# TRANSMITTAL

To: **THE COUNCIL** Date: **04/30/21**

From: **THE MAYOR**

**TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.**

(Ana Guerrero) for

**ERIC GARCETTI**
**Mayor**

Los Angeles
HOUSING+COMMUNITY
Investment Department

Housing Development Bureau
1200 West 7th Street, Los Angeles, CA 90017
tel 213.808.8638 | fax 213.808.8610
hcidla.lacity.org

Eric Garcetti, Mayor
Ann Sewill, General Manager

April 20, 2021

Council File: 21-0242
Council District: 15
Contact Persons: Helen Villagomez (213) 808-8991
André C. Perry (213) 808-8978

Honorable Eric Garcetti
Mayor, City of Los Angeles
Room 303, City Hall
200 N. Spring Street
Los Angeles, CA 90012

Attention: Heleen Ramirez, Legislative Coordinator

**COUNCIL TRANSMITTAL: REQUEST FOR AUTHORITY TO ISSUE TAX-EXEMPT MULTIFAMILY CONDUIT REVENUE NOTE IN THE AMOUNT UP TO $16,525,000 AND A TAXABLE MULTIFAMILY REVENUE NOTE IN THE AMOUNT UP TO $879,535 FOR SAGEPOINTE, A SUPPORTIVE HOUSING PROJECT**

## SUMMARY

The General Manager of the Los Angeles Housing + Community Investment Department (HCIDLA) respectfully requests that your office review and approve this transmittal and forward it to the City Council for further consideration. Through this transmittal, HCIDLA requests authority to issue tax-exempt multifamily conduit revenue note(s) in an amount not to exceed $16,525,000 and a taxable multifamily revenue note in an amount not to exceed $879,535 for the development of SagePointe (Project), a 56 unit development in Council District 15, to be developed by Linc Housing Corporation, with a total development cost per-unit of $561,873 and an HHH subsidy of $171,583 per unit. The California Debt Limit Allocation Committee (CDLAC) has designated June 7, 2021 as the tax-exempt note issuance deadline date for the Project.

## RECOMMENDATIONS

I. That the Mayor review this transmittal and forward to the City Council for further action;

II. That the City Council, subject to the approval of the Mayor:

A. ADOPT the Resolution, provided as Attachment A to this report, authorizing the issuance of up to $16,525,000 in tax-exempt multifamily conduit revenue note(s) and a taxable multifamily revenue note in an amount not to exceed $879,535 for the development of the SagePointe project; and,

B. AUTHORIZE the General Manager of HCIDLA, or designee, to negotiate and execute the relevant note documents for the Project, subject to the approval of the City Attorney as to form.

## BACKGROUND

### Project Summary

The SagePointe project is located at 1435 N. Eubank Avenue (a.k.a. 1424 N. Deepwater Ave.), vacant land in the Wilmington area of the City of Los Angeles, CA, in Council District 15. The Project will involve the new construction of 56 residential units, consisting of 55 supportive housing units and an unrestricted unit for the on-site manager. Construction will be a single three-story building of Type V construction with a concrete slab on grade foundation; and 19 at-grade parking spaces, including one van accessible parking space. The exterior of the building will be stucco and siding with architectural elements to break up the massing. The 55 one-bedroom units will be approximately 609 square feet (sf) and the two-bedroom manager's unit will be 891 sf. All 55 units will target homeless households receiving services from the Los Angeles County Department of Health Services (DHS). Of the 55 units, 23 will target chronically homeless households. The project will receive funding from DHS to cover wraparound supportive services provided by an approved Intensive Case Management Service (ICMS) provider. Project amenities include a resident-serving community room, private offices for supportive service providers, long- and short-term bicycle storage, common laundry facilities, a computer lab, and an outdoor courtyard area for resident gathering and social interaction. With supportive service offices on site, residents can meet individually with providers or as part of small or large group activities, at no cost. All restricted units will be furnished, and all gas and water utilities will be owner-paid.

### Financing History

On September 22, 2020, HCIDLA executed an inducement letter in the amount not to exceed $19,000,000. The letter evidenced the official intent of the City of Los Angeles (City) to issue bond(s) for the development. The letter was executed pursuant to previous authority granted to HCIDLA by the City Council and Mayor (C.F. No. 04-2646). On September 24, 2020, on behalf of Linc-Wilmington Apts LP (Borrower), HCIDLA submitted a bond application to CDLAC requesting a $16,525,000 bond allocation. On December 9, 2020, CDLAC awarded the $16,525,000 volume cap allocation and required that the note(s) be issued by June 7, 2021. A copy of the inducement letter and evidence that the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) requirements have been met were included as part of the bond application. Per the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) requirements, on February 9, 2021, the TEFRA notice of public hearing was published in the Los Angeles Times. The hearing date was conducted on February 16, 2021. The TEFRA Resolution was approved by the City Council and the Mayor (C.F. No. 21-0242) on March 24, 2021. The TEFRA Resolution summarized that a public hearing was publicized, took place, and the hearing minutes were provided to the City Council and the Mayor. Evidence of the TEFRA process will be supplied to CDLAC.

### Affordability Restrictions

Pursuant to the City's Affordable Housing Bond Policies & Procedures (AHBPP) for Private Activity Bonds for Multifamily Rental Properties, approved September 24, 2019, the Project must provide long-term affordable housing in the City of Los Angeles. Therefore, in connection with the issuance of the tax-exempt bond(s), one or more Bond Regulatory Agreements will be executed and recorded in the official records of the Los Angeles County Recorder's Office. Each Bond Regulatory Agreement will include affordability restrictions throughout a term ending no sooner than the later of: 1) 15 years after the date on which 50% of the dwelling units are first occupied; 2) the date such bond(s) are paid in full; or, 3) the date on which any Section 8 assistance terminates, if applicable. In addition to the above, the bond award includes a CDLAC Resolution, which requires that the Project's affordable housing units remain affordable for 55 years.

Additionally, on December 9, 2020, the Project was awarded an allocation of 4% Low Income Housing Tax Credits (LIHTC) from the California Tax Credit Allocation Committee (CTCAC). As a result of this award, the project will have affordability restrictions for a term of 55 years. Affordability restrictions mean that for at least 55 years at least 40% of the units have to be rented at or below 60% of the area median income. Please see table 1 for the specific affordability restrictions.

All 55 supportive housing units will be targeted toward households at or below 60% of Area Median Income (AMI); 23 units will be targeted to chronically homeless households and 32 units will be targeted to homeless households. Table 1, below, provides a summary of the project unit mix, pursuant to the CDLAC Resolution.

| **TABLE 1 – CDLAC AFFORDABILITY RESTRICTIONS** | | | |
|---|---|---|---|
| **Unit Type** | **Units at or below 60% AMI** | **Un-restricted (Manager's Unit)** | **Total Number of Units** |
| One-Bedroom | 55 | - | 55 |
| Two-Bedroom | - | 1 | **1** |
| **Total** | **55** | **1** | **56** |

Development Team

The Borrower/Sponsor is Linc-Wilmington Apts LP, a California limited partnership (Linc-Wilm LP), comprised of Linc-Wilmington Apts LLC as the Managing General Partner (MGP) and this entity is held by Linc Community Development Corporation, a California 501(c)(3) non-profit corporation (Linc CDC) as its sole manager and member with a 0.009% ownership interest. Prior to or concurrently with the close of construction financing and issuance of the bonds, the current initial limited partner, Linc Housing Corporation, will be replaced by a tax credit investor limited partner, RBC Community Investments, LLC with 99.99% interest and special limited partner, RBC Community Investments Manager II, Inc. with 0.001% interest (together as RBC). The MGP ownership stake will be 0.009%. The Borrower entity is currently in compliance with HCIDLA's Business Policy (C.F. No. 99-1272).

Linc CDC's key staff members include: Rebecca F. Clark, Chief Executive Officer; Suny Lay Chang, President and Chief Operating Officer; and Anne B. Wilson, Chief Real Estate Development Officer. The Linc CDC board has (3) three Board of Directors.

Linc CDC has been previously or currently involved with development of more 18 multifamily rental housing projects, consisting of more than 1,400 housing units.

The Borrower is in compliance with HCIDLA's Business Policy (C.F. No. 99-1272).

Borrower: Linc-Wilmington Apts LP
C/o Linc Community Development Corporation
3590 Elm Avenue
Long Beach, CA 90807
Contact: Chief Real Estate Development Officer
Phone: (562) 684-1100

Additional Project development team members are:

Developer: Linc Community Development Corporation

| | |
|---|---|
| | 3590 Elm Avenue<br>Long Beach, CA 90807<br>Contact: Frances Sarmiento<br>Phone: (562) 684-1102 |
| Architect: | D33 Design and Planning<br>Address: 31866 Camino Capistrano<br>San Juan Capistrano, CA 92675<br>Contact: Shant Azizian<br>Phone: (714) 235-2482 |
| Attorney: | Carle, Mackie, Power, & Ross LLP<br>100 B Street, Suite 400<br>Santa Rosa, CA 95401<br>Contact: Henry Loh<br>Phone: (707) 526-4200 |
| General Contractor: | Walton Construction, Inc<br>358 E. Foothill Boulevard<br>San Dimas, CA 91773<br>Contact: Paul Pieroth<br>Phone: (909) 267-7830 |
| Property Manager: | The John Stewart Company<br>888 S. Figueroa St., Suite 700<br>Los Angeles, CA 90017<br>Contact: Carlos Ortiz<br>Phone: (213) 787-2710 |
| Tax Credit Investor: | RBC Community Investments, LLC<br>9788 Wexford Circle<br>Granite Bay, CA 95746<br>Contact: Stacie Altmann<br>Phone: (916) 790-0246 |

Financial Structure

The City, as Issuer, will issue a note (Tax-Exempt Note) that will be unenhanced and unrated but subject to the City's AHBPP. The Bond will be privately placed and initially purchased by MUFG Union Bank, N.A. (Lender). The Lender will fund a loan (Tax-Exempt Funding Loan) to the Issuer and the Issuer will issue the Tax-Exempt Note to Lender. The proceeds for the Tax-Exempt Funding Loan will be used by the Issuer to make a portion of the loan to the Borrower (Borrower Loan) in the amount of not to exceed $16,525,000, pursuant to the terms of a Construction and Permanent Loan Agreement among the Issuer, Lender and the Borrower. The Tax-Exempt Funding Loan will fund during the construction phase before rolling over into the permanent phase upon permanent conversion. The Borrower will execute a promissory note (Note) as evidence to repay the Borrower Loan. The Issuer will assign the Note to a to–be-named corporate fiscal agent (Fiscal Agent) acting under a Funding Loan Agreement (Funding Loan Agreement) among the City, Fiscal Agent and Lender as security for the Tax-Exempt Note. Among its various functions, the Fiscal Agent will receive funds advanced by the Lender in exchange for additional principal amount of the Tax-Exempt Note and release such funds to the Borrower for the Project

construction. The Tax-Exempt Funding Loan during the construction phase will be paid monthly as an interest-only loan, will mature in 27 months with one 90-day extension option, and shall bear interest at a rate equal to the 30-Day London Inter-Bank Offered Rate (LIBOR) variable rate plus 159 basis points (1.59%), adjusted monthly.

In connection with the issuance of the Tax-Exempt Note, the Lender will also make a taxable funding loan (the Taxable Funding Loan) to the Issuer to be evidenced by a taxable note (the Taxable Note) in an amount equal to the lesser of $879,535 or an amount, when combined with the Tax-Exempt Funding Loan, does not exceed an 80% loan to value ratio. The Taxable Funding Loan will be used by the Issuer to make the remaining portion of the Borrower Loan to the Borrower. The term of the Taxable Funding Loan will be 27 months plus one 90-day extension option. The interest rate will be based on the variable interest rate equal to the LIBOR daily floating rate plus 1.7% resulting in a current indicative rate of 1.81%. The Taxable Funding Loan will be made pursuant to the terms of the Funding Loan Agreement referenced in the preceding paragraph.

At conversion to permanent financing, the Taxable Funding Loan will be paid off with permanent financing sources, including investor equity. The Tax-Exempt Funding Loan will be paid down and the remaining balance of the Tax-Exempt Funding Loan, currently estimated at $9,649,000, will convert to an amortizing loan and will have a 35-year amortization, due in a 20-year term period at the fixed interest rate to be locked at construction closing; the current indicative rate is 3.31% (exclusive of annual issuer fees)/3.435% (inclusive of annual issuer fees).

The financing structure will include financing or loans from the Proposition HHH Permanent Supportive Housing Loan Program (HHH, see C.F. Nos. 17-0090-S8 and 17-0090-S15), the Los Angeles County Development Authority (LACDA) Affordable Housing Trust Fund (AHTF), 4% federal tax credit equity, and the Housing Authority of the City of Los Angeles (HACLA) Section 8 Project Based Voucher rental subsidy program. The Project was awarded an HHH commitment in the amount of $12,100,000; however, due to the 4% fixed rate on tax-exempt bond transactions, HCIDLA anticipates closing on a loan reduced by approximately $2,491,377.

HCIDLA requires that Lender meet the City's Responsible Banking Ordinance #182138 reporting requirements. At closing, bond counsel will provide the required legal opinions as to the tax-exempt status of the interest on the Bond, under federal and state law. The legal and financing documents will include language that establishes the bond structure as a limited obligation and strictly payable from Project revenues. The Project financing complies with both the City's AHBPP and Financial Policies. Additionally, the legal and financing documents will require the Borrower to provide annual statements and information as requested by HCIDLA.

Sources and Uses

Tables 2, 3, and 4, below, provide a summary of the sources and uses for the Project, including cost per unit and cost category percentages.

| TABLE 2 – CONSTRUCTION SOURCES | | | |
|---|---|---|---|
| **Construction** | **Total Sources** | **Per Unit** | **% Total** |
| MUFG Union Bank, N.A. Tax-Exempt Loan | $16,525,000 | $295,089 | 53% |
| MUFG Union Bank, NA Taxable Loan | $879,535 | $15,706 | 3% |
| HCIDLA HHH Loan | $9,608,623 | $171,583 | 31% |
| HCIDLA HHH Deferred Accrued Interest | $87,643 | $1,565 | .28% |
| LACDA – Affordable Housing Trust Fund | $1,564,526 | $27,938 | 5% |
| LACDA AHTF Deferred Accrued Interest | $66,591 | $1,189 | .21% |
| Costs Deferred Until Completion | $1,686,394 | $30,114 | 5% |
| GP Capital | $100 | $2 | .0003% |
| Tax Credit Equity | $1,046,456 | $18,687 | 3% |
| | | | |
| **TOTAL** | **$31,464,868** | **$561,873** | **100%** |

| TABLE 3 – PERMANENT SOURCES | | | |
|---|---|---|---|
| **Permanent** | **Total Sources** | **Per Unit** | **% Total** |
| Permanent Funding Loan | $9,649,000 | $172,304 | 31% |
| HCIDLA HHH Loan | $9,608,623 | $171,583 | 31% |
| HCIDLA HHH Loan-Accrued/Deferred Interest | $66,591 | $1,189 | 0.21% |
| LACDA – Affordable Housing Trust Fund | $1,588,351 | $28,363 | 5% |
| LACDA AHTF Accrued/Deferred Interest | $87,643 | $1,565 | 0.21% |
| GP Capital | $100 | $2 | 0% |
| Tax Credit Equity | $10,464,560 | $186,867 | 33% |
| | | | |
| **TOTAL** | **$31,464,868** | **$561,873** | **100%** |

| TABLE 4 – USES OF FUNDS | | | |
|---|---|---|---|
| **Uses of Funds** | **Total Uses** | **Cost / Unit** | **% Total** |
| Acquisition Costs | $825,977 | $14,750 | 2% |
| Construction & Related Costs | $22,307,831 | $398,354 | 71% |
| Architect & Engineering | $1,150,000 | $20,536 | 4% |
| Construction Financing Costs | $1,178,826 | $21,050 | 4% |
| Permanent Financing Costs | $73,245 | $1,308 | 0% |
| Reserves & Appraisal | $737,689 | $13,173 | 2% |
| Developer Fee | $2,500,000 | $44,643 | 8% |
| Other Project Costs | $2,691,300 | $48,059 | 9% |
| **TOTAL** | **$31,464,868** | **$561,873** | **100%** |

High-Cost Justification

The total development cost (TDC) of $561,873 per unit reflects several factors. The additional costs of these three drivers is $30,172 per unit, and when subtracted from $561,873 the adjusted Project cost per unit is $531,701:

- Oil Well Re-abandonment: Due to the requirements of the City Planning Conditions, as well as current standards dictated by the Department of Conservation, California Geological Energy Management Division (CalGEM, formerly the Division of Oil, Gas, and Geothermal Resources or DOGGR), the project is required to re-abandon a total of four previously plugged and abandoned oil wells. This includes one full oil well re-abandonment, as well as three oil well that must be re-abandoned to a certain depth, as determined by CalGEM. Per the DCP Planning Conditions, the re-abandonment work must be completed prior to issuance of a building permit. The approximate cost to re-abandon a total of four oil wells, inclusive of contractor and environmental engineering fees, is $1,016,000 or $18,143 per unit.

- Operable Solar PV System: Per the City Planning Conditions, an operable Solar PV System must be installed. In addition, the Project is pursuing a GreenPoint Rated (GPR) Program certification, which is beyond the TCAC minimum, to be competitive for the CDLAC application. Due to the GPR Program's Energy Design Rating (EDR) minimum threshold, the Project requires a Solar PV system sized at 102kW at an approximate total cost of $400,140 or $7,145 per unit.

- Additional Planning Conditions: Due to requirements of the Planning Conditions, the Project must install an operable grey water system. The proposed central laundry to landscape gray water system is approximately $95,000 or $1,696 per unit. In addition, the Planning conditions require pavers at the drive aisle at an approximate cost of $170,000 or $3,035 per unit; and Italian Cypress trees along the entire north property line for buffer and screening, at an approximate cost of $8,500 or $151 per unit. The total additional cost for the above-noted items is $273,500 or $4,884 per unit.

HCIDLA's Bond Team for the financing of the Project is as follows:

| | |
|---|---|
| Bond Issuer Municipal Advisor: | CSG Advisors, Inc.<br>315 W. 5th Street, Suite 302<br>Los Angeles, CA 90013 |
| Bond Issuer Counsel: | Los Angeles City Attorney<br>200 N. Spring Street, 21st Floor<br>Los Angeles, CA 90012 |
| Bond Counsel: | Kutak Rock LLP<br>777 S. Figueroa Street, Suite 4550<br>Los Angeles, CA 90017 |

Labor Costs

Labor costs for the Project are subject to California prevailing wage requirements, and/or federal wage requirements under the Davis–Bacon Act of 1931 and Related Acts, as applicable.

