upon or after a defeasance pursuant to Article VIII of the Indenture. All representations and certifications by the Borrower set forth in Article II hereof and all provisions relating to the payment of any amounts due hereunder to the Trustee and the Issuer (including amounts due under Article VII) shall survive any termination, payment, or satisfaction of the indebtedness and the termination of this Loan Agreement, and any foreclosure or any other transfer of any kind of the Project and shall continue and survive ad infinitum.

Section 9.09. Further Assurances. The Borrower agrees that it will, from time to time and at any time hereafter, upon demand of the Issuer make, sell, execute, acknowledge and deliver all and every such further or other acts, matters, assignments, conveyances, and assurances the better assuring, conveying and confirming unto the Issuer and its successors all and singular the collateral pledged or intended so to be or which it agreed to be hereafter pledged, assigned, and transferred to the Issuer as by the Issuer shall be reasonably desired or required for the better carrying out of the provisions, objects and purposes of this Loan Agreement and securing the payment of the Borrower's obligations hereunder.

Section 9.10. Non-Liability of Issuer. The Issuer shall not be obligated to pay the principal (or redemption price) of or interest on the Bonds, except from Revenues and other money and assets received by the Trustee on behalf of the Issuer pursuant to this 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 Issuer or any member is pledged to the payment of the principal (or redemption price) or interest on the Bonds. The Issuer 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 Loan Agreement, the Bonds or the Indenture, except only to the extent amounts are received for the payment thereof from the Borrower under this Loan Agreement.

The Borrower hereby acknowledges that the Issuer's sole source of money to repay the Bonds will be provided by the payments made by the Borrower pursuant to this Loan Agreement, together with investment income on certain funds and accounts held by the Trustee under the Indenture, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or redemption price) and interest on the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Trustee, 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 redemption price) or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Borrower, the Issuer or any third party, subject to any right of reimbursement from the Trustee, the Issuer or any such third party, as the case may be, therefor.

No recourse under or upon any obligation, covenant, or agreement or in any Bonds, or under any judgment obtained against the Issuer, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any incorporator, member, director, commissioner, employee, agent or officer, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Owner of any Bonds, of any sum that may be due and unpaid by the Issuer upon any of the Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director, commissioner, employee, agent or officer, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Owner of any Bonds, of any sum that may remain due and unpaid upon the Bonds or any of them, is hereby expressly waived and released as a condition of and consideration for the execution of this Loan Agreement and the issuance of the Bonds.

Section 9.11. Waiver of Personal Liability. No member, officer, agent or employee of the Issuer or any director, officer, agent or employee of the Borrower shall be individually or personally liable for the payment of any principal (or redemption price) or interest on the Bonds or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this 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 Loan Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Loan Agreement, all as of the day and year first above mentioned.

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

By _____
Richard C. Gentry,
Executive Director

[Signature page to Loan Agreement – Scripps Mesa Apartments]

SCRIPPS MRU OWNER, L.P.,
a California limited partnership
[SIGNATURE BLOCK]

SCRIPPS AU OWNER, L.P.,
a California limited partnership
[SIGNATURE BLOCK]

[Signature page to Loan Agreement – Scripps Mesa Apartments]

EXHIBIT A
DESCRIPTION OF LAND

[To Come]

EXHIBIT B

FORM OF PROMISSORY NOTE

Principal Amount: \$[PAR AMOUNT]

Date: [CLOSING DATE], 2020

FOR VALUE RECEIVED, Scripps MRU Owner, L.P., a California limited partnership and Scripps AU Owner, L.P., a California limited partnership (together, the “Borrower”), promises to pay in lawful money of the United States of America to the order of the Housing Authority of the City of San Diego (together with any of its successors or assigns, the “Issuer”), the principal sum of \$[PAR AMOUNT] with interest thereon from [CLOSING DATE], 2020, at the rates described, and on the outstanding principal balance hereof from time to time, as provided in the hereinafter defined Indenture. Terms not otherwise defined in this Note shall have the respective meanings as set forth in the Indenture or in the hereinafter described Loan Agreement.

Amounts due under this Note shall be payable in installments at the times and in the amounts determined as provided in the Loan Agreement, dated as of April 1, 2020, between the Borrower and the Issuer, the terms of which are incorporated herein by reference (the “Loan Agreement”), with the final payment of all outstanding principal of and interest on this Note to be paid on the Business Day next preceding [MATURITY DATE], unless the Bonds are required to be redeemed or this Note is earlier paid by the Borrower in accordance with the terms hereof, the Loan Agreement or the Indenture; however, the obligation of the Borrower to make any payment hereunder shall be deemed satisfied and discharged to the extent of any amounts held in the funds and accounts under the Indenture, including earnings thereon, to the extent such amounts are used to make payments of principal and interest on the Bonds. Both principal and interest under this Note shall be payable at the Office of the Trustee or at such other address as designated by the Trustee. The Borrower may make prepayments upon this Note as provided in the Loan Agreement, with such prepayments being first applied to interest and next to principal.

This Note is made pursuant to the Loan Agreement wherein, among other things, the Issuer has agreed to lend to the Borrower and the Borrower has agreed to take a loan in the principal amount above, being the proceeds from the sale of the Issuer’s Multifamily Housing Revenue Bonds (Scripps Mesa Apartments) 2020 Series E, in the original principal amount of \$[PAR AMOUNT] (the “Bonds”), said proceeds to be disbursed in accordance with the provisions of that certain Trust Indenture, dated as of April 1, 2020, between the Issuer and the Trustee (the “Indenture”), pursuant to which the Bonds are being issued.

Upon the occurrence of certain Events of Default (as defined below), all unpaid principal of and interest on this Note may be declared to be forthwith due and payable in the manner and with the effect provided in the Loan Agreement, the Indenture and/or the Mortgage. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at a later time or in the event of any subsequent occurrence of an Event of Default. If this Note shall be placed in the hands of an attorney or attorneys for collection, the Borrower agrees to pay, in addition to the amount due hereon, the reasonable costs and expenses of collection, including reasonable legal fees and expenses.

The indebtedness evidenced by this Note is secured by, among other things, a Ground Leasehold Deed of Trust, Security Agreement and Fixture Filing, dated as of April 1, 2020 (the "Mortgage"), from the Borrower to the Issuer (and which the Issuer has assigned in favor of the Trustee).

Interest payable on this Note shall not exceed the amount that may be lawfully charged. Interest on this Note shall be calculated from time to time on the same basis as interest on the Bonds.

The entire outstanding principal balance and accrued interest owing hereon may at once become due and payable without notice or demand upon the occurrence at any time of certain events of default (collectively, the "Events of Default") set forth in the Loan Agreement, Indenture or the Mortgage, after the passage of any applicable grace or cure period provided therein.

The Trustee's failure to exercise the option to accelerate the maturity of this Note upon the happening of any one or more of the Events of Default shall not constitute a waiver of the right of the Trustee to exercise the same or any other option at that time with respect to such Event of Default or any other default hereunder or under any instrument securing, governing, guaranteeing or evidencing the loan evidenced by this Note (the "Loan"). The remedies provided in this Note, in the Mortgage, the Loan Agreement, the Indenture, and in any other instrument securing, governing, guaranteeing or evidencing the Loan (collectively, the "Security Documents"), shall be cumulative and concurrent and may be pursued separately, successively, or together as often as occasion therefor shall arise, at the sole discretion of the Trustee. The acceptance by the holder hereof of any payment under this Note which is less than the payment in full of all amounts due and payable at the time of such payment shall not (i) constitute a waiver of or impair, reduce, release, or extinguish any remedy or right to exercise the foregoing option or any other option granted to the holder or any other party in this Note, or under any other instrument securing, governing, guaranteeing or evidencing the Loan, at that time or at any subsequent time, or nullify any prior exercise of such option, or (ii) impair, reduce, release, extinguish or adversely affect the obligations of any party liable under such documents as originally provided therein.

The Borrower waives demand, presentment, notice of dishonor, notice of intention to accelerate the indebtedness evidenced hereby, notice of the acceleration of the maturity hereof, diligence in collecting, grace, notice (except as set forth in the Loan Agreement or Mortgage), and protest, and agrees to one or more extensions for any period or periods of time and to partial payments, before or after maturity, without prejudice to the holder of this Note.

If this Note is not paid when due, whether at maturity or by acceleration, or if, after the occurrence of an Event of Default, this Note is placed with an attorney for collection, whether before or after maturity, the Borrower agrees to pay all reasonable costs of collection, including, but not limited to, reasonable legal fees and expenses incurred by or on behalf of the holder hereof.

All payments on the indebtedness evidenced by this Note shall be applied first to pay interest hereon and next to pay any and all costs incurred by or on behalf of the holder hereof and finally to pay principal.

The proceeds of this Note are to be used for business, commercial, investment or other similar purposes, and no portion thereof will be applied for personal, family or household use.

All agreements between the Borrower and the holder hereof, whether now existing or hereafter arising, and whether written or oral, are hereby limited so that in no event shall the interest payable hereunder (whether contracted for, charged, or received by the holder hereof) exceed the maximum amount permissible under applicable law. If, from any circumstances whatsoever, interest would otherwise be payable to the holder hereof in excess of the maximum lawful amount, the interest payable to the holder hereof shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance the holder hereof shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any such excessive interest shall be applied to the reduction of the principal hereof and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal hereof such excess shall be refunded to the Borrower. All interest paid or agreed to be paid to the holder hereof shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal (including the period of any renewal or extension hereof) so that the interest hereon for such full period shall not exceed the maximum amount permitted by applicable law. This paragraph shall control all agreements between the Borrower and the holder hereof.

The personal liability of the Borrower under this Note is subject to the limitations set forth in Section 5.08 of the Loan Agreement.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS IN THE STATE OF CALIFORNIA.

[Remainder of Page Left Blank Intentionally]

[Signature Page of Borrower for Promissory Note]

SCRIPPS MRU OWNER, L.P.,
a California limited partnership
[SIGNATURE BLOCK]

SCRIPPS AU OWNER, L.P.,
a California limited partnership
[SIGNATURE BLOCK]

ASSIGNMENT OF PROMISSORY NOTE

Housing Authority of the City of San Diego (the “Issuer”), hereby assigns to U.S. Bank National Association, as trustee (the “Trustee”) under that certain Trust Indenture dated as of April 1, 2020 by and between the Issuer and the Trustee, without recourse or warranty, all of its right, title and interest in and to the attached Promissory Note in the original principal amount of \$[PAR AMOUNT] dated [CLOSING DATE], 2020, made by Scripps MRU Owner, L.P., a California limited partnership and Scripps AU Owner, L.P., a California limited partnership, payable to the order of the Issuer.

Date: [CLOSING DATE], 2020

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

By _____
Richard C. Gentry,
Executive Director

ACCEPTED ON THIS [____] DAY OF [_____], 2020:

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

By: _____
Authorized Officer

EXHIBIT C

DESCRIPTION OF PROJECT

A 264-unit (including one manager's unit) multifamily rental housing development known as Scripps Mesa Apartments located at 10380 Spring Canyon Road, San Diego, California 92131. 211 units will be available to tenants at market rate rents and 53 units will be available to Very Low Income Tenants.

EXHIBIT D
LITIGATION SCHEDULE

[to come]

EXHIBIT E

POST-CLOSING REAL ESTATE TRANSFER PROVISIONS

(a) The Issuer agrees that the Owner may, at its option, submit the Project to a condominium regime, subject to the provisions of this Exhibit E (the “**Condominium**”), creating up to [8] condominium units (each, a “**Condominium Unit**”), which may include: (i) a condominium unit containing all of the market-rate residential units located within the Project (the “**Market-Rate Condominium Unit**”); (ii) a condominium unit containing all of the Very Low Income Units located within the Project (the “**Low-Income Condominium Unit**”); (iii) condominium units containing all of the retail space, if any, located within the Project; and/or (iv) a condominium unit containing the District Use Facility / STEAM Lab (as defined in the Ground Lease).