## FISCAL IMPACT

There is no fiscal impact to the General Fund as a result of the issuance of the bond(s). The City is a conduit issuer and will not incur liability for repayment of the bond(s). The Bond is a limited obligation, payable strictly from revenue derived from the Project. The City will not be obligated to make payments on the bond(s).

Approved By:

ANN SEWILL
General Manager
Housing+Community Investment Department

ATTACHMENTS:

Attachment A - Bond Resolution
Attachment B - Funding Loan Agreement
Attachment C - Construction and Permanent Loan Agreement
Attachment D - Regulatory Agreement

**Attachment A**

*Bond Resolution for SagePointe on next page.*

**RESOLUTION**

**CITY OF LOS ANGELES**

A RESOLUTION AUTHORIZING THE ISSUANCE AND DELIVERY OF ONE OR MORE SERIES OF MULTIFAMILY NOTES BY THE CITY OF LOS ANGELES DESIGNATED AS ITS MULTIFAMILY MORTGAGE REVENUE NOTE (SAGE POINTE APARTMENTS) SERIES 2021T AND TAXABLE SERIES 2021T-2 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $17,425,000 CONSISTING OF UP TO $16,525,000 OF SERIES 2021T NOTE AND UP TO $900,000 OF TAXABLE SERIES 2021T-2 NOTE TO PROVIDE FINANCING FOR THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE MULTIFAMILY HOUSING PROJECT SPECIFIED IN PARAGRAPH 16 HEREOF AND APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS AND AGREEMENTS AND THE TAKING OF RELATED ACTIONS INCLUDING THE EXECUTION OF AMENDATORY DOCUMENTS THERETO.

WHEREAS, the City of Los Angeles (the "City") is authorized, pursuant to the provisions of Section 248, as amended, of the City Charter of the City (the "City Charter") and Article 6.3 of Chapter 1 of Division 11 of the Los Angeles Administrative Code, as amended (the "Law") to issue its obligations for the purposes of providing financing for the acquisition, rehabilitation, construction, equipping and development of multifamily rental housing for persons of low and moderate income (the "Program") which will satisfy the provisions of Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Act"); and

WHEREAS, the City now desires to issue its revenue note pursuant to the Law, and in accordance with the Act, to provide financing for the acquisition, rehabilitation, construction and equipping of the multifamily rental housing project described in paragraph 16 below (the "Project"); and

WHEREAS, the Project is located wholly within the City; and

WHEREAS, it is in the public interest and for the public benefit that the City authorize the financing of the Project, and it is within the powers of the City to provide for such a financing and the issuance of such note; and

WHEREAS, the City proposes to issue, pursuant to the Law and in accordance with the Act, its Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Series 2021T with a principal amount not to exceed $16,525,000 (the "Series 2021T Note"); and

WHEREAS, the City proposes to issue, pursuant to the Law and in accordance with the Act, its Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Taxable Series 2021T-2 with a principal amount not to exceed $900,000 (the "Series 2021T-2 Note" and together with the Series 2021T Note, the "Note"); and

WHEREAS, the City proposes to use the proceeds of the Note to fund a loan to the owner identified in paragraph 16 (the "Owner") to finance a portion of the acquisition, rehabilitation, construction and equipping of the Project and, if applicable, to pay certain costs of issuance in connection with the issuance of the Note; and

WHEREAS, MUFG Union Bank, N.A., or a subsidiary or affiliate thereof (the "Funding Lender") has expressed its intention to make a loan (the "Funding Loan") to the City and as evidence for such loan acquire (or to cause a subsidiary or affiliate to acquire) the Note authorized hereby in whole, and this Council (the "City Council") finds that the public interest and necessity require that the City at this time make arrangements for the issuance and delivery of such Note; and

WHEREAS, the interest on the Series 2021T Note may qualify for a federal tax exemption under Section 142(a)(7) of the Internal Revenue Code of 1986, as amended (the "Code") only if the Series 2021T Note is approved in accordance with Section 147(f) of the Code; and

WHEREAS, pursuant to the Code, the Series 2021T Note is required to be approved, following a public hearing, by an elected representative of the issuer of the Series 2021T Note and an elected representative of the governmental unit having jurisdiction over the area in which the Project is located; and

WHEREAS, this City Council is the elected legislative body of the City and is the applicable elected representative required to approve the issuance of the Series 2021T Note within the meaning of Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the City caused a notice to appear in the *Los Angeles Times*, which is a newspaper of general circulation in the City, on February 9, 2021 to the effect that a public hearing would be held on February 16, 2021 regarding the issuance of the Note; and

WHEREAS, the Los Angeles Housing and Community Investment Department held said public hearing on such date, at which time an opportunity was provided to present arguments both for and against the issuance of the Series 2021T Note, pursuant to a plan of financing; and

WHEREAS, the minutes of such public hearing, and any written comments received with respect thereto, have been presented to this City Council; and

WHEREAS, the Owner of the Project provided to the City the following information as a good faith estimate of the cost of the Note financing and the City disclosed such information in accordance with Section 5852.1 of the California Government Code: (a) the true interest cost of the Note, (b) the finance charge of the Note, including all third party expenses, (c) the amount of proceeds received by the City for the issuance and delivery of the Note less the finance charge of the Note and any reserves or capitalized interest paid or funded with proceeds of the Note and (d) the total payment amount (the "Financing Information"); and

WHEREAS, such Financing Information has been disclosed in connection with the City Council meeting in which this Resolution is approved;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Los Angeles, as follows:

1. The recitals hereinabove set forth are true and correct, and this City Council so finds. This Resolution is being adopted pursuant to the Law.

2. Pursuant to the Law and in accordance with the Act and the Funding Loan Agreement (as hereinafter defined) a revenue note of the City, to be designated as "City of Los Angeles Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Series 2021T" in a principal amount not to exceed $16,525,000 and a revenue note of the City to be designated as "City of Los Angeles Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Taxable Series 2021T-2" in a principal amount not to exceed $900,000, are hereby authorized to be issued. The principal amount of the Note to be issued shall be determined by a Designated Officer (as defined below) in accordance with this Resolution.

3. The proposed form of Funding Loan Agreement (the "Funding Loan Agreement"), among the City, the Funding Lender as Funding Lender and such party as shall be designated by the City in the final form of Funding Loan Agreement, as fiscal agent (the "Fiscal Agent"), in substantially the form attached hereto, is hereby approved along with any additions or supplements which may, in the determination of a Designated Officer, be necessary to document the issuance of the Note authorized hereunder. The Mayor of the City, the General Manager or any Interim General Manager, any Assistant General Manager, or any Acting Assistant General Manager, Interim Assistant General Manager, Executive Officer, Director or Acting Director—Finance and Development Division of the Housing Development Bureau of the Los Angeles Housing and Community Investment Department (each hereinafter referred to as a "Designated Officer") are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Funding Loan Agreement, with such additions, changes or corrections as the Designated Officer executing the same may approve upon consultation with the City Attorney and Bond Counsel to the City and approval by the City Attorney, provided that such additions or changes shall not authorize an aggregate principal amount of the Note in excess of the amount stated above, such approval by the City Attorney to be conclusively evidenced by the execution and delivery of the Funding Loan Agreement with such additions, changes or corrections.

Any Designated Officer shall be authorized to approve the appointment of the Fiscal Agent.

4. The proposed form of Construction and Permanent Loan Agreement (Multifamily Housing Back to Back Loan Program) (the "Loan Agreement"), by and among the City, the Funding Lender and the Owner, in substantially the form attached hereto, is hereby approved. Any Designated Officer is hereby authorized and directed, for and in the name and on behalf of the City, to execute the Loan Agreement, with such additions, changes or corrections as the Designated Officer executing the same may approve upon consultation with the City Attorney and Bond Counsel and approval by the City Attorney, such approval to be conclusively evidenced by the execution of said Loan Agreement with such additions, changes or corrections.

5. The proposed form of the Note, as set forth in the Funding Loan Agreement, is hereby approved, and the Mayor and City Treasurer, Interim City Treasurer, or Deputy City Treasurer of the City are hereby authorized and directed to execute, by manual or facsimile signatures of such officers under the seal of the City, and the Fiscal Agent or an authenticating agent, is hereby authorized and directed to authenticate, by manual signatures of one or more authorized officers of the Fiscal Agent or an authenticating agent, the Note in substantially such form and the Fiscal Agent is hereby authorized and directed to issue and deliver the Note to the Funding Lender in accordance with the Funding Loan Agreement. The date, maturity dates, interest rate or rates (which may be either fixed or variable), interest payment dates, denomination, form of registration privileges, manner of execution, place of payment, terms of redemption, use of proceeds, series designation and other terms of the Note shall be as provided in the Funding Loan Agreement as finally executed; provided, however, that the principal amount of the Series 2021T Note shall not exceed $16,525,000 and the principal amount of the Taxable Series 2021T-2 Note shall not exceed $900,000, the interest rate on the Note shall not exceed 12% per annum (which limitation shall not apply to any default rate defined in the Loan Agreement), and the final maturity of the Note shall be no later than forty years after the date of Note issuance. The initial purchase price of the Note shall be 100% of the principal amount thereof to be paid as advances are made with respect to the Note by the Funding Lender. The Note may, if so provided in the Funding Loan Agreement, be issued as a "draw-down" note to be funded over time as provided in the Funding Loan Agreement. Such Note may be delivered in temporary form pursuant to the Funding Loan Agreement if, in the judgment of the City Attorney, delivery in such form is necessary or appropriate until the Note in definitive form can be prepared.

6. The proposed form of Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement") to be entered into by and among the City, the Fiscal Agent and the Owner, substantially in the form attached hereto, is hereby approved. Any Designated Officer is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Regulatory Agreement, with such additions, changes and corrections as the Designated Officer may approve upon consultation with the City Attorney and Bond Counsel and approval of the City Attorney, such approval to be conclusively evidenced by the execution of said Regulatory Agreement with such additions, changes or corrections. Any Designated Officer is hereby authorized and directed for and in the name and on behalf of the City to execute amendments to the Regulatory Agreement in order that interest on the Series 2021T Note remains tax-exempt.

7. All actions heretofore taken by the officers and agents of the City with respect to the issuance and delivery of the Note are hereby approved, confirmed and ratified, and each Designated Officer of the City, the City Clerk and other properly authorized officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents, including, but not limited to, those described in the Funding Loan Agreement, the Loan Agreement, the Regulatory Agreement and the other documents herein approved, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of

the Note and the implementation of the Program in accordance with the Act and the Law and this Resolution and resolutions heretofore adopted by the City.

8. The City Clerk of the City or any deputy thereof is hereby authorized to countersign or to attest the signature of any Designated Officer and to affix and attest the seal of the City as may be appropriate in connection with the execution and delivery of any of the documents authorized by this resolution, provided that the due execution and delivery of said documents or any of them shall not depend on such signature of the City Clerk or any deputy thereof or affixing of such seal. Any of such documents may be executed in multiple counterparts.

9. In addition to the Designated Officers, any official of the City, including any official of the Los Angeles Housing and Community Investment Department, as shall be authorized in writing by the Mayor of the City, is hereby authorized for and on behalf of the City to execute and deliver any of the agreements, certificates and other documents, except the Note, authorized by this Resolution.

10. In accordance with procedures established by the City Charter, the City Council, by adoption and approval of this Resolution and with the concurrence of the Mayor, does hereby direct that the proceeds of the Note be delivered directly to the Fiscal Agent, instead of the City Treasurer, to be deposited into the funds and accounts established under the Funding Loan Agreement.

11. Pursuant to Section 147(f) of the Code, the City Council hereby approves the issuance of the Series 2021T Note to finance the Project. It is intended that this Resolution constitute approval of the Series 2021T Note by the applicable elected representative of the issuer of the Series 2021T Note and the applicable elected representative of the governmental unit having jurisdiction over the area in which the Project is located, in accordance with said Section 147(f).

12. Pursuant to the City Charter all agreements to which the City is a party shall be subject to approval by the City Attorney as to form.

13. Each Designated Officer and other properly authorized officials of the City as specifically authorized under this resolution are hereby authorized, directed and empowered on behalf of the City and this Council to execute any other additional applications, certificates, agreements, documents or other instruments or any amendments or supplements thereto, subject to approval by the City Attorney as to form, or to do and to cause to be done any and all other acts and things as they may deem necessary or appropriate to carry out the purpose of the foregoing authorizations and to address any issues arising with respect to the Note or the agreements relating thereto subsequent to their issuance.

14. The Note shall contain a recital that it is issued pursuant to the Law and in accordance with the Act.

15. This Resolution shall take effect immediately upon its passage and adoption.

16. The "Project" and "Owner" referred to herein are as follows:

| Project Name | # of Units | Address | Owner |
|---|---|---|---|
| Sage Pointe Apartments | 56 (plus 1 manager unit) | 1435 North Eubank Avenue, Los Angeles, CA 90744 | Linc-Wilmington Apts LP |

I certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting on _____ _____, 2021.

By _____
Name _____
Title _____

**Attachment B**

*Funding Loan Agreement for SagePointe on next page.*

KUTAK ROCK LLP
DRAFT 04/16/2021

# FUNDING LOAN AGREEMENT

by and among

**MUFG UNION BANK, N.A.**,
as Funding Lender

**[FISCAL AGENT]**,
as Fiscal Agent

and

**CITY OF LOS ANGELES**,
as Governmental Lender

dated as of [DATED DATE]

relating to:

$16,525,000
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Series 2021T

$[TAXABLE PRINCIPAL AMOUNT]
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Taxable Series 2021T-2

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# FUNDING LOAN AGREEMENT

(Back to Back Loan Program)

**THIS FUNDING LOAN AGREEMENT**, dated as of [DATED DATE] (this "**Funding Loan Agreement**"), is by and among **MUFG UNION BANK, N.A.**, in its capacity as the funding lender hereunder (together with any successor to its rights, duties and obligations hereunder, the "**Bank**"), the **CITY OF LOS ANGELES**, a charter city and a municipal corporation of the State of California (together with any successor to its rights, duties and obligations hereunder, the "**City**" or "**Governmental Lender**"), and [FISCAL AGENT], in its capacity as the fiscal agent hereunder (together with any successor to its rights, duties and obligations hereunder, the "**Fiscal Agent**").

For and in consideration of the mutual agreements hereinafter contained, the parties hereto agree as follows:

## ARTICLE I

## DEFINITIONS AND INTERPRETATION

1.1. Definitions. The following words and terms as used in this Agreement shall have the following meanings unless the context or use otherwise requires:

"**Act**" means Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California, as now in effect and as it may from time to time hereafter be amended or supplemented to apply to obligations incurred as of the Closing Date.

"**Affiliate**" means, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

"**Approved Institutional Buyer**" means: (a) a "**qualified institutional buyer**" as defined in Rule 144A promulgated under the United States Securities Act of 1933, as in effect on the date hereof (the "**Securities Act**"), or commercial bank having a minimum capital surplus of $5,000,000,000; (b) an institutional "**accredited investor**" as defined in Sections 501(a)(1) through (3) of Regulation D promulgated under the Securities Act; (c) an entity that is directly or indirectly wholly owned or controlled by the Bank (being a financial institution described in (a) above); (d) an entity all of the investors in which are described in (a), (b) or (c) above; or (e) a custodian or trustee for a party or parties described in (a), (b) or (c) above.

"**Assignment of Deed of Trust**" means that certain Assignment of Deed of Trust and Related Documents dated [DATED DATE], executed by the Governmental Lender in favor of the Bank.

"**Authorized Representative**" shall mean: (i) as to the Governmental Lender, the Mayor, the General Manager, any Interim General Manager, any Acting General Manager, any Assistant General Manager, any Acting Assistant General Manager or Interim Assistant General Manager, Executive Officer or the Director or Acting Director—Finance and Development Division of the Housing Development Bureau of the Los Angeles Housing and Community Investment Department, and any other, officer or employee of the Governmental Lender designated to perform

a specified act, to sign a specified document or to act generally on behalf of the Governmental Lender as evidenced by a written certificate furnished to the Funding Lender, the Fiscal Agent, and the Borrower containing the specimen signature of such person and signed on behalf of the Governmental Lender by the Mayor, the General Manager, any Interim General Manager, any Acting General Manager, any Assistant General Manager, any Acting Assistant General Manager or Interim Assistant General Manager, Executive Officer or the Director or Acting Director—Finance and Development Division of the Housing Development Bureau of the Los Angeles Housing and Community Investment Department. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of such Authorized Representative; (ii) as to the Borrower, [BORROWER REPRESENTATIVE]; (iii) as to the Funding Lender, Perica Bell, Managing Director or Zennia Harris, Vice President of MUFG Union Bank, N.A.; and (iv) as to the Fiscal Agent, [FISCAL AGENT REPRESENTATIVE], Vice President of [FISCAL AGENT]. The Funding Lender, the Fiscal Agent, the Bank and the Borrower may from time to time deliver one or more additional certificates designating other Authorized Representative(s).

"**Bank**" means MUFG Union Bank, N.A., and its successors and assigns in its capacity as the Funding Lender hereunder.

"**Borrower**" means Linc-Wilmington Apts LP, a California limited partnership, and its permitted successors and assigns.

"**Borrower Loan**" means the mortgage loan originated by the Governmental Lender to the Borrower in the principal amount of $[_____] pursuant to the terms of the Borrower Loan Agreement.

"**Borrower Loan Agreement**" means that certain Construction and Permanent Loan Agreement (Multifamily Housing Back to Back Loan Program), dated as of [DATED DATE], by and among the Borrower, the Governmental Lender and the Bank, as amended and supplemented from time to time, pursuant to which the Borrower Loan is being made.

"**Borrower Loan Documents**" shall have the meaning ascribed to it in the Borrower Loan Agreement.

"**Borrower Note**" means that certain Promissory Note (Multifamily Housing Back to Back Loan Program) in the original principal amount of $[_____] evidencing the Borrower Loan, executed by the Borrower in favor of the Governmental Lender, as amended from time to time.

"**Borrower Representative**" means the [_____] of the general partner of the Borrower, or any other officer of the co-managing member of the general partner of the Borrower designated by the President and Chief Executive Officer of the co-managing member of the general partner of the Borrower or the President of the co-managing member of the general partner of the Borrower to be a Borrower Representative for purposes of the Borrower Loan Documents.

"**Business Day**" means a day other than a Saturday or Sunday on which the Bank is open for business for the funding of corporate loans.

"**CDLAC**" means the California Debt Limit Allocation Committee or any successor thereto.

"**Closing Date**" means the date of issuance of the Funding Loan Note for purposes of the Code.

"**Code**" or "**Internal Revenue Code**" means the Internal Revenue Code of 1986, and with respect to a specific section thereof, such reference shall be deemed to include (a) the regulations promulgated by the United States Department of the Treasury under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

"**Control**" shall mean, with respect to any Person, either (i) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

"**Conversion Date**" shall have the meaning given such term in the Borrower Loan Agreement.

"**County**" means the County of Los Angeles, California.

"**Deed of Trust**" means the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Construction Trust Deed) (Multifamily Housing Back to Back Loan Program), executed by the Borrower and granting a security interest in the Development to the deed of trust trustee identified therein for the benefit of the Governmental Lender and the Bank to secure the Borrower's obligations under the Borrower Note to repay the Borrower Loan, and all obligations related thereto under the Borrower Loan Agreement.

"**Development**" means the residential rental facility consisting of 56 units (including 1 manager unit) of multifamily rental housing to be located at 1435 North Eubank in Los Angeles, California, on the sites described in the Deed of Trust and Exhibit A to the Regulatory Agreement.

"**Event of Default**" means any of the events described as an event of default in Section 9.1 hereof.

"**Fiscal Agent**" means [FISCAL AGENT] and its successors and assigns in its capacity as the fiscal agent hereunder.

"**Fiscal Agent's Fees**" means the ongoing fee of [____]% of: (a) prior to the Conversion Date, the maximum principal amount of the Funding Loan Note and (b) following the Conversion Date, the outstanding principal amount of the Funding Loan Note, with an annual minimum fee of $[_____], payable annually in arrears on each [July] 1, commencing [July 1, 2022].

"**Funding Lender**" shall mean MUFG Union Bank, N.A., a national banking association, and any successor Funding Lender under this Funding Loan Agreement and the Funding Loan Documents.

"**Funding Loan**" means the loan originated hereunder by the Bank to the Governmental Lender in an aggregate principal amount of up to $[_____], evidenced by the Funding Loan

Note, for the purpose of enabling the Governmental Lender to make the Borrower Loan to the Borrower pursuant to the terms of the Borrower Loan Agreement.

"**Funding Loan Agreement**" means this Funding Loan Agreement, as amended and supplemented from time to time.

"**Funding Loan Documents**" means this Funding Loan Agreement, the Funding Loan Note, the Borrower Loan Agreement, the Regulatory Agreement, the Tax Certificate and the Assignment of Deed of Trust.

"**Funding Loan Note**" means collectively (i) the Tax Exempt Funding Loan Note and (ii) the Taxable Funding Loan Note which is issued on the Closing Date by the Governmental Lender in favor of the Bank, in the form(s) attached hereto as Exhibit A, as amended and supplemented from time to time.

"**Governmental Lender**" means the City of Los Angeles, a charter city and municipal corporation of the State of California, and its successors and assigns.

"**Ineligible Purchaser**" shall mean any owner or operator of a multifamily housing facility within the City of Los Angeles which has either: (i) repeatedly violated the building or habitability codes of the City of Los Angeles; or (ii) been convicted of criminal violations relating to the ownership or operation of multifamily housing in the City of Los Angeles.

**"Law"** means Section 248 of the City Charter of the City and Article 6.3 of Chapter 1 of Division 11 of the Los Angeles Administrative Code, as supplemented and amended to the Closing Date.

"**Maximum Rate**" shall mean the lesser of: (i) 12% per annum; or (ii) the applicable maximum rate allowed by law.

"**Person**" shall mean an individual, a corporation, a partnership, a limited liability company, a limited liability partnership, a limited partnership, a trust, an unincorporated organization or a government or any agency or political subdivision thereof.

"**Regulations**" means the tax regulations promulgated by the United States Department of the Treasury from time to time pursuant to the Code.

"**Regulatory Agreement**" means that Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [DATED DATE], by and among the Governmental Lender, the Fiscal Agent and the Borrower, as amended and supplemented from time to time in accordance with its terms.

"**Representation Letter**" shall mean a representation letter in substantially the form attached to this Funding Loan Agreement as Exhibit B.

"**Requisition**" shall have the meaning ascribed to it in Section 9.6(c).

"**Reserved Rights**" means the Governmental Lender's rights to enforce and receive payments of money directly and for its own purposes under Exhibit C and Sections 7.24, 7.27, 7.28, 7.29 and 11.4 (solely as such Sections relate to the Governmental Lender) of the Borrower Loan Agreement, the Governmental Lender's rights to inspect and audit the books, records and premises of the Borrower and of the Development, its right to collect attorneys' fees and related expenses, its right to enforce the Borrower's covenants to comply with applicable federal tax law and State law (including the Law, the Act and the rules and regulations of the Governmental Lender), its right to receive fees and notices and to grant or withhold consents or waivers and to enforce its rights under the Regulatory Agreement and this Funding Loan Agreement, its rights to indemnification by the Borrower under Section 7.24 of the Borrower Loan Agreement and Section 9 of the Regulatory Agreement, and its rights to amend this Funding Loan Agreement and the Regulatory Agreement in accordance with the provisions hereof and thereof.

"**Responsible Banking Ordinance**" means Ordinance No. 182138 of the City of Los Angeles amending Chapter 5.1 of the Los Angeles Administrative Code.

"**Security**" shall have the meaning ascribed to it in Section 7.1.

"**State**" means the State of California.

"**Taxable Funding Loan Note**" shall mean that certain City of Los Angeles Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Taxable Series 2021T-2 dated the Closing Date in the original maximum principal amount of $[TAXABLE PRINCIPAL AMOUNT] made by the Governmental Lender and payable to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

"**Tax Certificate**" means the Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986, executed and delivered by the City and the Borrower as of the Closing Date.

"**Tax Counsel**" means (a) Kutak Rock LLP, or (b) any attorney at law or other firm of attorneys selected by the Borrower and acceptable to the Governmental Lender and the Funding Lender of nationally recognized standing in matters pertaining to the federal tax status of interest on tax exempt obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America, but shall not include counsel for the Borrower.

"**Tax Exempt Funding Loan Note**" shall mean that certain City of Los Angeles Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Series 2021T dated the Closing Date in the original maximum principal amount of $16,525,000 made by the Governmental Lender and payable to the Funding Lender, as it may be amended or replaced from time to time.

1.2. Interpretation. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Funding Loan Agreement and all the terms and provisions hereof shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

1.3. Recitals, Titles and Headings. The terms and phrases used in the recitals of this Funding Loan Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all such terms and phrases for purposes of this Funding Loan Agreement shall be determined by references to Section 1.1 hereof. The titles and headings of the articles and sections of this Funding Loan 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 and shall never be considered or given any effect in construing this Funding Loan Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

## ARTICLE II

## REPRESENTATIONS AND WARRANTIES

2.1. Representations and Warranties of the Governmental Lender. The Governmental Lender makes the following representations and warranties:

(a) The Governmental Lender is a charter city and municipal corporation, duly organized and existing under the laws of the State.

(b) Under the provisions of the Law and the Act, the Governmental Lender has the power, and has taken all official actions necessary (i) to enter into the Funding Loan Documents to which it is a party, or (ii) to perform its obligations hereunder and thereunder, and (iii) to consummate all other transactions on its part contemplated by this Funding Loan Agreement.

(c) The Funding Loan Documents to which the Governmental Lender is a party have been duly executed and delivered by the Governmental Lender and the Governmental Lender has taken such actions as are necessary to cause the Funding Loan Documents to which it is a party, when executed by the other respective parties thereto, to be valid and binding limited obligations of the Governmental Lender, enforceable against the Governmental Lender in accordance with their respective terms, except as limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally.

(d) The execution and delivery of Funding Loan Documents to which it is a party, the performance by it of its obligations hereunder and thereunder and the consummation of the transactions on its part contemplated hereby and thereby will not violate any law, rule, regulation or ordinance or any order, judgment or decree of any federal, state or local court, and do not conflict with, or constitute a breach of, or a default under the terms and conditions of, any agreement, instrument or commitment to which the Governmental Lender is a party or by which the Governmental Lender or any of its property is bound.

(e) The Governmental Lender has not been served with any action, suit, proceeding, inquiry or investigation and, to the knowledge of the Governmental Lender, no action, suit, proceeding, inquiry or investigation is threatened against the Governmental

Lender, by or before any court, governmental agency or public board or body which: (i) affects or questions the existence or the territorial jurisdiction of the Governmental Lender or the title to office of any members of the governing board of the Governmental Lender; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party, or the loaning of the Funding Loan as herein set forth; (iii) affects or questions the validity or enforceability of the Funding Loan Documents; or (iv) questions the power or authority of the Governmental Lender to carry out the transactions on its part contemplated by the Funding Loan Documents.

(f) The revenues and receipts to be derived from the Borrower Loan Agreement and the Borrower Note have not been pledged by the Governmental Lender to secure any of its notes or bonds other than the Funding Loan evidenced by the Funding Loan Note.

(g) The Governmental Lender will not create, authorize or approve any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.

(h) CDLAC has provided an allocation of the State of California's 2020 private activity bond volume cap under Section 146 of the Code to the Governmental Lender for the Funding Loan Note. The Governmental Lender has timely made the required carry forward election with respect to such allocation as required by the Code, and the Governmental Lender will comply with the requirements of the Code with respect to such allocation. The Governmental Lender has applied the alternative option under clause (2) of the first paragraph of Section 3.01 of IRS Notice 2011-63 with respect to the issue date of the Funding Loan Note; and, in connection therewith, has included the information on Form 8038 filed for the Funding Loan Note that is required by Section 3.03 of said Notice.

Nothing in this Funding Loan Agreement shall be construed as requiring the Governmental Lender to provide any financing for the Development other than the proceeds of the Funding Loan, or to provide sufficient moneys for all of the costs of the Development.

2.2. Representations, Warranties and Covenants of the Bank. The Bank as of the date hereof, represents, warrants and covenants that:

(a) The Bank is a national banking association, organized and existing under the laws of the United States and has full legal right, power and authority under the laws of the United States (i) to enter into this Funding Loan Agreement, the Borrower Loan Agreement and the Assignment Agreement, (ii) to perform its obligations hereunder, and (iii) to consummate the transactions on its part contemplated by this Funding Loan Agreement and the Borrower Loan Agreement.

(b) This Funding Loan Agreement, the Borrower Loan Agreement and the Assignment Agreement have been duly executed and delivered by the Bank and, when executed by the Governmental Lender and Borrower, as applicable, will constitute valid and binding obligations of the Bank, enforceable against the Bank in accordance with their

respective terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws or judicial decisions affecting the rights of creditors generally.

(c) The execution and delivery of this Funding Loan Agreement, the Borrower Loan Agreement and the Assignment Agreement, the performance by the Bank of its obligations hereunder and thereunder and the consummation of the transactions on its part contemplated hereby and thereby will not violate any law, regulation, rule or ordinance or any order, judgment or decree of any federal, state or local court and do not conflict with, or constitute a breach of, or a default under, any document, instrument or commitment to which the Bank is a party or by which the Bank or any of its property is bound.

(d) The Bank has not been served with and, to the knowledge of the Bank, there is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency or public board or body pending or threatened against the Bank which (i) affects or seeks to prohibit, restrain or enjoin the loaning of the amounts set forth herein to the Governmental Lender or the execution and delivery of this Funding Loan Agreement, the Borrower Loan Agreement or the Assignment Agreement, (ii) affects or questions the validity or enforceability of this Funding Loan Agreement or the Borrower Loan Agreement, or (iii) questions the power or authority of the Bank to carry out the transactions on its part contemplated by, or to perform its obligations under, this Funding Loan Agreement and the Borrower Loan Agreement.

(e) Any certificate for the benefit of the Governmental Lender signed by a representative of the Bank and delivered pursuant to this Funding Loan Agreement, the other Funding Loan Documents or the Borrower Loan Agreement shall be deemed a representation and warranty by the Bank as to the statements made therein.

(f) The Bank shall advise the Fiscal Agent in writing of any amendment to the amortization schedules attached to the Borrower Loan Agreement.

## ARTICLE III

## THE FUNDING LOAN

3.1. Closing of the Funding Loan. The closing of the Funding Loan shall not occur until the following conditions are met:

(a) the Bank shall have received an original executed counterpart of this Funding Loan Agreement, the Funding Loan Note, the Assignment of Deed of Trust, the Regulatory Agreement, the Deed of Trust, the original of the Borrower Note endorsed by the Governmental Lender to the Bank, an opinion of Tax Counsel as to the validity of the Funding Loan Note and the exemption of interest on the Tax Exempt Funding Loan Note from gross income for federal income tax purposes and all of the Borrower Loan Documents;

(b) no Event of Default nor any event which with the passage of time and/or the giving of notice would constitute an Event of Default under this Funding Loan

Agreement shall have occurred as evidenced by a certificate received from the Governmental Lender;

(c) the conditions to the closing of the Borrower Loan, the issuance of the Borrower Note and the initial disbursement of the Borrower Loan as set forth in Sections 4.1, 4.2 (including, but not limited to, Sections 4.2.2, 4.2.3, 4.2.6(b) and 4.2.9), and 5.1.1 of the Borrower Loan Agreement shall have been satisfied in full;

(d) counsel to the Borrower shall have delivered an opinion in form satisfactory to counsel to the Governmental Lender and counsel to the Bank regarding the enforceability against the Borrower of the Borrower Loan Documents to which the Borrower is a party;

(e) the initial owner of the Funding Loan Note shall have executed and delivered a letter in the form of Exhibit B hereto; and

(f) all legal matters incident to the transactions contemplated by this Funding Loan Agreement shall be concluded to the reasonable satisfaction of Tax Counsel, counsel to the Governmental Lender, counsel to the Bank and counsel to the Fiscal Agent.

3.2. Commitment To Execute the Funding Loan Note. The Governmental Lender agrees to execute and deliver the Funding Loan Note simultaneously with the execution of this Funding Loan Agreement, the Borrower Loan Agreement, the Borrower Note, the Tax Certificate and the Regulatory Agreement.

3.3. Amount and Source of Funding Loan. The Bank hereby makes to the Governmental Lender and agrees to fund, and the Governmental Lender hereby accepts from the Bank, upon the terms and conditions set forth herein, the Funding Loan in an aggregate principal amount of up to $[AGGREGATE PRINCIPAL AMOUNT] and agrees to have the proceeds of the Funding Loan applied and disbursed in accordance with the provisions of this Funding Loan Agreement.

3.4. Disbursement of Funding Loan Proceeds.

(a) The Bank and the Governmental Lender hereby authorize and direct the funding and disbursement by the Bank of the initial principal amount of the Funding Loan in the amount of $[_____] on the Closing Date consisting of (i) $[_____] from the Tax Exempt Funding Loan Note and (ii) $[_____] from the Taxable Funding Loan Note, subject to the satisfaction of all the conditions specified in Section 3.1 above. On the date of execution and delivery of the Funding Loan Note, and the date of execution and delivery of the Borrower Note, the initial proceeds of the Funding Loan in the amount of $[_____] shall be disbursed by the Bank, on behalf of the Governmental Lender, to the [Fiscal Agent for disbursement to the escrow agent for the closing of the Borrower Loan to fund the Borrower Loan under and as provided in Section 5.1.2 of the Borrower Loan Agreement].

(b) The Bank and the Governmental Lender hereby authorize and direct the funding and disbursement of the remaining principal amount of the Funding Loan (not referenced in Section 3.4(a) above) by the Bank, on behalf of the Governmental Lender,

directly to the Fiscal Agent to fund the remaining principal of the Borrower Loan under and as provided in, and subject to the provisions of, Section 5 of the Borrower Loan Agreement (other than Section 5.1.1). The Funding Loan advances shall be allocated first to the Tax Exempt Funding Loan Note and, once the foregoing has been fully funded, then to the Taxable Funding Loan Note.

(c) Prior to the Conversion Date, the Bank shall disburse directly to the Bank on the first Business Day of each month, the accrued interest under the Funding Loan and the Bank will provide the Fiscal Agent with written notice of the amount disbursed pursuant to this Section 3.4(c).

(d) None of the Bank, the Governmental Lender, or the Fiscal Agent shall be responsible for the application by the Borrower of monies disbursed to or for the account of the Borrower in accordance with this Section 3.4.

(e) From and after the earlier of (i) the Conversion Date (as defined in the Borrower Loan Agreement), or (ii) December 31 of the year which is three years after the Closing Date, no further advances of the Funding Loan shall occur.

## ARTICLE IV

## LIMITED LIABILITY; NOTE REGISTER

4.1. Limited Liability. Notwithstanding any other provision of this Funding Loan Agreement to the contrary:

**THE FUNDING LOAN NOTE IS NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DOES NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER, OF THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, BUT IS PAYABLE SOLELY FROM THE PROJECT REVENUES AND PROPERTY PLEDGED THEREFOR IN THIS FUNDING LOAN AGREEMENT AND NOT FROM ANY OTHER REVENUES, FUNDS OR ASSETS OF THE CITY. NEITHER THE CITY, THE STATE NOR ANY SUCH POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL CORPORATION OR SUBDIVISION OR AGENCY THEREOF NOR THE FAITH AND CREDIT OF THE CITY IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE FUNDING LOAN NOTE OR OTHER COSTS INCIDENT THERETO. THE FUNDING LOAN NOTE IS NOT A DEBT OF THE UNITED STATES OF AMERICA.**

**EXCEPT TO THE LIMITED EXTENT PROVIDED ABOVE, NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE FUNDING LOAN NOTE OR FOR ANY CLAIM BASED THEREON OR UPON ANY OBLIGATION, COVENANT OR AGREEMENT IN THIS FUNDING LOAN AGREEMENT CONTAINED AGAINST THE GOVERNMENTAL LENDER, ANY PAST, PRESENT OR FUTURE MEMBER OF ITS GOVERNING BODY,**

**ITS OFFICERS, ATTORNEYS, ACCOUNTANTS, FINANCIAL ADVISORS, AGENTS OR STAFF OR THE OFFICERS, ATTORNEYS, ACCOUNTANTS, FINANCIAL ADVISORS, AGENTS OR STAFF OF ANY SUCCESSOR PUBLIC ENTITY, AS SUCH, EITHER DIRECTLY OR THROUGH THE GOVERNMENTAL LENDER OR ANY SUCCESSOR PUBLIC ENTITY, UNDER ANY RULE OF LAW OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF THE GOVERNMENTAL LENDER, ANY MEMBER OF ITS GOVERNING BODY AND ITS OFFICERS, ATTORNEYS, ACCOUNTANTS, FINANCIAL ADVISORS, AGENTS AND STAFF IS HEREBY, AND BY THE ACCEPTANCE OF THE FUNDING LOAN NOTE, EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND IN CONSIDERATION FOR, THE EXECUTION OF THIS FUNDING LOAN AGREEMENT AND THE ISSUANCE OF THE FUNDING LOAN NOTE.**

The Governmental Lender shall not be liable for payment of the principal of or interest on the Funding Loan Note or any other 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 Funding Loan Agreement, the Funding Loan Note or any other documents, except only to the extent amounts are received for the payment thereof from the Borrower under the Borrower Loan Agreement.