(b) The Owner covenants as follows: (A) prior to effectuating any such submission to a condominium regime, to obtain the written approval of the Bondholder Representative to such submission, such approval not to be unreasonably withheld, conditioned or delayed, [and provide the Issuer with an opinion of Bond Counsel substantially to the effect that such submission will not, in and of itself, adversely affect any exemption of interest on the Bonds from gross income for purposes of federal income taxation]; (B) to ensure that any submission of the Project to the Davis-Stirling Common Interest Development Act (California Civil Code Sections 1350 et seq.) satisfies all the requirements thereof and any other applicable law, restriction, rule, or ordinance necessary to create a valid condominium with respect to such portions of the Project, (C) to duly perform or cause to be duly performed all of its obligations under the condominium documents (the “**Condominium Documents**”), and to do or cause to be done all things necessary to operate and maintain the Condominium Units; and (D) to deliver to the Issuer and the Bondholder Representative a certified copy of the recorded Declaration of Condominium promptly upon its availability.

(c) The Issuer and the Trustee, at the direction of the Bondholder Representative, shall, upon the Owner’s written request, timely consent to the subordination of the lien of the Deed of Trust to a Declaration of Condominium for the portions of the Project specified above, and shall execute appropriate instruments (reasonably required) in recordable form to effect such subordination, upon the satisfaction of the following conditions: (1) the Issuer and the Bondholder Representative shall have received and approved the Condominium Documents; (2) the Issuer and the Bondholder Representative shall have received confirmation from the title insurance company insuring the lien of the Deed of Trust that it shall constitute a first priority lien on the Owner’s right, title and interest in and to each Condominium Unit; (3) the Owner shall have duly executed and delivered, or caused to be duly executed and delivered, to the Issuer and the Trustee, in a form acceptable to the Issuer and the Bondholder Representative: (a) a collateral assignment of the Owner’s rights under the Condominium Documents, (b) conditional resignations of the officers and members of the Board of Managers of the condominium association controlled by the Owner or its affiliates, and (c) such other documents or opinions relating to the Condominium as the Issuer and the Bondholder Representative may reasonably require to ensure that the Deed of Trust constitutes a first priority lien on the Owner’s right, title and interest in each Condominium Unit.

(d) Notwithstanding anything in the foregoing to the contrary, all of the Condominium Units shall be owned by the Market Rate Owner, provided, however, that the Market Rate Owner shall have the right to Transfer all or any portion of its interest in the Low-Income Condominium Unit to Affordable Owner provided that (A) the general partner Affordable Owner is the general partner of the Market Rate Owner or an Affiliated Party thereof, (B) the limited partner of the Affordable Owner is a tax credit investor, (C) both the Market-Rate Condominium Unit and the Low-Income Condominium Unit shall continue to be managed by, and all rents shall continue to be collected by, the Manager, (D) the Affordable Owner executes and delivers a Joinder to the Deed of Trust in a form acceptable to the Bondholder Representative that acknowledges the Low-Income Condominium Unit is subject to the Regulatory Agreement and the Deed of Trust and that the Deed of Trust shall continue to constitute a first-priority lien on the Low-Income Condominium Unit, and (E) prior to effectuating any such Transfer, the Market Rate Owner obtains the written approval of the Bondholder Representative to such Transfer, such approval not to be unreasonably withheld, conditioned or delayed, and delivers to the Issuer an opinion of Bond Counsel substantially to the effect that the foregoing will not, in and of itself, adversely affect any exemption of interest on the Bonds from gross income for purposes of federal income taxation].

(d) [The Owner may, at its option and in lieu of submitting the Project to a condominium regime, subject to the provisions herein, lease all of the Very Low Income Units to or for the benefit of a tax credit investor in order to syndicate the tax credits with respect to the Project under a structure that would be similar to the submission of the Very Low Income Units to a condominium regime. Such lease shall be subject to the lien imposed by the Deed of Trust and, in respects thereof, the Owner covenants as follows: (i) to obtain the written approval of the Bondholder Representative to such lease, such approval not to be unreasonably withheld, conditioned or delayed, (ii) to deliver to the Issuer an opinion of Bond Counsel that such arrangement will not, in and of itself, adversely affect any exemption of interest on the Bonds from gross income for purposes of federal income taxation; (iii) to duly perform or cause to be duly performed all of its obligations under such lease; and (iv) to deliver to the Issuer and the Bondholder Representative a certified copy of the executed lease promptly upon its availability.]

RECORDING REQUESTED BY:

Scripps MRU Owner, L.P., a California limited partnership and
Scripps AU Owner, L.P., a California limited partnership

WHEN RECORDED RETURN TO:

Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, CA 94105-2669
Attention: Justin S. Cooper

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

By and Among

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO,

U.S. BANK NATIONAL ASSOCIATION,
as Trustee,

and

SCRIPPS MRU OWNER, L.P., A CALIFORNIA LIMITED PARTNERSHIP AND SCRIPPS
AU OWNER, L.P., A CALIFORNIA LIMITED PARTNERSHIP

Dated as of April 1, 2020

Relating to

HOUSING AUTHORITY OF THE CITY OF SAN DIEGO
MULTIFAMILY HOUSING REVENUE BONDS
(SCRIPPS MESA APARTMENTS) 2020 SERIES E

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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 April 1, 2020, 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 “Issuer”), U.S. BANK NATIONAL ASSOCIATION, a national banking corporation organized and existing under and by virtue of the laws of the United States of America, as trustee for the Bonds, as defined herein, under the Indenture, as defined herein (together with any successor in such capacity, the “Trustee”), and SCRIPPS MRU OWNER, L.P., a California limited partnership and SCRIPPS AU OWNER, L.P., a California limited partnership (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, together, 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 Trust Indenture, dated as of April 1, 2020, by and between the Authority and the Trustee (the “Indenture”), the Issuer has agreed to use the proceeds derived from the sale of its Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (Scripps Mesa Apartments) 2020 Series E in the principal amount of \$[PAR AMOUNT] (the “Bonds”) to make a mortgage loan (the “Loan”) to the Owner to finance the acquisition, construction and development of a multifamily rental housing project known or to be known as Scripps Mesa Apartments, located on the real property site described in Exhibit A hereto (as further described herein, the “Project”);

WHEREAS, the proceeds of the Bonds will be used to fund the Loan to the Owner pursuant to a Loan Agreement, dated as of April 1, 2020, between the Issuer and the Owner (as supplemented and amended from time to time, the “Loan Agreement”), to provide, in part, financing for the acquisition, construction and development of the Project;

WHEREAS, to assure the Issuer and the owners of the Bonds that interest on the Bonds 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 Bonds are authorized to be issued under the Housing Law, and to satisfy the purposes of the Issuer in determining to issue the Bonds, 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 issuance of the Bonds by the Issuer 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 Issuer, 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 recitals hereto, in this Section 1, or in the Indenture.