4.2. Note Register. The Funding Loan Note shall be in fully registered form. The Fiscal Agent shall maintain records (the "**Note Register**") as to the owner of the Funding Loan Note. Any transfer by the Bank of its ownership of the Funding Loan Note (or by any subsequent transferee of the Funding Loan Note) shall be recorded by the Fiscal Agent in the Note Register. The Funding Loan Note shall not be transferred through the services of the Depository Trust Company or any other third-party registrar.

4.3. Transfer of Funding Loan Note.

(a) The Funding Loan Note and the Funding Loan may, in accordance with the terms of this Funding Loan Agreement but in any event subject to the provisions of Section 4.3(b) and (c) hereof, be transferred by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of the Funding Loan Note for cancellation at the office of the Fiscal Agent, accompanied by a written instrument of transfer in a form acceptable to the Fiscal Agent, duly executed. Whenever the Funding Loan Note shall be surrendered for transfer, the Fiscal Agent shall authenticate and deliver to the transferee thereof a new Funding Loan Note in the name of the transferee as beneficiary thereof.

(b) Notwithstanding any other provision hereof, the Funding Loan Note may not be registered in the name of, or transferred to, any person except with the prior written consent of the Governmental Lender, which shall not be unreasonably or arbitrarily withheld, and only to an Approved Institutional Buyer that executes and delivers to the Governmental Lender and the Fiscal Agent a letter substantially in the form attached hereto as Exhibit B; provided, however, that no such letter is required to be executed and no prior written consent of the Governmental Lender shall be required in connection with a transfer of the Funding Loan Note to an Affiliate of the Bank.

Nothing contained in this Section 4.3(b) shall be deemed to limit or otherwise restrict the sale by any owner of the Funding Loan Note of any participation interests in the Funding Loan Note, provided that: (i) such owner shall remain the owner of record in the Note Register of the Fiscal Agent following the sale of any such participation interest; (ii) the purchaser of the participation interest is an Approved Institutional Buyer; (iii) any such participation shall be in a principal amount of at least $250,000 or, if less, the then outstanding principal amount of the Funding Loan Note; and (iv) the purchaser of such participation interest shall provide a Representation Letter to the Governmental Lender and the Fiscal Agent substantially in the form of Exhibit B hereto.

(c) The Funding Loan Note may only be transferred in whole.

(d) In the case of a transfer of the Funding Loan Note and Funding Loan, subject to the foregoing transfer restrictions, the transferor shall provide to the Governmental Lender written notice of such proposed transfer not less than 10 calendar days prior to such proposed transfer, during which time the Governmental Lender shall determine whether the proposed transferee is an Ineligible Purchaser. If the Governmental Lender fails to deliver written notice to the Fiscal Agent of such determination within 10 calendar days of receipt of notice of proposed transfer, the Fiscal Agent shall conclude that such transferee is not an Ineligible Purchaser.

(e) The Governmental Lender may require the payment by the entity requesting any such transfer of any tax, fee or other governmental charge required to be paid with respect to such transfer. The cost of printing any new Funding Loan Note and any services rendered or any out-of-pocket expenses incurred by the Governmental Lender in connection therewith shall be paid by the transferor of the Funding Loan Note.

(f) The transferor of the Funding Loan Note shall indemnify and defend the Governmental Lender and the officers, directors, employees, attorneys and agents of the Governmental Lender, past, present and future, against any claim brought by any transferor or transferee of the Funding Loan Note in respect of the Borrower Loan Documents in the event that there occurs a transfer of the Funding Loan Note that is not permitted pursuant to this Section 4.3. Failure to comply with Section 4.3(b) shall cause any purported transfer to be null and void.

(g) If the transferee is a "Commercial Bank" as defined in the Responsible Banking Ordinance, the transferee shall deliver to the Governmental Lender an executed Responsible Banking Ordinance Certificate in the form of Exhibit D hereto.

## ARTICLE V

## REPAYMENT OF THE FUNDING LOAN

5.1. Funding Loan Repayment.

(a) The Funding Loan shall be evidenced by the Funding Loan Note which shall be executed by the Governmental Lender in the form attached hereto as Exhibit A. The Governmental Lender agrees to pay to the Fiscal Agent, but only from amounts received

by the Governmental Lender from the Borrower pursuant to the Borrower Loan Agreement, the Borrower Note and the other Borrower Loan Documents, principal of, premium on (if any) and interest on the Funding Loan at the times, in the manner, in the amounts and at the rates of interest provided in the Funding Loan Note and this Funding Loan Agreement.

(b) The Governmental Lender further agrees to cause the Borrower to pay, solely by the execution of the Borrower Loan Agreement and the assignment thereof to the Fiscal Agent under this Funding Loan Agreement, all fees, all late charges and prepayment premiums, fees and penalties as set forth in the Funding Loan Note, all taxes and assessments, general or special, including, without limitation, all ad valorem taxes, concerning or in any way related to the Development, or any part thereof, and any other governmental charges and impositions whatsoever, foreseen or unforeseen, and all utility and other charges and assessments; provided, however, that the Governmental Lender reserves the right to contest in good faith the legality of any tax or governmental charge concerning or in any way related to the Development and the Governmental Lender's obligations hereunder will be limited as provided in Sections 4.1, 5.2 and 6.14 hereof.

(c) The Governmental Lender further agrees, subject to Sections 4.2, 5.2 and 6.13 hereof, to request the Borrower to pay to the Bank, solely by the execution of the Borrower Loan Agreement, on the Closing Date a loan fee equal to $[_____].

5.2. Nature of the Governmental Lender's Obligations. The Governmental Lender shall repay the Funding Loan Note, but only from amounts received by the Governmental Lender, the Bank or the Fiscal Agent (in its capacity as Fiscal Agent under this Funding Loan Agreement) from the Borrower pursuant to the Borrower Loan Agreement, the Borrower Note and the other Borrower Loan Documents, pursuant to the terms of the Funding Loan Note irrespective of any rights of set-off, recoupment or counterclaim the Governmental Lender might otherwise have against the Fiscal Agent, the Bank or any other person. The Governmental Lender will not suspend, discontinue or reduce any such payment or (except as expressly provided herein) terminate this Funding Loan Agreement for any cause, including, without limiting the generality of the foregoing, (i) any delay or interruption in the acquisition, rehabilitation or operation of the Development; (ii) the failure to obtain any permit, order or action of any kind from any governmental agency relating to the Funding Loan or the Development; (iii) any event constituting force majeure; (iv) any acts or circumstances that may constitute commercial frustration of purpose; (v) any change in the laws of the United States of America, the State or any political subdivision thereof; or (vi) any failure of the Governmental Lender or the Fiscal Agent to perform or observe any covenant whether expressed or implied, or to discharge any duty, liability or obligation arising out of or connected with the Funding Loan Note; it being the intention of the parties that, as long as the Funding Loan Note or any portion thereof remains outstanding and unpaid, the Governmental Lender shall be obliged to repay the Funding Loan, but only from amounts received by the Governmental Lender or the Bank from the Borrower pursuant to the Borrower Loan Agreement, the Borrower Note and the other Borrower Loan Documents. This Section 5.2 shall not be construed to release the Governmental Lender from any of its obligations hereunder, or, except as provided in this Section 5.2, to prevent or restrict the Governmental Lender from asserting any rights which it may have against the Bank under the Funding Loan Note or under any provision of law or to prevent or restrict the Governmental Lender from prosecuting

or defending any action or proceeding by or against the Fiscal Agent, the Bank or the Borrower or taking any other action to protect or secure its rights, or to prevent or restrict the Bank from asserting any rights which it may have against the Borrower.

Notwithstanding anything contained in this Funding Loan Agreement, the Governmental Lender shall not be required to advance any moneys derived from the proceeds of taxes collected by the Governmental Lender, the State or by any political subdivision thereof or from any source of income of any of the foregoing other than the Security for any of the purposes mentioned in this Funding Loan Agreement, whether for the payment of the principal of or interest on the Funding Loan Note or for any other purpose of this Funding Loan Agreement.

No recourse under or upon any obligation, covenant, warranty or agreement contained in this Funding Loan Agreement or in the Funding Loan Note, or under any judgment obtained against the Governmental Lender, or the enforcement of any assessment, or any legal or equitable proceedings by virtue of any constitution or statute or otherwise, or under any circumstances under or independent of this Funding Loan Agreement, shall be had against the Mayor, the City Council or any of the members, officers, agents or employees of the Governmental Lender, as such, past, present or future of the Governmental Lender, either directly or through the Governmental Lender or otherwise, for the payment for or to the Governmental Lender or any receiver of the Governmental Lender, or for or to the owner of the Funding Loan Note, or otherwise, of any sum that may be due and unpaid by the Governmental Lender upon the Funding Loan Note. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of the Mayor, the City Council or of any such member, officer, agent or employee, past, present or future, of the Governmental Lender, as such, by reason of any act of omission on his or her part or otherwise, for the payment for or to the owner of the Funding Loan Note or otherwise of any sum that may remain due and unpaid upon the Funding Loan Note secured by this Funding Loan Agreement or any of them is, by the acceptance of the Funding Loan Note, expressly waived and released as a condition of and in consideration for the execution of this Funding Loan Agreement and the issuance of the Funding Loan Note.

Anything in this Funding Loan Agreement to the contrary notwithstanding, it is expressly understood by the parties to this Funding Loan Agreement that (a) the Governmental Lender may rely exclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Governmental Lender by the Fiscal Agent, the Funding Lender or the owner of the Funding Loan Note as to the existence of any fact or state of affairs, (b) the Governmental Lender shall not be under any obligation under this Funding Loan Agreement to perform any record keeping or to provide any legal services, it being understood that such services shall be performed or caused to be performed by the Fiscal Agent or by the Funding Lender and (c) none of the provisions of this Funding Loan Agreement shall require the Governmental Lender to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under this Funding Loan Agreement, unless it shall first have been adequately indemnified to its satisfaction against any costs, expenses and liability which it may incur as a result of taking such action.

No covenant, stipulation, obligation or agreement of the Governmental Lender contained in this Funding Loan Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Governmental

Lender or the Mayor or the City Council in other than that person's official capacity. No member, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of the principal or redemption price of or interest on the Funding Loan Note or be subject to any personal liability or accountability by reason of the issuance of the Funding Loan Note.

It is recognized that notwithstanding any other provision of this Funding Loan Agreement, neither the Borrower, the Fiscal Agent, the Funding Lender nor any owner of the Funding Loan Note shall look to the Governmental Lender for damages suffered by the Borrower, the Fiscal Agent, the Funding Lender or such owner of the Funding Loan Note as a result of the failure of the Governmental Lender to perform any covenant, undertaking or obligation under this Funding Loan Agreement, the Borrower Loan Agreement, the Funding Loan Note or any of the other documents referred to herein, or as a result of the incorrectness of any representation made by the Governmental Lender in any of such documents, nor for any other reason. Although this Funding Loan Agreement recognizes that such documents shall not give rise to any pecuniary liability of the Governmental Lender, nothing contained in this Funding Loan Agreement shall be construed to preclude in any way any action or proceeding (other than that element of any action or proceeding involving a claim for monetary damages against the Governmental Lender) in any court or before any governmental body, agency or instrumentality or otherwise against the Governmental Lender or any of its officers or employees to enforce the provisions of any of such documents which the Governmental Lender is obligated to perform and the performance of which the Governmental Lender has not assigned to the Fiscal Agent or any other person; provided, however, that as a condition precedent to the Governmental Lender proceeding pursuant to this Section 5.2, the Governmental Lender shall have received satisfactory indemnification.

## ARTICLE VI

## FURTHER AGREEMENTS

6.1. Successor to the Governmental Lender. The Governmental Lender will at all times use its best efforts to maintain the powers, functions, duties and obligations now reposed in it pursuant to law or assure the assumptions of its obligations hereunder by any public trust or political subdivision succeeding to its powers.

6.2. Additional Instruments. The Governmental Lender hereby covenants to execute and deliver, or cause to be executed and delivered, at the expense of the Borrower, such additional instruments and to perform such additional acts, or cause the performance of such additional acts, as may be necessary, in the written opinion of the Fiscal Agent or the Bank, each acting in good faith, to carry out the intent of this Funding Loan Agreement and the Funding Loan Note or to perfect or give further assurances of any of the rights granted or provided for in this Funding Loan Agreement, the Assignment of Deed of Trust or the other Funding Loan Documents.

6.3. Books and Records. The Governmental Lender shall, solely by the execution of the Borrower Loan Agreement and the assignment thereof to the Fiscal Agent, and subject to the provisions of Sections 4.1, 5.2 and 6.13 hereof, cause the Borrower to permit the Fiscal Agent or the Funding Lender or its duly Authorized Representatives access during normal business hours to the books and records of the Borrower pertaining to the Borrower Loan and the Development,

and to make such books and records available for audit and inspection, at reasonable times and under reasonable conditions to the Governmental Lender, the Fiscal Agent, the Funding Lender and their duly Authorized Representatives, and at the sole expense of the Borrower.

6.4. Notice of Certain Events. The Governmental Lender hereby covenants to advise the Fiscal Agent and the Funding Lender promptly in writing of the occurrence of any Event of Default under and as defined in the Borrower Loan Agreement, the Regulatory Agreement or the other Funding Loan Documents of which it has received written notice, or any event which, with the passage of time or service of notice, or both, would constitute an Event of Default thereunder of which it has received written notice, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto. In Section 7.23 of the Borrower Loan Agreement, the Borrower has agreed to advise the Governmental Lender and the Funding Lender promptly in writing of the occurrence of any Event of Default (as defined in the Borrower Loan Agreement).

6.5. Compliance With Usury Laws. Notwithstanding any other provision of this Funding Loan Agreement, it is agreed and understood that in no event shall this Funding Loan Agreement, with respect to the Funding Loan Note, be construed as requiring the Governmental Lender or any other person to pay interest and other costs or considerations that constitute interest under any applicable law which are contracted for, charged or received pursuant to this Funding Loan Agreement in an amount in excess of the maximum amount of interest allowed under any applicable law.

In the event of any acceleration of the payment of the principal amount of the Funding Loan Note, that portion of any interest payment in excess of the maximum legal rate of interest, if any, provided for in this Funding Loan Agreement or related documents shall be cancelled automatically as of the date of such acceleration, or if theretofore paid, credited to the principal amount.

The provisions of this Section prevail over any other provision of this Funding Loan Agreement.

6.6. No Untrue Statements. Neither this Funding Loan Agreement nor any other document, certificate or written statement furnished to the Fiscal Agent or the Funding Lender by the Governmental Lender contains to the best of its knowledge any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading or incomplete as of the date hereof. It is specifically understood by the Governmental Lender that all such statements, representations and warranties shall be deemed to have been relied upon by the Funding Lender as an inducement to make the Funding Loan and that if any such statements, representations and warranties were materially incorrect at the time they were made, the Funding Lender may consider any such misrepresentation or breach an Event of Default.

No document, certificate or written statement furnished to the Governmental Lender by the Funding Lender contains to the best of its knowledge any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein not misleading or incomplete as of the date hereof.

6.7. No Arbitrage. Solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, the Governmental Lender shall not take, permit or suffer to be taken any action with respect to the proceeds of the Funding Loan Note which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Funding Loan Note to be an "arbitrage bond" within the meaning of Section 148 of the Code and the Regulations promulgated thereunder. The Governmental Lender covenants, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, to cause the Borrower to rebate to the United States Treasury any amounts which are required to be rebated thereto pursuant to the Code and any regulations promulgated thereunder with respect to the Funding Loan and the Borrower shall cause payment of an amount equal to excess investment earnings with respect to the Funding Loan, to the United States in accordance with the Regulations, all at the sole expense of the Borrower.

6.8. Limitation on Issuance Costs. The Governmental Lender shall assure, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, that, from the proceeds of the Funding Loan Note received from the Funding Lender and investment earnings thereon, an amount not in excess of 2% of the amount of the Funding Loan advanced by the Funding Lender shall be used to pay for or provide for the payment of costs associated with the issuance, execution and delivery of the Funding Loan Note. For this purpose, if the fees of the Funding Lender are retained as a discount on the purchase of the Funding Loan Note, such retention shall be deemed to be an expenditure of proceeds of the Funding Loan for said fees.

6.9. Federal Guarantee Prohibition. The Governmental Lender shall take no action nor, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, permit nor suffer any action to be taken if the result of the same would be to cause the Funding Loan Note to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

6.10. Prohibited Facilities. The Governmental Lender, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, shall assure that no portion of the proceeds of the Funding Loan shall be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises. The Governmental Lender, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, shall assure that no portion of the proceeds of the Funding Loan shall be used for an office unless the office is located on the premises of the facilities constituting the Development and unless not more than a de minimis amount of the functions to be performed at such office is not related to the day-to-day operations of the Development.

6.11. Use Covenant. Solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, the Governmental Lender shall not use or knowingly permit the use of any proceeds of the Funding Loan or any other funds of the Governmental Lender, directly or indirectly, in any

manner, and shall not take or permit to be taken any other action or actions, which would result in the Funding Loan Note not meeting the requirements of Section 142(d) of the Code as applicable to the Development.

6.12. Limitation of Expenditure of Proceeds. The Governmental Lender shall assure, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, that not less than 97% of the amount advanced on the Funding Loan, plus premium (if any) paid on the purchase of the Funding Loan Note by the original purchaser thereof from the Governmental Lender, less any original discount, are used for Qualified Project Costs (as defined in the Regulatory Agreement) and that less than 25% of such amount is used for land or an interest in land.

6.13. Tax-Exempt Status of Tax Exempt Funding Loan. The Governmental Lender covenants to and for the benefit of the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or any other instrument, it will:

(a) not knowingly take or cause to be taken any action or actions, or knowingly fail to take any action or actions, which would cause the interest payable on the Tax Exempt Funding Loan Note to be includable in gross income for federal income tax purposes;

(b) whenever and so often as requested by the Funding Lender, at the sole cost and expense of the Borrower, the Governmental Lender shall do and perform all acts and things permitted by law and necessarily desirable in order to assure the interest paid by the Governmental Lender on the Tax Exempt Funding Loan Note will be excluded from the gross income of the owner of the Tax Exempt Funding Loan Note for federal income tax purposes pursuant to Section 103 of the Code, except in the event where any owner of the Funding Loan Note is a "substantial user" of the facilities financed with the Funding Loan or a "related person" within the meaning of Section 147(a) of the Code; and

(c) not knowingly take any action nor, solely in reliance of the covenants and representations of the Borrower in the Borrower Loan Agreement, the Regulatory Agreement and the Tax Certificate, knowingly permit or suffer any action to be taken if the result of the same would be to cause the Tax Exempt Funding Loan Note to be "federally guaranteed" within the meaning of Section 149(b) of the Code of the Regulations.

For purposes of this Section 6.13 the Governmental Lender's compliance shall be based solely on matters within the Governmental Lender's knowledge and control and no acts, omissions or directions of the Borrower, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

In complying with the foregoing covenants, the Governmental Lender may rely from time to time on an opinion of Tax Counsel.

6.14. Immunities and Limitations of Responsibility of Governmental Lender.

(a) The Governmental Lender shall be entitled to the advice of counsel, and the Governmental Lender shall be wholly protected as to action taken or omitted in reliance on

such advice. The Governmental Lender may rely conclusively on any written notice or other document furnished to it hereunder or under the Borrower Loan Agreement and reasonably believed by it to be genuine. The Governmental Lender shall in no event be liable for the application or misapplication of funds or for other acts or defaults by any person, except its own officers and employees. When any payment or consent or other action by it is called for hereby, it may defer such action pending receipt of such evidence (if any) as it may require in support thereof. The Governmental Lender shall not be required to take any remedial action (other than the giving of notice) hereunder or under any of the other Funding Loan Documents unless indemnity in a form acceptable to the Governmental Lender is furnished for any expense or liability to be incurred in connection with such remedial action. The Governmental Lender shall be entitled to reimbursement from the Borrower for its expenses reasonably incurred or advances reasonably made, with interest at the maximum rate of interest permitted under applicable law, in the exercise of its rights or the performance of its obligations hereunder, to the extent that it acts without previously obtaining indemnity. No permissive right or power to act which the Governmental Lender may have shall be construed as a requirement to act, and no delay in the exercise of a right or power shall affect its subsequent exercise of the right or power.

(b) A default by the Borrower in any of its covenants, representations and agreements in the Borrower Loan Agreement, Regulatory Agreement or Tax Certificate on which the Governmental Lender is relying in the various sections of this Article VI shall not be considered a default hereunder by the Governmental Lender.

(c) The Borrower has indemnified the Governmental Lender against certain acts and events as set forth in Section 7.24 of the Borrower Loan Agreement and Section 9 of the Regulatory Agreement. Such indemnities shall survive payment of the Funding Loan and discharge of this Funding Loan Agreement.

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

## ARTICLE VII

## SECURITY

7.1. Security for the Funding Loan. To secure the payment of the Funding Loan and the Funding Loan Note, the Governmental Lender hereby grants, bargains, sells, conveys, assigns, transfers, hypothecates, pledges and sets over to the Funding Lender (excepting only the Reserved Rights) a lien on and security interest in the following described property (collectively, the "**Security**"):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan Agreement and the Borrower Note, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Development and, including, without limitation, all income, revenues, proceeds and other amounts which the Governmental Lender is entitled to derive from or in connection with the Development and the Borrower Loan Documents, including all amounts due under the Borrower Loan Agreement, the Borrower Note and the other Borrower Loan Documents and all amounts obtained after the exercise of the remedies provided in the Borrower Loan Documents and all receipts credited under the provisions of the Borrower Loan Agreement against said amounts payable;

(b) All right, title and interest of the Governmental Lender in, to and under the other Borrower Loan Documents, together with all rights, remedies, privileges and options pertaining to the Borrower Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Documents;

(c) All right, title and interest of the Governmental Lender in and to: (i) the right to collect and receive net proceeds of any policy of insurance maintained pursuant to the Borrower Loan Documents; (ii) any award or payment becoming payable to the Governmental Lender under the Borrower Loan Documents by reason of any condemnation of the Development, any improvements located thereon or any conveyance in lieu of condemnation; and (iii) any bankruptcy, insolvency, reorganization or condemnation proceeding involving the Borrower or any Loan Party (as defined in the Borrower Loan Agreement) with respect to the Borrower Loan Documents;

(d) Any and all other real or personal property of every kind and nature or description which may from time to time hereafter, by delivery or by writing of any kind, be subject to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent or which pursuant to any of the provisions hereof or the Borrower Loan Documents may come into the possession or control of the Governmental Lender; and

(e) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held under this Funding Loan Agreement, subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 7.1 for the payment of principal of, premium, if any, and interest on the Funding Loan Note, in accordance with its terms and provisions and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Funding Loan Note by the Governmental Lender. The Security so pledged and/or thereafter received by the Governmental Lender, the Bank or the Fiscal Agent shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior

to the claims of any and all parties having claims of any kind whether in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

7.2. Delivery of Security. In connection with such pledge, assignment, transfer and conveyance of the Security pursuant to Section 7.1 herein, the Governmental Lender shall deliver to the Bank the following documents or instruments promptly following their execution and, to the extent applicable, their recordation or filing:

(a) The Borrower Note endorsed without recourse to the Funding Lender by the Governmental Lender;

(b) The Borrower Loan Agreement, Regulatory Agreement, Deed of Trust and other Borrower Loan Documents existing on the Closing Date and the Assignment of Deed of Trust assigning for security purposes and without recourse the Deed of Trust and Borrower Loan Documents from the Governmental Lender to the Funding Lender.

(c) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Fiscal Agent's status as an assignee of the Governmental Lender's security interest in any personal property forming a part of the Development; and

(d) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement, in forms provided by the Funding Lender.

The Governmental Lender shall deliver and deposit with the Funding Lender such additional documents, financing statements and instruments as the Funding Lender may reasonably request in writing from time to time for the purpose of better perfecting and assuring to the Fiscal Agent its lien and security interest in and to the Security in each case in forms provided by the Funding Lender and at the expense of the Borrower.

## ARTICLE VIII

## AGENCY

8.1. Assignment of Authority. Solely for purposes of the administration of this Funding Loan Agreement, the Governmental Lender hereby vests the Fiscal Agent and the Funding Lender with full authority and power to act on its behalf for the purposes set forth herein as each is granted authority hereunder, and to do all other acts necessary or incidental to the performance and execution thereof, except for the Reserved Rights.

8.2. Authority of the Fiscal Agent and Bank; Notices to Governmental Lender. The Funding Lender is authorized and agrees to advance monies on behalf of the Governmental Lender to fund the Borrower Loan upon satisfaction of the conditions set forth in the Borrower Loan Agreement and otherwise to act on behalf of the Governmental Lender under the Borrower Loan Documents as expressly permitted hereunder and under the Borrower Loan Document, except for exercise of the Reserved Rights. Except for the Reserved Rights, the Funding Lender is hereby authorized, directed and empowered to exercise all the rights, powers or remedies of the Governmental Lender under the Borrower Loan Agreement and the other Borrower Loan

Documents, and to make all determinations and exercise all options and elections thereunder, without the necessity of further advice or consultation with, or consent or authorization by, the Governmental Lender, and all actions taken by the Funding Lender under the Borrower Loan Agreement or any of the other Borrower Loan Documents shall be valid and shall have the same force and effect as if taken by the Governmental Lender. The Funding Lender shall have the right to exercise any rights and remedies conferred on the Governmental Lender pursuant to the Borrower Loan Documents (except for the Reserved Rights) as may be necessary or convenient to (i) enforce the payment of any amounts owing by the Borrower under the Borrower Loan Documents and prepayments thereof, or (ii) otherwise to protect the interest of the Governmental Lender, the Funding Lender or the Fiscal Agent upon a default by the Borrower under the Borrower Loan Documents. The Fiscal Agent and the Funding Lender each agree to provide the Governmental Lender any notices given by it or delivered to it pursuant to the Borrower Loan Agreement regarding the occurrence of an Event of Default (as defined in the Borrower Loan Agreement), the acceleration of the Borrower Loan or the foreclosure of the Deed of Trust and shall provide written notice to the Governmental Lender of any amendment to the Borrower Note or the Borrower Loan Agreement. The Funding Lender shall have the right to collect all payments and other amounts received by the Governmental Lender from or on behalf of the Borrower pursuant to the Borrower Loan Agreement or the other Borrower Loan Documents, including prepayments thereof, except for payments of fees owing by the Borrower to the Governmental Lender in respect of the Reserved Rights.

8.3. Successor Fiscal Agent. Anything herein to the contrary notwithstanding, any corporation or association into which the Fiscal Agent may be converted or merged or with which it may be consolidated or to which it may sell or transfer its business and assets as a whole or substantially as a whole or any corporation or association resulting from any conversion, sale, merger, consolidation or transfer to which it is a party will, ipso facto, be and become the Fiscal Agent hereunder and vested with all of the title to the whole property and all the powers, discretion, immunities, privileges, obligations and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of the parties hereto.

8.4. Assignment of Rights. The Governmental Lender agrees that the Funding Lender shall have the right to assign all of its rights under this Agreement, and under all instruments and documents executed by the Governmental Lender pursuant to this Agreement, to an Affiliate of the Funding Lender, or to a subsequent owner of all of the Funding Loan Note and the Funding Loan as permitted under Section 4.3 herein or an Affiliate thereof. The Funding Lender will advise the Governmental Lender in writing of any such proposed assignment and, following delivery of its consent, the Governmental Lender will execute and deliver to the Funding Lender any documents (at the expense of the Funding Lender) necessary to effectuate such assignment in forms provided by the Funding Lender.

8.5. Reserved.

8.6. Acceptance. The Funding Lender hereby accepts the assignments and pledge made herein for the purpose of securing the payments due pursuant to the Funding Loan Agreement.

8.7. Conditions. This Article VIII shall confer no obligations or impose no duties upon the Funding Lender or the Fiscal Agent beyond those expressly provided in this Funding Loan Agreement and the Borrower Loan Agreement. This Article VIII shall confer no obligations or impose no duties upon the Governmental Lender beyond those expressly provided in this Funding Loan Agreement.

## ARTICLE IX

## FUNDS AND ACCOUNTS

9.1. Authorization To Create Funds and Accounts. Except as provided in Section 9.3 hereof, no funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Bank and the Fiscal Agent are authorized to establish and create from time to time such other funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Bank or the Fiscal Agent, pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

9.2. Investment of Funds. Amounts held in any funds or accounts created under this Funding Loan Agreement shall be deposited in a deposit account, savings account or money market account with the Fiscal Agent at the direction of the Borrower, subject in all cases to the restrictions of Section 6.13 hereof and of the Tax Certificate.

9.3. Establishment of Funds. There are established with the Fiscal Agent the following funds and accounts:

(a) The Note Payment Fund;

(b) The Project Fund, including a Tax Exempt Subaccount into which advances of the Tax Exempt Funding Loan Note will be deposited and a Taxable Subaccount into which advances of the Taxable Funding Loan Note will be deposited;

(c) The Expense Fund;

(d) The Rebate Fund; and

(e) The Closing Costs Fund.

All money required to be deposited with or paid to the Fiscal Agent for the account of any of the funds or accounts created by this Funding Loan Agreement shall be held by the Fiscal Agent in trust for the benefit of the owner of the Funding Loan Note, and, except for money held in the Expense Fund or the Rebate Fund, shall, while held by the Fiscal Agent, be subject to the lien hereof.

9.4. Note Payment Fund.

(a) The Governmental Lender and the Borrower shall have no interest in the Note Payment Fund or the moneys therein, which shall always be maintained by the Fiscal Agent completely separate and segregated from all other moneys held hereunder and from any other moneys of the Governmental Lender and the Borrower.

(b) The Fiscal Agent shall deposit into the Note Payment Fund any amounts received from the Borrower as payments of principal of or premium, if any, or interest on the Borrower Loan, any other amounts received by the Fiscal Agent that are subject to the lien and pledge of this Funding Loan Agreement and any funds pledged to the Bank hereunder not required to be deposited to the Expense Fund or not otherwise specifically directed in writing by the Funding Lender to be deposited into other funds created by this Funding Loan Agreement.

(c) The Fiscal Agent shall apply all amounts on deposit in the Note Payment Fund in the following order of priority:

*First*, to pay or provide for the payment of the interest then due on the Funding Loan;

*Second*, to pay or provide for the payment or the prepayment of principal on the Funding Loan, and any premium thereon, provided moneys have been transferred or deposited into the Note Payment Fund for such purpose; and

*Third*, to pay or provide for the payment of the Funding Loan on its maturity date.

9.5. Expense Fund.

(a) The Fiscal Agent shall deposit in the Expense Fund the amounts required by the Regulatory Agreement or the Borrower Loan Agreement to be paid by the Borrower to the Governmental Lender or the Fiscal Agent. Amounts on deposit in the Expense Fund shall be used to pay the fees and expenses of the Governmental Lender and the Fiscal Agent, as and when the same become due. In that regard, moneys in the Expense Fund shall be withdrawn or maintained, as appropriate, by the Fiscal Agent to pay (i) the Governmental Lender's ongoing fee pursuant to Section 7(n) of the Regulatory Agreement (the "**Ongoing Governmental Lender Fee**") to the Government Lender as and when due, (ii) the Fiscal Agent amounts due pursuant to the definition of the Fiscal Agent's Fees herein, (iii) upon receipt, to the Fiscal Agent, any amounts due to the Fiscal Agent which have not been paid, other than amounts paid in accordance with clause (ii) hereof, and (iv) upon receipt, to, or at the direction of, the Governmental Lender, any amounts owing the Governmental Lender by the Borrower and then due and unpaid, other than amounts paid in accordance with clause (i) hereof.

(b) In the event that the amounts on deposit in the Expense Fund are not equal to the amounts payable from the Expense Fund as provided in Section 9.5(a) above on any date on which such amounts are due and payable, the Fiscal Agent shall give notice to the Borrower of such deficiency and of the amount of such deficiency and request payment within two Business Days to the Fiscal Agent of the amount of such deficiency.

(c) Written notice of any insufficiency, which results in the Governmental Lender not receiving the Ongoing Governmental Lender Fee on the applicable due date, shall be provided by the Fiscal Agent to the Governmental Lender (with a copy to the Borrower and the Funding Lender) within 10 days of the respective due date. Upon payment by the Borrower of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent to the Governmental Lender.

(d) Notwithstanding anything herein to the contrary, the Fiscal Agent, on behalf of the Governmental Lender, shall prepare and submit a written invoice to the Borrower for payment of the Ongoing Governmental Lender Fee not later than 30 days prior to the due date for payment of such Ongoing Governmental Lender Fee, and shall remit moneys received from the Borrower to the Governmental Lender for payment of such fee.

9.6. Project Fund.

(a) All proceeds of the Funding Loan provided by the Funding Lender shall be deposited to the applicable subaccount of the Project Fund and disbursed as herein provided. The Fiscal Agent shall use moneys in the Project Fund for the acquisition, rehabilitation, construction and equipping of the Development, to pay other permitted development costs and to pay other costs related to the Development as provided herein.

(b) Not less than 97% of the moneys deposited in and credited to the Tax Exempt Subaccount of the Project Fund, representing the proceeds of the Tax Exempt Funding Loan, including any income earned thereon, will be expended for Qualified Project Costs (as defined in the Regulatory Agreement) (the "**97% Requirement**"). The amounts on deposit in the Project Fund shall not be applied to the payment of costs of issuance of the Funding Loan Note.

(c) Before any payment representing Funding Loan Note proceeds shall be made from the Project Fund, the Regulatory Agreement and the Deed of Trust shall have been executed and recorded in the official records of the County of Los Angeles and there shall be filed with the Fiscal Agent a written requisition of the Borrower substantially in the form attached hereto as Exhibit C ("Requisition") and (i) approved by the Funding Lender pursuant to the terms, conditions and provisions of the Borrower Loan Agreement and (ii) acknowledged by the Governmental Lender. The Governmental Lender agrees that if the Governmental Lender has not objected in writing to any disbursement from the Project Fund within five Business Days of receipt of a request for acknowledgment of such disbursement, the Governmental Lender shall be deemed to have acknowledged such disbursement. The Fiscal Agent shall be entitled to conclusively rely upon any Requisition in determining whether to disburse amounts from the Project Fund.

(d) In connection with a Requisition, except for a written request for amounts representing accrued interest due and payable on the Funding Loan Note:

(i) Only the signature of the Funding Lender and the acknowledgment of the Governmental Lender shall be required on a Requisition during any period in which an Event of Default by the Borrower has occurred and is then continuing

under the Borrower Loan Agreement (notice of which default has been given in writing by the Funding Lender to the Fiscal Agent and the Governmental Lender, and the Fiscal Agent shall be entitled to conclusively rely on any such written notice as to the occurrence and continuation of such a default).

(ii) The Fiscal Agent shall disburse amounts in the Project Fund upon receipt of a Requisition signed only by the Funding Lender and the Governmental Lender, as applicable (and without any need for any signature by an Authorized Representative), so long as the amount to be disbursed is to be used solely to make payments of principal, interest and/or fees due under the Funding Loan Documents.

(iii) The Fiscal Agent may conclusively rely on all Requisitions, the execution of the Requisitions by the Borrower and the approval and acknowledgement, as applicable, of all Requisitions by the Funding Lender and the Governmental Lender, as required by this Section, as conditions of payment from the Project Fund, which Requisitions constitute, as to the Fiscal Agent, irrevocable determinations that all conditions to payment of the specified amounts from the Project Fund have been satisfied. These documents shall be retained by the Fiscal Agent, subject at all reasonable times to examination by the Borrower, the Governmental Lender, the Funding Lender and the agents and representatives thereof upon reasonable notice to the Fiscal Agent. The Fiscal Agent is not required to inspect the Development or the rehabilitation or construction work or to make any independent investigation with respect to the matters set forth in any Requisition or other statements, orders, certifications, acknowledgments and approvals received by the Fiscal Agent. The Fiscal Agent is not required to obtain completion bonds, lien releases or otherwise supervise the acquisition, rehabilitation, construction, equipping, improvement and installation of the Development.

(e) Upon receipt of each Requisition submitted by the Borrower and approved in writing by the Funding Lender and acknowledged in writing by the Governmental Lender, as applicable, the Fiscal Agent shall promptly, but in any case within one Business Day, make payment from the Project Fund in accordance with such Requisition. The Fiscal Agent shall have no duty to determine whether any requested disbursement from the Project Fund complies with the terms, conditions and provisions of the Funding Loan Documents, constitutes payment of Qualified Project Costs or complies with the 97% Requirement. The approval in writing of a Requisition by the Funding Lender shall be deemed a certification and, insofar as the Fiscal Agent and the Governmental Lender are concerned, shall constitute conclusive evidence that all of the terms, conditions and requirements of the Funding Loan Documents applicable to such disbursement have been fully satisfied or waived and the Requisition from the Borrower shall, insofar as the Fiscal Agent and the Governmental Lender are concerned, constitute conclusive evidence that the costs described in the Requisition constitute Qualified Project Costs or other permitted development costs.