“Administrator” means the Issuer or any administrator or program monitor appointed by the Issuer to administer this Regulatory Agreement, and any successor administrator appointed by the Issuer.

“Affordable Owner” means Scripps AU Owner, L.P., a California limited partnership.

[“Affordable Parcel” means the Initial Very Low Income Units and may also include any functionally related and subordinate facilities].

“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 issue date of the Bonds is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after the renovations are completed.

“CDLAC” means the California Debt Limit Allocation Committee or its successors.

“CDLAC Conditions” has the meaning given such term in Section 29.

“CDLAC Resolution” means CDLAC Resolution No. 19-132 attached hereto as Exhibit D, adopted on October 16, 2019, relating to the Project, as such resolution may be modified or amended from time to time.

“Certificate of Continuing Program Compliance” means the Certificate to be filed by the Owner with the Administrator, on behalf of the Issuer, and the 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 Issuer to the Owner, or as otherwise approved by the Issuer.

“City” means the City of San Diego, California.

“Closing Date” means the date the Bonds are originally issued and delivered to the initial purchaser thereof.

“County” means the County of San Diego, California.

“Compliance Period” means the period beginning on the first day of the Qualified Project Period and ending on the later of the end of the Qualified Project Period or such later date as set forth in Section 29(c) of this Regulatory Agreement.

“Conversion Date” means the date, if any, upon which the Loan converts from the construction phase to the permanent phase in accordance with the terms of the Loan Agreement.

“Deed of Trust” means the “Mortgage” 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 fee interest in the Project delivered by the Owner to secure the Owner’s obligations to a third-party lender.

“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 certain Scripps Mesa Ground Lease and Joint Occupancy Agreement dated September 6, 2018, as the same may be amended from time to time, between the Ground Lessor and Monarch Scripps Mesa, LLC, a California limited liability company, as assigned to Scripps Mesa Apartments, L.P., a California limited partnership, [and as subsequently assigned to the Ground Lessee].

“Ground Lessee” means Scripps MRU Owner, L.P., a California limited partnership [and any subsequent owner of an interest in the Ground Lease in respect of all or any portion of the Project].

“Ground Lessor” means San Diego Unified School District, a school district duly organized and existing under the law of the State of California.

“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 Issuer to the Owner, or as otherwise approved by the Issuer.

“Indenture” means that certain Trust Indenture, dated as of April 1, 2020 between the Issuer and the Trustee, authorizing the issuance of the Bonds, as the same may be amended from time to time.

[“Initial Very Low Income Units” means the specific residential units that are listed in EXHIBIT E hereto, but only to the extent such residential units qualify when originally rented as Very Low Income Units.]

“Investor Limited Partner” means [Monarch Essex Scripps, LLC, a [California] limited liability company], or any other successor entity in such entity’s capacity as a limited partner of the Owner.

“Lender” means initially Bank of America, N.A., as Bondholder under the Indenture, and any successor entity serving in such capacity.

“Manager” means a property manager meeting the requirements of Section 27 hereof. [Essex Portfolio Management, LP, a [California] limited partnership, is hereby approved as the initial Manager.]

“Market Rate Owner” means Scripps MRU Owner, L.P., a California limited partnership.

“Project” means the 264-unit multifamily rental housing development (including one manager’s unit) to be located in the City of San Diego, San Diego County on the real property site described in Exhibit A hereto, subject to the Ground Lease, consisting of those facilities, including real property, structures, buildings, fixtures or equipment situated thereon, as it may at any time exist, the acquisition, construction and development of which facilities is to be financed, in whole or in part, from the proceeds of the sale of the Bonds or the proceeds of any payment by the Owner pursuant to the Loan Agreement, and any real property, structures, buildings, fixtures or equipment acquired in substitution for, as a renewal or replacement of, or a modification or improvement to, all or any part of the facilities described in the Loan Agreement, excluding any commercial space.

“Qualified Project Period” means the period beginning on the first day on which at least 10% of the units in the Project are first occupied and ending on the later of the following:

(A) the date that is fifteen (15) years after the date on which at least fifty percent (50%) of the units in the Project are first occupied;

(B) the first date on which no Tax-Exempt private activity bonds with respect to the Project are Outstanding; or

(C) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Regulations” means the Income Tax Regulations of the Department of the Treasury applicable under the Code from time to time.

“Regulatory Agreement” means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be supplemented and amended from time to time.

“Rental Payments” means the rental payments paid by the occupant of a unit, excluding any supplemental rental assistance to the occupant from the State, the federal government, or any other public agency, but including any mandatory fees or charges imposed on the occupant by the Owner as a condition of occupancy of the unit.

“Tax Certificate” means the Tax Certificate and Agreement dated as of the Closing Date executed by the Owner and the Issuer, 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 Bonds, that such interest is excluded from gross income for federal income tax purposes; provided, however, that such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

“Transfer” means the conveyance, assignment, sale or other disposition of all or any portion of the Project; and shall also include, without limitation to the foregoing, the following: (1) an installment sales agreement wherein Owner agrees to sell the Project or any part thereof for a price to be paid in installments; and (2) an agreement by the Owner leasing all or a substantial part of the Project to one or more persons or entities pursuant to a single or related transactions.

“Very Low Income Tenant” means a tenant occupying a Very Low Income Unit.

“Very Low Income Unit” means any Available Unit if the aggregate Gross Income of all tenants therein does not exceed limits determined in a manner consistent with determinations of “very low-income families” under Section 8 of the Housing Act, provided that the percentage of median gross income that qualifies as very low income hereunder shall be fifty percent (50%) of median gross income for the Area, with adjustments for family size. A unit occupied by one or more students shall only constitute a Very Low Income Unit if such students meet the requirements of Section 142(d)(2)(C) of the Code. The determination of an Available Unit’s status as a Very Low Income Unit shall be made by the Owner upon commencement of each lease term with respect to such unit, and annually thereafter, on the basis of an Income Certification executed by each tenant.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of any gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

The parties to this Regulatory Agreement acknowledge that each party and their respective counsel have participated in the drafting and revision of this Regulatory Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be

resolved against the drafting party shall not apply in the interpretation of this Regulatory Agreement or any supplement or exhibit hereto.

Section 2. [Representations, Covenants and Warranties of the Owner.](#)

(a) The Owner hereby incorporates herein, as if set forth in full herein, each of the representations, covenants and warranties of the Owner contained in the Tax Certificate and the Loan Agreement relating to the Project.

(b) The Owner hereby represents and warrants that the Project is located entirely within the City.

(c) The Owner acknowledges, represents and warrants that it understands the nature and structure of the transactions contemplated by this Regulatory Agreement; that it is familiar with the provisions of all of the documents and instruments relating to the Bonds to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the 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 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, equipped 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 resident managers 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 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 to the extent that dwelling units are required to be leased or rented in such a manner that they constitute 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 Lender, (i) within 30 days after the date on which 10% of the dwelling units in the Project are occupied, a written notice specifying such date, and (ii) within 30 days after the date on which 50% of the dwelling units in the Project are occupied, a written notice specifying such date.

Section 4. [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 20% 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 Very Low Income Unit is treated as a Very Low Income Unit 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 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 Very Low Income Tenant increases to exceed the qualifying limit for a Very Low Income Unit. However, should the aggregate Gross Income of tenants in a Very Low Income Unit, as of the most recent determination thereof, exceed one hundred forty percent (140%) of the applicable income limit

for a Very Low Income Unit occupied by the same number of tenants, (i) the next available unit of comparable or smaller size must be rented to (or held vacant and available for immediate occupancy by) Very Low Income Tenant(s), or (ii) with an opinion from Chernove & Associates, Inc. or other counsel experienced in low income housing tax matters that for purposes of Section 42 of the Code the Initial Very Low Income Units will be treated as a separate building from the other Units for purposes of Section 42, and an accompanying opinion of Bond Counsel relying on such opinion and concluding that the application of this clause (ii) rather than clause (i) will not adversely affect the conclusions stated in its original opinion, the next available Initial Very Low Income Unit must be rented to (or held vacant and available for immediate occupancy by) Very Low Income Tenant(s). The unit occupied by such tenants whose aggregate Gross Income exceeds such applicable income limit shall continue to be treated as a Very Low Income Unit for purposes of the 20% requirement of Section 4(a) hereof unless and until an Available Unit or Initial Very Low Income Unit, as applicable, of comparable or smaller size is rented to persons other than Very Low Income Tenants].

(c) For the Compliance Period, the Owner will obtain, complete and maintain on file Income Certifications for each Very Low Income Tenant, including (i) an Income Certification dated immediately prior to the initial occupancy of such Very Low Income Tenant in the unit and (ii) thereafter, an annual Income Certification with respect to each Very Low Income Tenant. The Owner will provide such additional information as may be required in the future by the Code, the State or the Issuer, 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 Issuer, copies of Income Certifications for Very Low Income Tenants commencing or continuing occupation of a Very Low Income Unit shall be submitted to the Administrator or the Issuer, 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 Issuer.

(e) The Owner will maintain complete and accurate records pertaining to the Very Low Income Units, and will permit any duly authorized representative of the Issuer, 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 Very Low Income Units.

(f) The Owner will prepare and submit to the Administrator, on behalf of the Issuer, 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 Very Low Income Units shall contain clauses, among others, wherein each tenant who occupies a Very Low Income Unit: (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 Trustee, the Issuer or the Administrator on behalf of the Issuer, 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 Very Low Income Tenant in determining qualification for occupancy of a Very Low Income Unit, 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 Very Low Income Unit, 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 Bonds. The Owner and the Issuer, as applicable, each hereby represents, warrants and agrees as follows:

(a) The Owner and the Issuer 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 Bonds 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 Issuer will file of record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the Issuer and the Trustee (with a copy to the Owner), in order to insure 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, the Owner hereby agrees that it shall comply with each of the requirements of Section 34312.3 of the Housing Law, including the following:

(a) Not less than 20% 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 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.

(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 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 Issuer as grantee.

Section 7. [Requirements of the Issuer](#). 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 Issuer set forth in this Section 7, as follows:

(a) For the duration of the Compliance Period, notwithstanding any retirement of the Bonds or termination of the Loan Agreement, the Owner will pay to the Issuer all of the amounts required to be paid by the Owner under the Loan Agreement and will indemnify the Issuer and the Trustee as provided in Section 9 and, with respect to 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 Issuer, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Issuer upon reasonable advance notice to the Owner.

(c) The Owner acknowledges that the Issuer 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 Issuer to deliver to any such Administrator, in addition to or instead of the Issuer, 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 Issuer. The fees and expenses of the Administrator shall be paid by the Issuer.

(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 Bonds, 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) Throughout the Compliance Period, the Owner shall maintain at least 53 units as Very Low Income Units (including one-bedroom units, two-bedroom units and three-bedroom units).

Any of the foregoing requirements of the Issuer contained in this Section 7 may be expressly waived by the Issuer, in its sole discretion, in writing, but (i) no waiver by the Issuer 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 Issuer 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 Bonds for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the Issuer and the Owner receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Bonds to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Housing Law or any other state or federal law.

Section 8. [Modification of Covenants](#). The Owner, the Trustee and the Issuer 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 Issuer, 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 Bonds, 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 Issuer, 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 Issuer, at its sole discretion, the Trustee and the Owner, with the consent of the Lender, and only upon receipt by the Issuer 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 Bonds or violate the requirements of the Housing Law, and otherwise in accordance with Section 22 hereof.