(f) The Fiscal Agent shall immediately provide written notice to the Borrower, the Funding Lender and the Governmental Lender if there are not sufficient funds available

to or on deposit with the Fiscal Agent to make the transfers as and when required by Section 9.6(e) above. Except as provided in the next sentence, all such payments shall be made by check or draft payable, or by wire transfer, either (i) directly to the person, firm or corporation to be paid, (ii) to the Borrower and such person, firm or corporation, or (iii) upon receipt by the Funding Lender and the Governmental Lender of evidence that the Borrower has previously paid such amount and written direction to the Fiscal Agent as to such as evidenced by the Funding Lender's approval and the Governmental Lender's acknowledgment of the Requisition, to the Borrower. Upon the occurrence of an Event of Default of the Borrower of which the Fiscal Agent has knowledge as provided herein, which is continuing under the Funding Loan Documents, with the written consent of the Funding Lender, the Fiscal Agent may apply amounts on deposit in the Project Fund to the payment of principal of and interest on the Funding Loan. If a Requisition signed by the Borrower Representative and countersigned by the Funding Lender and the Governmental Lender is received by the Fiscal Agent, the requested disbursement shall be paid by the Fiscal Agent as soon as practicable, but in no event later than three Business Days following receipt thereof by the Fiscal Agent. Upon final disbursement of all amounts on deposit in the Project Fund, the Fiscal Agent shall close the Project Fund.

(g) Immediately prior to any mandatory prepayment of the Funding Loan pursuant hereto, any amounts then remaining in the Project Fund shall, at the written direction of the Funding Lender, be applied to the prepayment of the Funding Loan pursuant hereto.

(h) Investment income earned on amounts on deposit in the Project Fund shall be retained in and credited to and become a part of the amounts on deposit in the Project Fund.

(i) Prior to the Conversion Date, the Funding Lender shall disburse the Funding Loan directly to the Funding Lender to pay accrued interest due and payable on the Funding Loan Note and will provide written notice of the amount of such disbursement to the Fiscal Agent within three Business Days of the disbursement.

9.7. Rebate Fund. The Fiscal Agent shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

(a) Within 15 days after each receipt or transfer of funds to the Rebate Fund, the Fiscal Agent shall withdraw from the Rebate Fund and pay to the United States of America the entire balance of the Rebate Fund.

(b) All payments to the United States of America pursuant to this Section shall be made by the Fiscal Agent for the account and in the name of the Governmental Lender and shall be paid through the United States mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal Revenue Service forms (such forms to be provided to the Fiscal Agent by the Borrower or the Rebate Analyst).

(c) The Fiscal Agent shall preserve all statements, forms and explanations received from the Borrower and delivered to the Fiscal Agent and all records of transactions in the Rebate Fund until six years after the retirement of the Funding Loan Note.

(d) The Fiscal Agent may conclusively rely on the instructions of the Borrower (based upon the report of the Rebate Analyst) with regard to any actions to be taken by it pursuant to this Section 9.7 and shall have no liability for any consequences of any failure of the Borrower or the Rebate Analyst to perform its duties or obligations or to supply accurate or sufficient instructions. Except as specifically provided in subsection (b) above, the Fiscal Agent shall have no duty or responsibility with respect to the Rebate Fund or the Borrower's duties and responsibilities with respect thereto except to follow the Borrower's specific written instruction related thereto.

(e) If at any time during the term of this Funding Loan Agreement the Governmental Lender, the Fiscal Agent or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section, such person shall be permitted to take such action if it shall first obtain and provide to the other persons named herein an opinion of Tax Counsel that such action shall be in compliance with the laws of the State and the terms of this Funding Loan Agreement and will not impair the exclusion of interest on the Funding Loan from gross income for purposes of federal income taxation.

(f) Moneys and securities held by the Fiscal Agent in the Rebate Fund shall not be deemed funds of the Governmental Lender and are not pledged or otherwise subject to any security interest in favor of the owners to secure the Funding Loan Note or any other obligations.

(g) Moneys in the Rebate Fund may be separately invested and reinvested by the Fiscal Agent, at the request of and as directed in writing by the Borrower, subject to the Code. The Fiscal Agent shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in the Rebate Fund is insufficient for its purposes.

(h) Notwithstanding anything to the contrary in this Funding Loan Agreement, no payment shall be made by the Fiscal Agent to the United States if the Borrower shall furnish to the Governmental Lender and the Fiscal Agent an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Funding Loan Note. In such event the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide an opinion of Tax Counsel that such action will not impair the exclusion of interest on the Funding Loan from gross income for purposes of federal income taxation to the Governmental Lender and the Fiscal Agent with respect to such withdrawal.

(i) The Fiscal Agent shall keep and make available to the Governmental Lender and the Borrower records concerning the investments of all funds held by the Fiscal Agent pursuant to the Funding Loan Agreement including date bought and sold, price and commission paid, and bids taken, if any, and shall keep all such records until six years after

the date on which the Funding Loan Note is repaid in full in order to enable the Borrower to make the computations required under Section 148(f) of the Code.

(j) Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this Section 9.7 need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on an opinion of Tax Counsel that such action will not impair the excluding of interest on the Funding Loan from gross income for purposes of federal income taxation, a copy of which shall be provided to the Fiscal Agent.

9.8. Closing Costs Fund. On the Closing Date, the Borrower shall deposit or cause to be deposited with the Fiscal Agent, for deposit in the Closing Costs Fund, the amount of $[_____]. Amounts in the Closing Costs Fund shall be disbursed by the Fiscal Agent to pay Closing Costs on the Closing Date or as soon as practicable thereafter as follows: (a) pay the Fiscal Agent its closing fee of $4,000.00; and (b) pay to the California Debt and Investment Advisory Commission ("CDIAC") the CDIAC fee of up to $[_____] upon receipt of an invoice therefor. Any interest earnings on amounts on deposit in the Closing Costs Fund shall remain in such Fund. Any moneys remaining in the Closing Costs Fund (including investment proceeds) after the earlier of (i) the payment of all costs of issuance as certified in writing to the Fiscal Agent by the Borrower or (ii) a period of five months after the Closing Date shall be paid to the Borrower and the Closing Costs Fund shall be closed.

## ARTICLE X

## THE FISCAL AGENT

10.1. Appointment of Fiscal Agent; Acceptance. The Governmental Lender hereby appoints [FISCAL AGENT] as Fiscal Agent hereunder. The Fiscal Agent shall signify its acceptance of the duties and obligations imposed upon it by this Funding Loan Agreement by executing this Funding Loan Agreement.

10.2. Certain Duties and Responsibilities of Fiscal Agent.

(a) The Fiscal Agent undertakes to perform such duties and only such duties as are specifically set forth in this Funding Loan Agreement, and no implied covenants or obligations shall be read into this Funding Loan Agreement against the Fiscal Agent.

(b) If an event of default exists hereunder or under any Borrower Loan Document, the Fiscal Agent shall exercise such of the rights and powers vested in it by this Funding Loan Agreement, and, subject to Section 10.2(c)(iv) hereof, use the same degree of care and skill in their exercise as a prudent corporate trust officer would exercise or use under the circumstances in the conduct of corporate trust business.

(c) No provision of this Funding Loan Agreement shall be construed to relieve the Fiscal Agent from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, in each case, as finally adjudicated by a court of law, except that:

(i) This subsection shall not be construed to limit the effect of Section 10.2(a) hereof;

(ii) The Fiscal Agent shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts;

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

(iv) No provision of this Funding Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it in its sole discretion.

(d) Whether or not therein expressly so provided, every provision of this Funding Loan Agreement and the other Funding Loan Documents relating to the conduct or affecting the liability of or affording protection to the Fiscal Agent shall be subject to the provisions of this Section 10.2.

(e) The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and conforming to the requirements of this Funding Loan Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Funding Loan Agreement.

(f) The permissive rights of the Fiscal Agent to do things enumerated in this Funding Loan Agreement shall not be construed as a duty.

10.3. Notice of Defaults. Upon the occurrence of any default hereunder or under any Borrower Loan Document, and provided that the Fiscal Agent is aware of or has received written notice of the existence of such default, promptly, and in any event within 15 days, the Fiscal Agent shall transmit to the Governmental Lender, the Borrower, and the Funding Lender, in the manner and at the addresses for notices set forth in Section 12.2 hereof, notice of such default hereunder known to the Fiscal Agent pursuant to Section 10.4(g) hereof, unless such default shall have been cured or waived.

10.4. Certain Rights of Fiscal Agent. Except as otherwise provided in Section 10.1 hereof:

(a) The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice,

request, direction, consent, order, bond, note, debenture, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) Any request or direction of the Governmental Lender mentioned herein shall be sufficiently evidenced by a certificate or order executed by an Authorized Representative of the Governmental Lender;

(c) Whenever in the administration of this Funding Loan Agreement the Fiscal Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Fiscal Agent (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a written certificate of the Funding Lender or the Borrower, as appropriate;

(d) The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Funding Loan Agreement at the request or direction of the Funding Lender, pursuant to this Funding Loan Agreement, unless the Funding Lender shall have offered to the Fiscal Agent in writing security or indemnity reasonably satisfactory to the Fiscal Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction, except costs, expenses and liabilities which are adjudicated to have resulted from its own negligence or willful misconduct;

(e) The Fiscal Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document but the Fiscal Agent, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Fiscal Agent shall determine to make such further inquiry or investigation, it shall be entitled to examine the books and records of the Governmental Lender, if any, and of the Borrower, in either case personally or by agent or attorney after reasonable notice and during normal business hours;

(f) The Fiscal Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and pay reasonable compensation thereto and the Fiscal Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder. The Fiscal Agent may act upon the advice of counsel of its choice concerning all matters hereof and the Fiscal Agent shall not be responsible for any loss or damage resulting from any action or inaction taken in good faith reliance upon said advice; and

(g) The Fiscal Agent shall not be required to take notice or be deemed to have notice of any default hereunder or under any Borrower Loan Document except for failure by the Borrower to make payments of principal, interest, premium, if any, or fee owing to the Governmental Lender pursuant to the Regulatory Agreement when due, unless the Fiscal Agent shall be specifically notified by a written notice of such default by the Governmental Lender or the Funding Lender, and all notices or other instruments required

by this Funding Loan Agreement or under any Borrower Loan Document to be delivered to the Fiscal Agent, must, in order to be effective, be delivered in writing to the Fiscal Agent, and in the absence of such written notice so delivered the Fiscal Agent may conclusively assume there is no default as aforesaid.

10.5. Not Responsible for Recitals.

(a) The recitals contained herein and in the Funding Loan Note shall be taken as the statements of the Governmental Lender, and the Fiscal Agent assumes no responsibility for their correctness. The Fiscal Agent makes no representations as to the value or condition of the revenues pledged hereunder, the Security or any part thereof, or as to the title of the Governmental Lender thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Funding Loan Agreement or of the Funding Loan.

(b) The Fiscal Agent shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the funding of the Funding Loan.

(c) The Fiscal Agent shall not be required to monitor the financial condition of the Borrower or the physical condition of the Development. Unless otherwise expressly provided, the Fiscal Agent shall be under no obligation to analyze, review or make any credit decisions with respect to any financial statements, reports, notices, certificates or documents received hereunder but shall hold such financial statements, reports, notices, certificates and documents solely for the benefit of, and review by, the Funding Lender and such other parties to whom the Fiscal Agent may provide such information pursuant to this Funding Loan Agreement.

(d) The Fiscal Agent makes no representations as to and shall have no responsibility for the sufficiency of the insurance required under any of the Borrower Loan Documents.

10.6. May Hold Funding Loan. The Fiscal Agent in its individual or any other capacity may become the owner or pledgee of the Funding Loan and may otherwise deal with the Governmental Lender, the Funding Lender and the Borrower with the same rights it would have if it were not the Fiscal Agent.

10.7. Moneys Held in Trust. Moneys held by the Fiscal Agent in trust hereunder need not be segregated from other funds except to the extent required by law. The Fiscal Agent shall be under no liability for interest on any moneys received by it hereunder except as otherwise provided herein.

10.8. Compensation and Reimbursement.

(a) Under the Borrower Loan Agreement, the Borrower has agreed, except as otherwise expressly provided herein, to reimburse the Fiscal Agent as provided in this Funding Loan Agreement or the Borrower Loan Agreement, upon its request for all reasonable expenses, disbursements and advances incurred or made by the Fiscal Agent in

accordance with any provision of this Funding Loan Agreement (including the reasonable fees, expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Fiscal Agent's negligence or willful misconduct, both as finally adjudicated by a court of law.

(b) When the Fiscal Agent incurs expenses or renders service in connection with any bankruptcy or insolvency proceeding, such expenses (including the fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors rights generally.

(c) The Governmental Lender has no obligation to pay the Fiscal Agent for services rendered.

(d) As security for the performance of the obligations of the Borrower under this Section 10.8 and for the payment of such compensation, expenses, reimbursements and indemnity, the Fiscal Agent shall have the right to use and apply any moneys held by it as Security hereunder.

(e) The Fiscal Agent's rights to compensation and reimbursement shall survive its resignation or removal, the payment of the Funding Loan or the Borrower Loan or the release of this Funding Loan Agreement.

10.9. Fiscal Agent Required; Eligibility. Any successor Fiscal Agent shall at all times be a trust company, a state banking corporation or a national banking association with the authority to accept trusts in the State of California approved in writing by the Governmental Lender and either (a) have a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition, (b) be a wholly owned subsidiary of a bank holding company, or a wholly owned subsidiary of a company that is a wholly owned subsidiary of a bank holding company, having a combined capital surplus of at least $50,000,000 as set forth in its most recent published annual report of condition, have at least $500,000,000 of trust assets under management and have a combined capital surplus of at least $2,000,000 as set forth in its most recent published annual report of condition, or (c) be otherwise acceptable to the Funding Lender and the Governmental Lender in their sole and absolute discretion.

10.10. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Fiscal Agent hereunder and no appointment of a successor Fiscal Agent pursuant to this Article X shall become effective until the written acceptance by the successor Fiscal Agent of such appointment.

(b) The Fiscal Agent may resign at any time by giving 60 days' written notice thereof to the Governmental Lender, the Borrower, and the Funding Lender. If an instrument of acceptance by a successor Fiscal Agent shall not have been delivered to the Fiscal Agent within 30 days after the giving of such notice of resignation, the resigning Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(c) The Fiscal Agent may be removed at any time with 30 days' notice by (i) the Governmental Lender, with the written consent of the Funding Lender in its sole and absolute discretion, (ii) the Borrower (unless the Borrower is in default under any of the Borrower Loan Documents), subject to applicable notice and cure periods, with the written consent of the Funding Lender and the Governmental Lender in their sole and absolute discretion, or (iii) the Funding Lender with the written consent of the Governmental Lender and written notice delivered to the Fiscal Agent and the Borrower.

(d) If the Fiscal Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the Fiscal Agent for any cause, the Governmental Lender shall promptly appoint a successor Fiscal Agent, with the consent of the Funding Lender. In case all or substantially all of the revenues pledged hereunder and Security shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee may similarly appoint a successor to fill such vacancy until a new Fiscal Agent shall be so appointed by the Governmental Lender. If, within 60 days after such resignation, removal or incapability or the occurrence of such vacancy, the Governmental Lender has failed to so appoint a successor Fiscal Agent, then a successor Fiscal Agent shall be appointed by the Funding Lender (from any of the institutions approved by the Governmental Lender to serve as a fiscal agent or trustee) with written notice thereof delivered to the Governmental Lender, the Borrower, and the retiring Fiscal Agent, and the successor Fiscal Agent so appointed shall, forthwith upon its acceptance of such appointment, become the successor Fiscal Agent and supersede the successor Fiscal Agent appointed by such receiver or Fiscal Agent. If no successor Fiscal Agent shall have been appointed by the Governmental Lender or the Funding Lender and accepted appointment in the manner hereinafter provided, the Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(e) The retiring Fiscal Agent shall cause written notice of each resignation and each removal of the Fiscal Agent and each appointment of a successor Fiscal Agent to be provided to the Funding Lender. Each notice shall include the name of the successor Fiscal Agent and the address of the office of the successor Fiscal Agent.

10.11. Acceptance of Appointment by Successor.

(a) Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to the Governmental Lender and to the retiring Fiscal Agent an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Fiscal Agent shall become effective and such successor Fiscal Agent, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Fiscal Agent; notwithstanding the foregoing, on request of the Governmental Lender or the successor Fiscal Agent, such retiring Fiscal Agent shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Fiscal Agent upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Fiscal Agent, and shall duly assign, transfer and deliver to such successor Fiscal Agent all property and money held by such retiring Fiscal Agent hereunder. Upon request of any such successor Fiscal Agent, the Governmental Lender shall execute any and all instruments for more fully and certainly

vesting in and confirming to such successor Fiscal Agent all such estates, properties, rights, powers and trusts.

(b) No successor Fiscal Agent shall accept its appointment unless at the time of such acceptance such successor Fiscal Agent shall be qualified and eligible under this Article X, to the extent operative.

10.12. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Fiscal Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Fiscal Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Fiscal Agent, shall be the successor of the Fiscal Agent hereunder, provided such corporation shall be otherwise qualified and eligible under this Article X, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. Notwithstanding the foregoing, any such successor Fiscal Agent shall cause written notice of such succession to be delivered to the Funding Lender and the Governmental Lender within 30 days of such succession.

10.13. Appointment of Co-Fiscal Agent. It is recognized that in case of litigation under this Funding Loan Agreement, the Borrower Loan Agreement, any other Borrower Loan Document or the Regulatory Agreement, and in particular in case of the enforcement of any of them on default, or in case the Fiscal Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Fiscal Agent or hold title to the properties, in trust, as herein provided, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Fiscal Agent appoint an additional individual or institution as a separate or co-fiscal agent. The following provisions of this Section are adopted to these ends.

The Fiscal Agent is hereby authorized to appoint an additional individual or institution as a separate or co-fiscal agent hereunder, upon written notice to the Governmental Lender, the Funding Lender and the Borrower, and with the consent of the Governmental Lender and the Funding Lender, but without the necessity of further authorization or consent, in which event each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Funding Loan Agreement, any Borrower Loan Document, the Regulatory Agreement or the Borrower Loan Agreement to be exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be exercisable by and vest in such separate or co-fiscal agent but only to the extent necessary to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-fiscal agent shall run to and be enforceable by either of them.

Should any instrument in writing from the Governmental Lender be required by the separate fiscal agent or co-fiscal agent appointed by the Fiscal Agent for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request of the Fiscal Agent, be executed, acknowledged and delivered by the Governmental Lender. In case any separate fiscal agent or co-fiscal agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate

fiscal agent or co-fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a successor to such separate fiscal agent or co-fiscal agent.

10.14. No Recourse Against Officers or Employees of Fiscal Agent. No recourse with respect to any claim related to any obligation, duty or agreement contained in this Funding Loan Agreement or any other Funding Loan Document shall be had against any officer or employee, as such, of the Fiscal Agent, it being expressly understood that the obligations, duties and agreements of the Fiscal Agent contained in this Funding Loan Agreement and the other Funding Loan Documents are solely corporate in nature.

10.15. LIBOR Cessation or Alternative Reference Rate. The Fiscal Agent shall not be under any obligation (i) to monitor, determine or verify the unavailability or cessation of LIBOR (or other applicable Benchmark), or whether or when there has occurred, or to give notice to any other transaction party of the occurrence of, any [Benchmark Transition Event] or [Benchmark Replacement Date], (ii) to select, determine or designate any [Alternative Reference Rate] or [Benchmark Replacement], or other successor or replacement benchmark index, or whether any conditions to the designation of such a rate have been satisfied, or (iii) to select, determine or designate any [Benchmark Replacement Adjustment], or other modifier to any replacement or successor index, or (iv) to determine whether or what [Benchmark Replacement Conforming Changes] are necessary or advisable, if any, in connection with any of the foregoing.

10.16. Limitation of Liability: Failure To Perform Or Delay. The Fiscal Agent shall not be liable for any inability, failure or delay on its part to perform any of its duties set forth in this Bank Loan Agreement as a result of the unavailability of LIBOR (or other applicable Benchmark) and absence of a designated replacement Benchmark, including as a result of any inability, delay, error or inaccuracy on the part of any other transaction party, including without limitation the [Designated Transaction Representative], in providing any direction, instruction, notice or information required or contemplated by the terms of this Bank Loan Agreement and reasonably required for the performance of such duties.

## ARTICLE XI

## DEFAULTS UNDER BORROWER LOAN DOCUMENTS

11.1. Default Under Borrower Loan Agreement; Acceleration. No default by the Borrower under the Borrower Loan Agreement shall constitute an event of default with respect to the Funding Loan Note. The Governmental Lender's, the Fiscal Agent's and the Funding Lender's remedies with respect to a default under the Borrower Loan Documents shall be as set forth under the Borrower Loan Documents. The Funding Lender may, upon the acceleration of the Borrower's obligations under the Borrower Loan Documents, accelerate, or direct the Fiscal Agent to accelerate, the maturity of the Funding Loan Note and apply any funds available hereunder for such purpose as provided herein (after paying the fees and expenses of the Fiscal Agent and the Governmental Lender). The Funding Loan Note shall be deemed paid upon transfer, to or at the direction of the Funding Lender, of the Borrower Loan Documents and all Security therefor free and clear of the lien of this Funding Loan Agreement.

The Governmental Lender shall cooperate with the Funding Lender and the Fiscal Agent in exercising rights and remedies under the Funding Loan Documents and the Borrower Loan Documents, but only upon being satisfactorily indemnified by the Borrower for any fees or expenses relating thereto as provided in the Borrower Loan Agreement and Regulatory Agreement.

11.2. Actions Under Borrower Loan Documents. Whether or not an Event of Default has occurred, the Funding Lender, in its sole discretion, shall have the sole right to waive or forebear any term, condition, covenant or agreement in the Borrower Loan Documents applicable to the Borrower or any breach thereof, other than the covenant that would adversely impact the tax-exempt status of the interest on the Tax Exempt Funding Loan Note and provided that the Funding Lender shall have no right to waive and the Governmental Lender may seek specific performance by the Borrower to enforce the Reserved Rights. With respect to any of its Reserved Rights, the Governmental Lender may exercise such rights as permitted by Section 18 of the Regulatory Agreement in connection with a default thereunder.

## ARTICLE XII

## MISCELLANEOUS

12.1. Entire Agreement. This Funding Loan Agreement, the Funding Loan Note and the other Funding Loan Documents constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, between the Governmental Lender and the Funding Lender with respect to the subject matter hereof.

12.2. Notices. All notices, certificates or other communications shall be in writing and shall be sufficiently given and shall be deemed given on the second day following the date on which the same have been personally delivered or mailed by first class mail postage prepaid, addressed as follows:

If to the Governmental Lender:
City of Los Angeles
c/o Los Angeles Housing and Community Investment Department
8th Floor
1200 West 7th Street
Los Angeles, CA 90017
Attention: Supervisor, Affordable Housing Bond Program
HIMS# [_____]
Facsimile: (213) 808-8918

with a copy to:
Los Angeles Housing and Community Investment Department
P.O. Box 532729
Los Angeles, CA 90053-2729
Attention: Supervisor, Portfolio Management Unit
HIMS# [_____]
Facsimile: (213) 808-8606

| | |
|---|---|
| If to the Borrower: | Linc-Wilmington Apts LP<br>[c/o Linc Community Development Corporation]<br>3590 Elm Avenue<br>Long Beach, CA 90807<br>Attention:<br>Telephone:<br>Email: |
| with a copy to: | Carle, Mackie, Power & Ross LLP<br>100 B Street, Suite 400<br>Santa Rosa, CA 95401<br>Attention: Henry Loh II<br>Facsimile: 707-526-4707<br>Email: hloh@cmprlaw.com |
| with a copy to: | [EQUITY INVESTOR] |
| If to the Funding Lender: | MUFG Union Bank, N.A.<br>Loan Administration Dept.<br>145 S. State College Blvd., Suite 600<br>Brea, CA 92821<br>Attention: Manager<br>Facsimile: (949) 752-8361 |
| with a copy to: | Rutan & Tucker LLP<br>611 Anton Boulevard, 14th Floor<br>Costa Mesa, CA 92626<br>Attention: Pat McCalla |
| with a copy to: | MUFG Union Bank, N.A.,<br>Community Development Finance Department<br>1901 Avenue of the Stars, Suite 600<br>Los Angeles, CA 90067<br>Attention: Manager<br>Facsimile: (310) 551-8980 |
| If to the Fiscal Agent: | [FISCAL AGENT]<br>633 W. 5th Street, 24th Floor<br>Los Angeles, CA 90071<br>Attention: Global Corporate Trust<br>Ref: LA MF (Sage Pointe Apartments 2021T)<br>Telephone: (213) 615-6024<br>Facsimile: (213) 615-6199 |

12.3. Assignments. Except as provided in Section 4.3 hereof, neither this Funding Loan Agreement nor any other Funding Loan Document may be assigned by any party hereto or thereto

in whole or in part without the prior written consent of the other, which consent shall not be unreasonably withheld, and, in the case of the Governmental Lender, to the extent such assignment is not in contravention of its policies for tax-exempt debt.

12.4. Severability. If any provision of this Funding 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.

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

12.6. Amendments, Changes and Modifications. Except as otherwise provided in this Funding Loan Agreement, this Funding Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto. The Funding Lender may require, as a condition to any amendment, change or modification of this Funding Loan Agreement or the other Funding Loan Documents, that the Funding Lender shall have received, at the expense of the Borrower, an opinion of Tax Counsel that such amendment shall not adversely affect the exclusion of interest on the Funding Loan Note from gross income for purposes of federal income tax.

12.7. Governing Law. This Funding Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State.

12.8. Term of Agreement. This Funding Loan Agreement shall be in full force and effect from the date hereof until such time as the Funding Loan shall have been fully paid or provision made for such payment. Time is of the essence in this Funding Loan Agreement.

12.9. Survival of Agreement. All agreements, representations and warranties made herein shall survive the making of the Funding Loan.

12.10. Nondiscrimination and Affirmative Action. The Fiscal Agent shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the City of Los Angeles, California (the "City"). The Fiscal Agent shall not discriminate in its employment practices against any employee or applicant for employment regarding: denial of family and medical care leave; denial of pregnancy disability leave, or reasonable accommodations against any employee or applicant for employment because of such person's race, ancestry, color, citizenship, national origin, religion, sex, sexual orientation, gender identity/expression, transgender status, age, marital status, familial status, domestic partner status, physical handicap, mental disability, medical condition, political affiliation or belief. The Fiscal Agent shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 C.F.R. Part 60). The Fiscal Agent shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. The affirmative action program of the Fiscal Agent shall include the mandatory contract provisions set forth in the Los Angeles Administrative Code Section 10.8.4, and said provisions are

incorporated herein by this reference. The Fiscal Agent shall also comply with all rules, regulations, and policies of the City's Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by the City. Any subcontract entered into by the Fiscal Agent relating to this Funding Loan Agreement, to the extent allowed hereunder, shall be subject to the provisions of this Section. No person shall on the grounds of race, ancestry, color, citizenship, national origin, religion, sex, sexual orientation, gender identity/expression, transgender status, age, marital status, familial status, domestic partner status, physical handicap, mental disability, medical condition, political affiliation or belief be excluded from participation in, be denied the benefit of, or be subjected to discrimination under this Funding Loan Agreement. For purposes of this Section, Title 24 Code of Federal Regulations Part 107 and Section 570.601(b) defines specific discriminatory actions that are prohibited and corrective action that shall be taken in a situation as defined therein.

12.11. Business Tax Registration Certificate. Subject to any exemption available to it, the Fiscal Agent represents that it will obtain and hold the Business Tax Registration Certificate(s) required by the City of Los Angeles' Business Tax Ordinance (Article 1, Chapter 2, Section 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Funding Loan Agreement, the Fiscal Agent shall maintain, or obtain as necessary, all such Business Tax Registration Certificates required of it, subject to any exemption available to it under said Ordinance and shall not allow any such Business Tax Registration Certificate to be revoked or suspended.

12.12. Child Support Assignment Orders. This Funding Loan Agreement is subject to Section 10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, the Fiscal Agent certifies that: (1) it will fully comply with all State and federal employment reporting requirements applicable to Child Support Assignment Orders; (2) the principal owner(s) of the Fiscal Agent are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) it will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230 et seq.; and (4) it will maintain such compliance throughout the term of this Funding Loan Agreement. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of the Fiscal Agent to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of the Fiscal Agent to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Fiscal Agent under the terms of this Funding Loan Agreement subjecting the Fiscal Agent to removal hereunder where such failure shall continue for more than 90 days after notice of such failure to the Fiscal Agent by the Governmental Lender. Any subcontract entered into by the Fiscal Agent relating to this Funding Loan Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of the Fiscal Agent to obtain compliance of its subcontractors shall constitute a default by the Fiscal Agent under the terms of this Funding Loan Agreement subjecting the Fiscal Agent to the removal hereunder where such failure shall continue for more than 90 days after notice of such failure to the Fiscal Agent by the Governmental Lender.

The Fiscal Agent shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. The Fiscal Agent hereby affirms that to the best of its knowledge it is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (b) of Public Contract Code Section 7110.

12.13. Americans with Disabilities Act. The Fiscal Agent shall be in full compliance with all federal and state laws, including those of the Americans with Disabilities Act, 42 U.S.C. 12101 et seq., and its implementing regulations and the American Disabilities Act Amendments Act (ADAAA) Pub. L.110 325 and all subsequent amendments (the "ADA"). Under the ADA, the Fiscal Agent shall provide for reasonable accommodations to allow qualified individuals access to and participation in their programs, services and activities in accordance with the ADA. In addition, the Fiscal Agent shall not discriminate against individuals with disabilities nor against persons due to their relationship or association with a person with a disability. Any subcontract entered into by the Fiscal Agent, relating to this Funding Loan Agreement, to the extent allowed hereunder, shall be subject to the provisions of this Section.

12.14. Responsible Banking Ordinance Filing. The Bank shall file with the City Treasurer of the Governmental Lender by July 1 of each year an annual statement of community reinvestment activities as required of a commercial bank under the Responsible Banking Ordinance. The Bank represents that it has, prior to the Closing Date, filed the report due by July 1, 2020 under the Responsible Banking Ordinance for calendar year 2019.

12.15. Disclosure of Border Wall Contracting Ordinance. Fiscal Agent shall comply with Los Angeles Administrative Code Section 10.50 et seq., "Disclosure of Border Wall Contracting". Governmental Lender may declare a default under this Funding Loan Agreement if the Governmental Lender determines that Fiscal Agent failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in Los Angeles Administrative Code Section 10.50.1.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, all as of the date first above written.

**CITY OF LOS ANGELES**, as Governmental Lender

By Housing and Community Investment Department

By: _____
Name: Daniel Huynh
Title: Assistant General Manager

Approved as to form:

MICHAEL N. FEUER, City Attorney:

By:_____
Deputy/Assistant City Attorney

[Governmental Lender Signature Page to ***Sage Pointe*** Funding Loan Agreement]

MUFG UNION BANK, N.A., in its capacity as Bank and Funding Lender

By _____
Name: Zennia Harris
Title: Vice President

[Bank and Funding Lender Signature Page to ***Sage Pointe*** Funding Loan Agreement]

**[FISCAL AGENT]**, as Fiscal Agent

By _____
Name: Julia Hommel
Title: Vice President

[Fiscal Agent Signature Page to ***Sage Pointe*** Funding Loan Agreement]

**EXHIBIT A**

**CITY OF LOS ANGELES**
**MULTIFAMILY MORTGAGE REVENUE NOTE**
**(SAGE POINTE APARTMENTS)**
**[TAXABLE] [SERIES 2021T] [SERIES 2021T-2]**

FOR VALUE RECEIVED, the CITY OF LOS ANGELES, a charter city and municipal corporation of the State of California (the "**Governmental Lender**"), acknowledges itself indebted hereby promises to pay to the order of MUFG UNION BANK, N.A. (the "**Bank**"), or its successors and assigns, the sum of [TAX EXEMPT FUNDING LOAN NOTE PRINCIPAL AMOUNT] [TAXABLE FUNDING LOAN NOTE PRINCIPAL AMOUNT]($[_____] [$[_____]), together with interest on the advanced and unpaid principal amount of this City of Los Angeles Multifamily Mortgage Revenue Note (Sage Pointe Apartments) [Taxable] [Series 2021T] [Series 2021T-2] (this "**Funding Loan Note**") at the same interest rate as the applicable interest rate specified in the Borrower Loan Agreement (as hereinafter defined) with respect to the Borrower Loan, not exceeding the Maximum Rate, until the Governmental Lender's obligation to pay the Outstanding Balance (as hereinafter defined) shall be discharged. The "**Outstanding Balance**" as of any date of calculation shall mean the principal balance of the Funding Loan that has not been repaid by the Governmental Lender to the Bank as of the date of calculation of the Outstanding Balance. This Funding Loan Note shall be governed by and be payable in accordance with the terms and conditions of the Funding Loan Agreement dated as of [DATED DATE] (the "**Funding Loan Agreement**") among [FISCAL AGENT] (the "**Fiscal Agent**"), the Governmental Lender and the Bank, in its capacity as lender, pursuant to which the Bank has made the Funding Loan to the Governmental Lender.

This Funding Loan Note is issued to evidence a portion of the Funding Loan by the Bank to the Governmental Lender and the obligation of the Governmental Lender to repay the same, but only from amounts received by or on behalf of the Governmental Lender from Linc-Wilmington Apts LP, a California limited partnership (the "**Borrower**"), pursuant to a Construction and Permanent Loan Agreement (Multifamily Housing Back to Back Loan Program) dated as of [DATED DATE], by and among the Governmental Lender, the Bank and the Borrower (the "**Borrower Loan Agreement**") and the other Borrower Loan Documents (as defined in the Borrower Loan Agreement).

Monthly payments of principal and interest shall be due and payable under this Funding Loan Note in the same amounts and on the same dates as payments of principal and interest are due and payable on the Borrower Note, as provided in the Borrower Loan Agreement. The Outstanding Balance of this Funding Loan Note shall be due and payable in its entirety on [TAX EXEMPT FUNDING LOAN MATURITY DATE] [TAXABLE FUNDING LOAN NOTE MATURITY DATE].

The Funding Loan and this Funding Loan Note are pass-through obligations relating to the Borrower Loan made by the Governmental Lender from the proceeds of the Funding Loan to the Borrower under the Borrower Loan Agreement. Reference is hereby made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms of the Borrower Note.

In the event the Governmental Lender fails to make the timely payment of any monthly payment, and such payment remains unpaid for a period of 10 days subsequent to the established payment date, the Governmental Lender shall pay (solely from amounts received from the Borrower as late charges under the Borrower Loan Agreement) to the Bank a late charge in the amount specified in Section 3.6 of the Borrower Loan Agreement. If the principal balance of this Funding Loan Note is accelerated following an Event of Default (as defined in the Funding Loan Agreement), the Bank may increase the interest rate on this Funding Loan to the Default Rate (as defined in the Borrower Loan Agreement).

The Governmental Lender may, at any time, prepay the principal amount of this Funding Loan Note to the same extent and subject to the same terms and conditions set forth in the Borrower Loan Agreement for the prepayment of the Borrower Loan (including any provisions for the payment of any prepayment premium, fee or penalty).

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

All sums due hereunder shall be paid in lawful money of the United States of America. Interest on this Funding Loan Note shall be computed as provided for the Borrower Loan in the Borrower Loan Agreement. All payments made hereunder shall be credited and applied as provided in the Funding Loan Agreement.

**THIS FUNDING LOAN NOTE IS NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DOES NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER, OF THE GOVERNMENTAL LENDER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, BUT IS PAYABLE SOLELY FROM THE PROJECT REVENUES AND PROPERTY PLEDGED THEREFOR IN THE FUNDING LOAN AGREEMENT AND NOT FROM ANY OTHER REVENUES, FUNDS OR ASSETS OF THE GOVERNMENTAL LENDER. NEITHER THE GOVERNMENTAL LENDER, THE STATE NOR ANY SUCH POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE HEREON. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL CORPORATION OR SUBDIVISION OR AGENCY THEREOF NOR THE FAITH AND CREDIT OF THE GOVERNMENTAL LENDER IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THIS FUNDING LOAN NOTE OR OTHER COSTS INCIDENT THERETO. THIS FUNDING LOAN NOTE IS NOT A DEBT OF THE UNITED STATES OF AMERICA.**

**THIS FUNDING LOAN NOTE HAS BEEN ISSUED PURSUANT TO THE LAW AND IN ACCORDANCE WITH THE ACT.**

**NO RECOURSE UNDER OR UPON ANY OBLIGATION, COVENANT, WARRANTY OR AGREEMENT CONTAINED IN THE FUNDING LOAN AGREEMENT OR IN THIS FUNDING LOAN NOTE, OR UNDER ANY JUDGMENT OBTAINED AGAINST THE GOVERNMENTAL LENDER, OR THE ENFORCEMENT OF ANY ASSESSMENT, OR ANY LEGAL OR EQUITABLE PROCEEDINGS BY VIRTUE OF ANY CONSTITUTION OR STATUTE OR OTHERWISE, OR UNDER ANY CIRCUMSTANCES UNDER OR INDEPENDENT OF THE FUNDING LOAN AGREEMENT, SHALL BE HAD AGAINST THE MAYOR, THE CITY COUNCIL OR ANY OF THE MEMBERS, OFFICERS, AGENTS OR EMPLOYEES OF THE GOVERNMENTAL LENDER, AS SUCH, PAST, PRESENT OR FUTURE OF THE GOVERNMENTAL LENDER, EITHER DIRECTLY OR THROUGH THE GOVERNMENTAL LENDER OR OTHERWISE, FOR THE PAYMENT FOR OR TO THE GOVERNMENTAL LENDER OR ANY RECEIVER OF THE GOVERNMENTAL LENDER, OR FOR OR TO THE OWNER OF THIS FUNDING LOAN NOTE, OR OTHERWISE, OF ANY SUM THAT MAY BE DUE AND UNPAID BY THE GOVERNMENTAL LENDER UPON THIS FUNDING LOAN NOTE. ANY AND ALL PERSONAL LIABILITY OF EVERY NATURE WHETHER AT COMMON LAW OR IN EQUITY OR BY STATUTE OR BY CONSTITUTION OR OTHERWISE OF THE MAYOR, THE CITY COUNCIL OR OF ANY SUCH MEMBER, OFFICER, AGENT OR EMPLOYEE, PAST, PRESENT OR FUTURE, OF THE GOVERNMENTAL LENDER, AS SUCH, BY REASON OF ANY ACT OF OMISSION ON HIS OR HER PART OR OTHERWISE, FOR THE PAYMENT FOR OR TO THE OWNER OF THIS FUNDING LOAN NOTE OR OTHERWISE OF ANY SUM THAT MAY REMAIN DUE AND UNPAID UPON THIS FUNDING LOAN NOTE SECURED BY THE FUNDING LOAN AGREEMENT OR ANY OF THEM IS, BY THE ACCEPTANCE OF THIS FUNDING LOAN NOTE, EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF AND IN CONSIDERATION FOR THE EXECUTION OF THE FUNDING LOAN AGREEMENT AND THE ISSUANCE OF THIS FUNDING LOAN NOTE.**

THIS FUNDING LOAN NOTE AND THE REPAYMENT PROVISIONS CONTAINED HEREIN ARE SUBJECT TO THE PROVISIONS AND LIMITATIONS CONTAINED IN SECTIONS 4.1, 5.2 AND 6.14 OF THE FUNDING LOAN AGREEMENT.