(c) The Owner, the Issuer and, if applicable, the Trustee, shall execute, deliver and, if applicable, the Owner or the Issuer 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 Issuer hereby appoints the Trustee as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record (it being understood that the Trustee has no duty or obligation to take such action) on behalf of the Owner or the Issuer, 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 Issuer defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Issuer or the Owner, the Trustee shall take no action under this subsection without first notifying the Owner or the Issuer, or both of them, as is applicable, and without first providing the Owner or the Issuer, 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 Trustee to execute an amendment to this Regulatory Agreement on behalf of the Issuer 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 Issuer, the City, the Trustee and each of its officers, governing members, directors, officials, employees, attorneys, agents, and program participants (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 Bonds, the Indenture, the Loan Agreement, this Regulatory Agreement or the Tax Certificate and all documents related thereto, or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including, as applicable, the release, modification, issuance, sale or remarketing of the Bonds;

(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 or development of, the Project or any part thereof;

(iii) any lien or charge upon payments by the Owner to the Issuer or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Issuer in respect of any portion of the Project;

(iv) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof;

(v) the defeasance and/or redemption, in whole or in part, of the Bonds;

(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 Bonds or any of the documents relating to the Bonds, or any omission or alleged omission from any offering statement or disclosure document for the Bonds 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 Bonds, or allegations (or regulatory inquiry) that interest on the Bonds 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 Trustee and/or the Issuer in enforcing the provisions hereof, as more fully set forth in the Loan Agreement.

The provisions of this Section 9 shall survive the final payment or defeasance of the Bonds and this Regulatory Agreement; provided, however, the provisions of this Section shall, in the case of the Trustee, survive the term of this Regulatory Agreement or the resignation or removal of the Trustee, but only as to claims arising from events occurring during the term of this Regulatory Agreement or the Trustee's tenure as Trustee under the Indenture, and shall, in the case of the Issuer, 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 Issuer has agreed to issue the Bonds 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 issuance of the Bonds by the Issuer, 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 Issuer and the Owner hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons, including but not limited to the Administrator and Trustee, interested in the legality and validity of the Bonds, in the exemption from California personal income taxation of interest on the Bonds and in the Tax-Exempt status of the interest on the Bonds. In performing their duties and obligations hereunder, the Issuer, the Administrator and the Trustee may rely upon statements and certificates of the Very Low Income Tenants, and upon audits of the books and records of the Owner pertaining to the Project. In addition, the Issuer and the Trustee 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 Issuer or the Trustee 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 Trustee 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 Trustee by the Owner or the Issuer 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.

[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 Issuer, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied: (A) the receipt by the Issuer of evidence acceptable to the Issuer that (1) the Owner shall not be in default hereunder or under the Loan Agreement, if in effect (which may be evidenced by a Certificate of Continuing Program Compliance), or the transferee undertakes to cure any defaults of the Owner to the reasonable satisfaction of the Issuer; (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 Issuer 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 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 Issuer with respect to the assumption of the Owner's obligations under this Regulatory Agreement and the Loan Agreement (if then in effect), including without limitation an instrument of assumption hereof and thereof, and delivery to the Issuer and the Trustee 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 Issuer and the Trustee 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 Bonds; (D) receipt by the Issuer of all fees and/or expenses then currently due and payable to the Issuer 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.

[Notwithstanding the foregoing, with prior written notice of such transfer to the Issuer, the Issuer hereby approves a single transfer of limited partnership interests in the Affordable Owner from Monarch Essex Scripps, LLC, a [California] limited liability company, to a new investor limited partner unrelated to the Lender.]

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 Issuer 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 Issuer 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) encumbrances permitted 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 Issuer and the Trustee of an opinion of Bond Counsel to the effect that such action will not adversely affect the Tax-Exempt status of interest on the Bonds (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 Issuer and the Trustee); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is demolished or removed is replaced with comparable property or such demolition or removal is otherwise permitted by the Loan Agreement or the Deed of Trust; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

[Notwithstanding anything to the contrary in this Regulatory Agreement, the requirements of this Section 12 shall not operate to prevent a sublease or other transfer of an interest in the Ground Lease to the Affordable Owner and such Affordable Owner's acquisition of the Affordable Parcel, provided that any such sublease or other transfer is accompanied by an opinion of Bond Counsel substantially to the effect that such sublease or transfer, as applicable, will not, in and of itself, adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes.]

Section 12. 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 Bonds and discharge of the Indenture and the Loan Agreement; provided, however, the Trustee 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 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 Issuer and the Trustee from enforcing such provisions, or condemnation or a similar event, but only if, within a reasonable period, either the Bonds 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 Issuer, the Trustee and the Owner, with the consent of CDLAC, upon receipt by the Issuer 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 Bonds 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 Issuer and the

Owner) record appropriate instruments of release and discharge of the terms hereof prepared by or on behalf of the Owner or the Issuer; 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 13. [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 Issuer 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 14. [Burden and Benefit](#). The Issuer 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 Issuer 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 Very Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Bonds were issued.

Section 15. [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 16. [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 Issuer, the Trustee or the Lender to the Owner, or for a period of 60 days from the date the Owner should, with reasonable diligence, have discovered such default, then the Issuer or the Trustee 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 Issuer) 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 Bonds. The Issuer and the Trustee 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 insure compliance with the Housing Law or the Code.

Following the declaration of an Event of Default hereunder, the Issuer or the Trustee, at the written direction of Issuer, subject to the terms of the Indenture, 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 Issuer or the Trustee 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 Lender, which consent shall not be unreasonably withheld, declare a default under the Loan Agreement and proceed with any remedies provided therein.

The Owner hereby agrees that specific enforcement of the Owner's agreements contained herein is the only means by which the Issuer 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 shall have the right, in accordance with this Section and the provisions of the Indenture, without the consent or approval of the Issuer, but with the consent of the Lender, which consent shall not be unreasonably withheld, to exercise any or all of the rights or remedies of the Issuer hereunder; provided that prior to taking any such action the Trustee shall give the Issuer written notice of its intended action. After the Indenture has been discharged, the Issuer 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.

The Issuer and the 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 Trustee and the Issuer 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 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 Trustee, the Trustee shall remain entitled to any indemnity applicable to it hereunder, or under the Indenture or Loan Agreement, for the payment of such legal fees and costs.

Section 17. [The Trustee](#). The Trustee shall act as specifically provided herein and in the Indenture and may exercise such additional powers as are reasonably incidental hereto and thereto. The 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 knowledge of any such default as provided in Section 17 and the Trustee has received written direction from the Lender and has been indemnified to its satisfaction. The Trustee may act as the agent of and on behalf of the Issuer, and any act required to be performed by the Issuer as herein provided shall be deemed taken if such act is performed by the Trustee. In connection with any such performance, 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 Indenture relating to the rights, privileges, powers and protections of the Trustee shall apply with equal force and effect to all actions taken (or omitted to be taken) by the Trustee in connection with this Regulatory Agreement. Neither the Trustee nor any of its officers, directors or employees shall be liable for any action taken or omitted to be taken by it or them hereunder or in connection herewith except for its or their own gross negligence or willful misconduct.

No provision of this Regulatory Agreement shall require the 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 Issuer shall be (or shall cause the Administrator to be) responsible for the monitoring of the Owner's compliance with the terms of this Regulatory Agreement. The Trustee shall not be responsible for such monitoring.

After the date on which no Bonds remain Outstanding, as provided in the Indenture, the Trustee shall no longer have any duties or responsibilities under this Regulatory Agreement and all references to the Trustee in this Regulatory Agreement shall be deemed references to the Issuer.

Section 18. [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 Issuer may reasonably request. The Owner shall pay all fees and charges incurred in connection with any such recording.

(b) The Owner and the Issuer 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 Trustee 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 19. Payment of Fees. [SUBJECT TO ISSUER REVIEW AND CONFIRMATION] Notwithstanding any prepayment of the Loan and discharge of the Indenture, throughout the Compliance Period, the Owner shall continue to pay the fees of the Issuer as provided in Section 9 hereof, unless such prepayment is made in connection with a refunding of the Bonds.

The Owner agrees to pay to the Issuer (a) on the Closing Date, the Issuer'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 Bonds (\$[PAR AMOUNT]), not to exceed (for tax-exempt bonds) the amount otherwise allowed by 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 Issuer'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 Bonds as of the Closing Date, (ii) commencing with the first anniversary of the Closing Date occurring after the Conversion Date and thereafter on each subsequent anniversary of the Closing Date, an amount equal to the greater of \$10,000 per year or 0.125% of the outstanding principal amount of the Bonds outstanding following any partial repayment of principal of the Bonds on or in connection with the Conversion Date, provided, however, the Ongoing Administrative Fee in any event will not be less than \$10,000, which amount shall be payable annually, in arrears, on each anniversary of the Closing Date and continuing throughout the Qualified Project Period, and provided further that no further reduction in the Ongoing Administrative Fee shall be made following the Conversion Date, 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 Issuer (not including salaries and wages of Issuer employees) related to the Bonds, 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 Bonds.

The Ongoing Administrative Fee will be charged each year during the Compliance Period hereunder in respect of administrative and monitoring costs of the Issuer and will be due and payable, without the requirement for any invoice to be delivered to the Owner, on each [April] 1 based on the facts in existence as of such date. On and after the Conversion Date, the Ongoing Administrative Fee will remain fixed based on the principal amount of the Bonds outstanding at the Conversion Date regardless of any later reductions of the outstanding principal of the Bonds.

The fees of the Issuer 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 Issuer's or Lender's enforcement of the provisions of this Regulatory Agreement, but the Issuer 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 Issuer, promptly following a written demand from the Issuer to the Owner, any out-of-pocket expenses of the Issuer incurred in connection with the administration of any of the Loan Documents.

In the event that the Bonds is prepaid in part or in full prior to the end of the term of this Regulatory Agreement other than (i) by means of refunding bonds issued by the Issuer to refund the Bonds, 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 Issuer's annual fee for the remainder of the term of this Regulatory Agreement, at the option of the Issuer, shall be paid by the Borrower at the time of the prepayment of the Bonds and shall be a lump sum amount equal to the present value (based on a discount rate equal to the yield on the Bonds, as determined by the Issuer at the time of prepayment) of the Issuer's fee, calculated based on the principal amount of the Bonds outstanding immediately preceding such prepayment, for the number of remaining years of the Compliance Period.

Notwithstanding any prepayment of the Borrower Loan and discharge of the Loan Agreement, the Owner shall continue to pay (or, to the extent allowed under the Code, shall prepay the present value at such time of) the fees of the Issuer as provided in this Section 20.

If the Owner fails to make payment of the Issuer's annual fee for a period of two consecutive years or more, then the Issuer may, in its sole discretion, declare the total amount of the annual fee of the Issuer 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 Issuer an annual occupancy monitoring fee (the "Occupancy Monitoring Fee") for the greater of: (1) [53] units (constituting 20% of the 264 units) at an initial amount of \$150/unit for a total of \$[7,950] or (b) the total number of units monitored by the Issuer. The Occupancy Monitoring Fee is subject to annual adjustment. The Owner agrees to pay the Issuer an initial monitoring fee in the amount set forth in schedules promulgated by Issuer from time to time. In addition, in each year during the term of this Regulatory Agreement, the Owner shall pay to the Issuer an annual Occupancy Monitoring Fee, as determined by the Issuer in schedules promulgated by Issuer from time to time.

Section 20. [Governing Law.](#) This Regulatory Agreement shall be governed by the laws of the State of California.

Section 21. [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 Issuer and the Trustee of an opinion from Bond Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Bonds and is not contrary to the provisions of the Housing Law and (ii) the written consent of the Lender, who shall receive a copy of any such amendment.

(b) Anything to the contrary contained herein notwithstanding, the Issuer, the Trustee 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 Bonds 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 Issuer and the Trustee an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Bonds. 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 22. [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, or at such other addresses as may be specified in writing by the parties hereto. Unless otherwise specified by the Administrator, the address of the Administrator is:

San Diego Housing Commission
1122 Broadway, Suite 300
San Diego, CA 92101
Attention: Bond Project Manager-Real Estate Department
Telephone: (619) 578-7582
Facsimile: (619) 578-7356

Unless otherwise specified by CDLAC, the address of CDLAC is:

California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, CA 95814
Attention: Executive Director

The Issuer, the Administrator, CDLAC, the Trustee, and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission; provided that any telecopy or other electronic transmission received by any party after 4:00 p.m., local time of the receiving party, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day. A copy of each notice of default provided to the Owner hereunder shall also be provided to the Lender at the addresses set forth in the Indenture.

A copy of each notice sent by or to the Owner shall also be sent to the Manager at the address of the Manager provided by the Owner to the Administrator; but such copies shall not constitute notice to the Owner, nor shall any failure to send such copies constitute a breach of this Regulatory Agreement or a failure of or defect in notice to the Owner.

The Owner shall notify the Issuer 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 23. [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 24. [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 25. [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 Lender, the Trustee or the Issuer and their successors and assigns, is limited to the Owner's interest in the Project, the Trust Estate and the amounts held in the funds and accounts created under 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 any rights of the Owner under the Indenture or any other documents relating to the Bonds 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 or any agreement securing the obligations of the Owner under this Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding, except to the extent provided in the Loan Agreement.

Section 26. [Property Management](#). The Owner agrees that at all times the Project shall be managed by a property manager (i) approved by the Issuer 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 Owner shall submit to the Issuer from time to time such information about the background, experience and financial condition of any existing or proposed Manager as the Issuer may reasonably require to determine whether such Manager meets the requirements for a Manager set forth herein. The Issuer 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 Issuer in such reviews.

Replacement of Manager. If the Issuer 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 Issuer may deliver written notice to the Owner, the Trustee and the Lender 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 Issuer, with copies to the Trustee and the Lender, a proposal to engage a new Manager meeting the requirements of this Section 27. Each of the Issuer and the Lender 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 Lender may at any time by written instruction to the Issuer, the Trustee and the Owner deny the Issuer's request for a replacement Manager and direct that the existing Manager be retained.

Section 27. [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 Bonds.

Section 28. [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 Issuer, 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 required or otherwise provided by CDLAC from time to time, executed by an authorized representative of the Owner. The 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 Issuer, a Certificate of Completion, in substantially the form required 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 Issuer, 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 Issuer.

(b) The Owner acknowledges that the Issuer and the Administrator shall monitor the Owner's compliance with the terms of the CDLAC Conditions. The Owner acknowledges that the Issuer 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 Issuer 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 Issuer, (iii) any change in the name of the Project or the Manager; (iv) any material default under the Indenture, the Loan Agreement or this Regulatory Agreement, including, but not limited to, such defaults associated with the Tax-Exempt status of the Bonds, 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 written consent of the Lender, which will not be unreasonably withheld: (i) any changes in the terms and conditions of the 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 the 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 Issuer may, in its sole and absolute discretion, require the Owner enter into an amendment to this Regulatory Agreement reflecting the revised CDLAC Conditions, which amendment shall be executed by the parties hereto or their successor in title and duly recorded in the real property records of the County. The Owner shall pay any costs and expenses in connection therewith and 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 Issuer has received an opinion of

Bond Counsel that any such provision is not required by the Housing Law and may be waived without adversely affecting the exclusion from gross income of interest on the Bonds for federal income tax purposes; and (ii) any requirement of this Section 29 shall be void and of no force and effect if the Issuer and the Owner receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Bonds to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Housing Law or any other state or federal law.

Section 29. [Annual Reporting Covenant](#). No later than January 31 of each calendar year (commencing January 31, 2021), the Owner, on behalf of the Issuer, 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 Issuer, 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 Bonds are no longer outstanding or (ii) the proceeds of the Bonds and the Loan have been fully spent.

Section 30. [Reporting Obligations of Owner](#) . Notwithstanding the foregoing, from and after the date of acquisition of the Affordable Parcel by the Affordable Owner, if any, the Affordable Owner and the Market Rate Owner hereby agree that the Affordable Owner shall bear sole responsibility for all reporting obligations of the Owner hereunder.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Issuer, 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: _____
Richard C. Gentry,
Executive Director

[Signature page – Scripps Mesa Apartments Regulatory Agreement]

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Authorized Signatory

[Signature page – Scripps Mesa Apartments Regulatory Agreement]

OWNER:

SCRIPPS MRU OWNER, L.P.,
a California limited partnership
[SIGNATURE BLOCK]

SCRIPPS AU OWNER, L.P.,
a California limited partnership
[SIGNATURE BLOCK]

[Signature page – Scripps Mesa Apartments Regulatory Agreement]

EXHIBIT A
DESCRIPTION OF REAL PROPERTY

[To Come]

EXHIBIT B
FORM OF INCOME CERTIFICATION

EXHIBIT C

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 "Issuer") 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 Issuer, (ii) ___% of the units in the Project were at all times Very Low Income Units (minimum of 20%).

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 _____
4. Total Very Low Income Units Occupied: _____
5. % of Very 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 who commenced or terminated occupancy during the preceding year.

<u>Commenced Occupancy</u>	<u>Terminated Occupancy</u>
1.	1.
2.	2.
3.	3.

D. Set forth below is the unit number and name of the head of household of each unit that was a Very Low Income Unit as of the beginning of the previous year, but has ceased to be a Very 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, adjusted for family size, or (b) all the individuals in such unit are currently students (as defined under Section 151(c)(4) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code:

<u>Unit Number</u>	<u>Name (Head of Household)</u>
1.	1.
2.	2.
3.	3.

E. The Very Low Income Units are of similar size and quality to other units and are dispersed throughout the Project.

F. *Select appropriate certification:* [No unremedied default has occurred under this Regulatory Agreement, the Loan Agreement or the Deed of Trust.] [A default has occurred under the _____. The nature of the default and the measures being taken to remedy such default are as follows: _____.]

G. The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief.

Date: _____
Owner

EXHIBIT D
CDLAC RESOLUTION

[to be attached]

EXHIBIT E
[AFFORDABLE UNITS]

[to be attached]



The City of San Diego
Item Approvals

Item Subject: Final Bond Authorization for Scripps Mesa Apartments.

Contributing Department	Approval Date
DOCKET OFFICE	03/03/2020

Approving Authority	Approver	Approval Date
HOUSING COMMISSION FINAL DEPARTMENT APPROVER	MARSHALL, SCOTT	03/02/2020
EXECUTIVE VICE PRESIDENT	DAVIS, JEFF	03/05/2020
CITY ATTORNEY	MIDDAUGH, MARGUERITE	03/19/2020