No delay or omission on the part of the Bank in exercising any remedy, right or option under this Funding Loan Note or the Funding Loan Documents (as defined in the Funding Loan Agreement) shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Bank under this Funding Loan Note and the Funding Loan Documents are and shall be cumulative and are in addition to all the rights, remedies and options of the Bank at law or in equity or under any other agreement.

Presentment for payment, notice of dishonor, protest or notice of protest are hereby waived. The acceptance by the Bank of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the owner hereof any sum and amount less than the amount then due shall be deemed an acceptance on account only and upon condition of the acceptance shall not constitute a waiver of the obligation of the Governmental Lender to pay the entire sum then due, and the Governmental

Lender's failure to pay such amount then due shall be and continue to be at default notwithstanding such acceptance of such amount on account thereof. Consent by the Bank to any action of the Governmental Lender which is subject to approval of the Bank hereunder shall not be deemed a waiver of the right to require such consent or approval to future successive actions, waiver the right to assert the defense of any statute of limitations to any debt or obligation hereunder or consents to renewals and extensions of time for payment of any amounts due under this Funding Loan Note.

THIS FUNDING LOAN NOTE MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 4.3 OF THE FUNDING LOAN AGREEMENT, AND ANY SUCH TRANSFER SHALL BE RECORDED IN THE NOTE REGISTER MAINTAINED BY THE FISCAL AGENT.

Capitalized terms used herein which are not defined herein shall have the meanings ascribed to them in the Funding Loan Agreement.

IN WITNESS WHEREOF, the undersigned has caused this Funding Loan Note to be executed in its name and on its behalf all as of the _____ day of _____, 2021.

(SEAL)

CITY OF LOS ANGELES

_____
City Treasurer

By _____
Mayor

FORM OF CERTIFICATE OF AUTHENTICATION

This is the Funding Loan Note described in the within-mentioned Funding Loan Agreement and has been authenticated and registered on _____.

[FISCAL AGENT], as Fiscal Agent

By _____

**EXHIBIT B**

**FORM OF REPRESENTATION LETTER**

City of Los Angeles
Los Angeles, California

Kutak Rock LLP
Los Angeles, California

[FISCAL AGENT]
Los Angeles, California

$16,525,000
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Series 2021T

$[TAXABLE AMOUNT]
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Taxable Series 2021T-2

Ladies and Gentlemen:

The undersigned (the "Holder") hereby represents and warrants to you as follows:

1. The Holder [proposes to make] [has made] [has acquired] a loan in an aggregate principal amount not to exceed the amount set forth in the above-captioned notes (collectively, the "Funding Loan Note") issued pursuant to that certain Funding Loan Agreement dated as of [DATED DATE] (the "Funding Loan Agreement") by and among the City of Los Angeles, California (the "Governmental Lender"), [FISCAL AGENT], as Fiscal Agent, and MUFG Union Bank, N.A., as lender (the "Bank"). The Holder understands that the Funding Loan Note is not rated by any rating agency and is secured only by the Sage Pointe Apartments and the revenues therefrom, and will be sold to the Holder with the only above-addressed parties relying upon the representations and warranties of the Holder set forth herein. The Holder acknowledges that no offering document has been prepared in connection with the making of the Funding Loan. The Holder has requested and received all materials which the Holder has deemed relevant in connection with its making of the Funding Loan (the "Due Diligence Information"). The Holder has reviewed the documents executed in conjunction with the making of the Funding Loan Note, including, without limitation, the Funding Loan Agreement and the Borrower Loan Agreement.

2. The Holder hereby waives the requirement of any "due diligence investigation or inquiry" by the Governmental Lender, by each official of the Governmental Lender, by each employee of the Governmental Lender, by each member of the governing board of the

Governmental Lender, and by counsel to the Governmental Lender, the Fiscal Agent, counsel to the Fiscal Agent, the Bank, counsel to the Bank and Tax Counsel in connection with the authorization, execution and delivery of the Funding Loan Note and Holder's making the Funding Loan. The Holder recognizes and agrees that the Governmental Lender, by each official of the Governmental Lender, each employee of the Governmental Lender, each member of the governing board of the Governmental Lender, counsel to the Governmental Lender, the Fiscal Agent, counsel to the Fiscal Agent, the Bank, counsel to the Bank and Tax Counsel have made no representations or statements (expressed or implied) with respect to the accuracy or completeness of any of the materials reviewed by the Holder in connection with the Holder's making the Funding Loan. In making its decision to make the Funding Loan, the Holder is relying upon its own examination of the Governmental Lender, the Borrower, the Development and the terms of the Funding Loan.

3. The Holder has been provided an opportunity to ask questions of, and the Holder has received answers from, representatives of the Governmental Lender and the Borrower regarding the terms and conditions of the Funding Loan Note, and the Holder has obtained all additional information requested by it in connection with the Funding Loan Note.

4. The Holder has sufficient knowledge and experience in business and financial matters in general, and making loans such as the Funding Loan in particular, and is capable of evaluating the merits and risks involved in making the Funding Loan. The Holder is able to bear the economic risk of, and an entire loss of funds advanced under, the Funding Loan Note.

5. The Holder is [making] [purchasing] the Funding Loan solely for its own account and has no present intention to resell or distribute the Funding Loan Note, provided that the Holder reserves the right to transfer or dispose of the Funding Loan Note, at any time, and from time to time, in its complete and sole discretion, subject, however, to the restrictions described in paragraphs 6 through 8 of this Letter. The Holder hereby agrees that the Funding Loan Note may only be transferred in whole and in accordance with the Funding Loan Agreement, including Article IV thereof, to a single holder, which must execute and deliver to the parties addressed above a form of this Representation Letter.

6. The Holder agrees that it will offer, sell, pledge, transfer or exchange the Funding Loan Note (or any legal or beneficial interest therein) only (i) in accordance with an available exemption from the registration requirements of Section 5 of the Securities Act of 1933, as amended (the "Securities Act"), (ii) in accordance with any applicable state securities laws, and (iii) in accordance with the transfer restrictions set forth in the Funding Loan Note and the Funding Loan Agreement. The Holder acknowledges that written consent of the Governmental Lender is required in order to transfer the Funding Loan Note.

7. The Holder is: (a) a "qualified institutional buyer" as defined in Rule 144A ("Rule 144A") promulgated under the Securities Act; (b) an institutional "accredited investor" as defined in Sections 501(a)(1) through (3) of Regulation D promulgated under the Securities Act; (c) an entity that is directly or indirectly wholly owned or controlled by the Bank (being a financial institution described in (a) above); (d) an entity all of the investors in which are described in (a), (b) or (c) above; or (e) a custodian or trustee for a party described in (a), (b) or (c) above.

8. If the Holder transfers the Funding Loan (or any legal or beneficial interest therein), the Holder or its agent will obtain for the benefit of each of you from any subsequent holder an Investor Letter in the form of this Letter or such other materials as are required by the Funding Loan Note and the Funding Loan Agreement to effect such sale and purchase. The Holder understands and agrees that the Fiscal Agent is not authorized to register any transfer of the Funding Loan Note prior to receipt of such letter and the written consent of the Governmental Lender.

9. Neither the Bank, the Fiscal Agent, Tax Counsel, counsel to the Governmental Lender, the Governmental Lender, its governing body, or any of its employees or agents will have any responsibility to the Holder for the accuracy or completeness of information obtained by the Holder from any source regarding the Development, the Governmental Lender or the Borrower or their financial conditions or regarding the Funding Loan Note, the provisions for payment thereof, or the sufficiency of any security therefor, including, without limitation, any information specifically provided by any of such parties contained in the Due Diligence Information. The Holder acknowledges that, as between Holder and all of such parties: (a) the Holder has assumed responsibility for obtaining such information and making such review as the Holder has deemed necessary or desirable in connection with its decision to make the Funding Loan; and (b) the Due Diligence Information and any additional information specifically requested from the Governmental Lender or the Borrower and provided to the Holder prior to closing constitute all the information and review, with the investigation made by Holder (including specifically the Holder's investigation of the Governmental Lender, the Development and the Borrower) prior to its making the Funding Loan, that Holder has deemed necessary or desirable in connection with its decision to make the Funding Loan.

10. The Holder understands that (a) the Funding Loan Note has not been registered with any federal or state securities agency or commission, and (b) no credit rating has been sought or obtained with respect to the Funding Loan Note, and the Holder acknowledges that the Funding Loan Note is speculative with a high degree of risk.

11. The Holder acknowledges that the Funding Loan Note is a limited obligation of the Governmental Lender, payable solely from the revenues or other amounts provided by or at the direction of the Borrower, and is not an obligation payable from the general revenues or other funds of the Governmental Lender, the State of California or any political subdivision of the State of California. The Holder acknowledges that the Governmental Lender is issuing the Funding Loan Note on a conduit, nonrecourse basis and has no continuing obligations with respect thereto except as expressly set forth in the Funding Loan Agreement.

12. The Holder has the authority to make the Funding Loan and to execute this letter and other documents and instruments required to be executed by the Holder in connection with making the Funding Loan. The individual who is executing this letter on behalf of the undersigned is a duly appointed, qualified and acting officer of the Holder and authorized to cause the Holder to make the certifications, representations and warranties contained herein by the execution of this letter on behalf of the Holder.

13. The Holder acknowledges that no offering document has been produced in connection with the Funding Loan.

14. The Holder agrees to indemnify and hold harmless the Governmental Lender, the Governmental Lender's officials, officers, directors, employees, agents, attorneys, accountants, advisors, consultants, servants and the members of the governing board of the Governmental Lender past, present and future with respect to any claim asserted against any of them that is based upon the Holder's sale, transfer or other disposition by it of the Funding Loan in violation of the provisions hereof or of the Funding Loan Agreement or any inaccuracy in any statement made by the Holder in this letter.

Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

Very truly yours,

MUFG UNION BANK, N.A., as Note Purchaser

By: _____
Name: Zennia Harris
Title: Vice President

[Signature Page to Representation Letter]

**EXHIBIT C**

**FORM OF PROJECT FUND REQUISITION**

Draw #_____

[FISCAL AGENT]
633 W. 5th Street, 24th Floor
Los Angeles, CA 90071
Attention: Global Corporate Trust

Re: City of Los Angeles Multifamily Mortgage Revenue Note (Sage Pointe Apartments), Series 2021T and City of Los Angeles Multifamily Mortgage Revenue Note (Sage Pointe Apartments), Taxable Series 2021T-2

This requisition is being delivered to you in accordance with the Funding Loan Agreement dated as of [DATED DATE] (the "Funding Loan Agreement") among MUFG Union Bank, N.A. (the "Funding Lender"), the City of Los Angeles (the "Governmental Lender") and [FISCAL AGENT], as fiscal agent (the "Fiscal Agent") pursuant to which the above-referenced notes (collectively, the "Funding Loan Note") was issued. Capitalized terms not defined herein shall have the meanings assigned thereto in the Funding Loan Agreement.

1. You are requested to disburse funds in the amount of $_____ from the Project Fund as Draw #_____ pursuant to Section 9.6 of the Funding Loan Agreement in the amount(s), to the person(s) and for the purpose(s) set forth on Schedule I attached hereto and incorporated herein by reference.

2. The undersigned certifies that:

(i) there has been received no notice (a) of any lien, right to lien or attachment upon, or claim affecting the right of the payee to receive payment of, any of the moneys payable under such requisition to any of the persons, firms or corporations named therein, and (b) that any materials, supplies or equipment covered by such requisition are subject to any lien or security interest, or if any notice of any such lien, attachment, claim or security interest has been received, such lien, attachment, claim or security interest has been released, discharged, insured or bonded over or will be released, discharged, insured or bonded over upon payment of the requisition;

(ii) this Requisition contains no items representing payment on account of any percentage entitled to be retained at the date of the certificate;

(iii) the obligation stated on this Requisition has been incurred in or about the acquisition, rehabilitation, construction or equipping of the Development, each item is a proper charge against the Project Fund, and the obligation has not been the basis for a prior requisition that has been paid;

(iv) this Requisition contains no items representing any costs of issuance of the Funding Loan Note or any other amount constituting an issuance cost under Section 147(g) of the Code and payment of the costs referenced herein will not violate any representation, warranty or covenant of the Borrower in the Borrower Loan Agreement, the Regulatory Agreement or the Tax Certificate;

(v) not less than 97% of the sum of (a) the amounts requisitioned by this Requisition to be funded from the Tax-Exempt Subaccount of the Project Fund plus (b) all amounts previously disbursed from the Project Fund have been or will be applied by the Borrower to pay Qualified Project Costs (as defined in the Regulatory Agreement);

(vi) the Borrower acknowledges that fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a "related person" (within the meaning of Section 144(a)(3) of the Code) are not deemed to be Qualified Project Costs; and

(vii) as of the date hereof, no event or condition has happened or is happening or exists that constitutes, or that with notice or lapse of time or both would constitute, an Event of Default under the Funding Loan Agreement or under the Borrower Loan Agreement.

Dated: _____, 20___

**Linc-Wilmington Apts LP,**
a California limited partnership

[BORROWER SIGNATURE BLOCK]

MUFG UNION BANK, N.A.

By: _____
Title: _____
Date: _____

Acknowledged by the Governmental Lender:

For Governmental Lender consent requirements,
see Section 9.6 of the Funding Loan Agreement

CITY OF LOS ANGELES

By Housing and Community Investment Department

By: _____
Name: Daniel Huynh
Title: Assistant General Manager

Date: _____

**SCHEDULE I TO PROJECT FUND REQUISITION**

**EXHIBIT D**

**FORM OF RESPONSIBLE BANKING ORDINANCE CERTIFICATE**

RESPONSIBLE BANKING ORDINANCE
REPRESENTATIONS AND COVENANTS OF BANK

[_____, 20_]

City of Los Angeles
Los Angeles, California

$16,525,000
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Series 2021T

$[TAXABLE AMOUNT]
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Taxable Series 2021T-2

Ladies and Gentlemen:

The undersigned, on behalf of [_____] (the "Bank"), does hereby certify to the following as of the date of this certificate, relating to the Bank's purchase from the City of Los Angeles (the "City") of the City's (i) $16,525,000 initial aggregate principal amount of Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Series 2021T and (ii) $[TAXABLE PRINCIPAL AMOUNT] initial aggregate principal amount of Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Taxable Series 2021T-2 :

(a) The Bank shall file with the City Treasurer of the City by July 1 of each year an annual statement of community reinvestment activities as required of a commercial bank under the City's Ordinance 182138 adopted May 25, 2012 (the "Responsible Banking Ordinance"); and

(b) The Bank represents that it has, prior to the date hereof, filed with the City Treasurer the report due by July 1, 20[__] under the Responsible Banking Ordinance for calendar year 20[__].

[Remainder of this page intentionally left blank.]

Very truly yours,

[BANK]

By: _____
Name: _____
Title: _____

**Attachment C**

*Construction and Permanent Loan Agreement SagePointe next page.*

# CONSTRUCTION AND PERMANENT LOAN AGREEMENT
# (MULTIFAMILY HOUSING BACK TO BACK LOAN PROGRAM)

by and among

**CITY OF LOS ANGELES**,
as Governmental Lender,

**MUFG UNION BANK, N.A.**,
as Bank

and

**Linc-Wilmington Apts LP**,
a California limited partnership,
as Borrower

relating to

$16,525,000
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Series 2021T

$[TAXABLE PRINCIPAL AMOUNT]
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Taxable Series 2021T-2

Dated [DATED DATE]

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**CONSTRUCTION AND PERMANENT LOAN AGREEMENT**
**(Multifamily Housing Back to Back Loan Program)**
**(Sage Pointe Apartments)**

**THIS CONSTRUCTION AND PERMANENT LOAN AGREEMENT** is made as of the Contract Date by and among **LINC-WILMINGTON APTS LP**, a California limited partnership ("Borrower"), **CITY OF LOS ANGELES** ("Governmental Lender") and **MUFG UNION BANK, N.A.** ("Bank") in connection with the following:

A. Borrower has requested that Governmental Lender provide a construction and permanent loan to Borrower to finance the construction of the Improvements on the Real Property.

B. Borrower owns or will own, concurrently with the first loan disbursement under this Agreement, the Real Property.

C. Borrower intends to construct an affordable housing apartment project on the Real Property.

D. Governmental Lender, Fiscal Agent and Bank have entered into the Funding Loan Agreement whereby Bank has agreed to make the Funding Loan to Governmental Lender for the sole purpose of making funds available to the Governmental Lender to make the Borrower Loan to Borrower pursuant to this Agreement in the manner and on the terms set forth in the Funding Loan Agreement, which terms include, without limitation, the obligation of the Governmental Lender to make loan payments to the Bank from amounts received by Governmental Lender from Borrower pursuant to this Agreement and the Borrower Note in repayment of the amounts loaned to Governmental Lender under the Funding Loan Agreement as evidenced by the Series 2020I-1 Note and the Series 2020I-2 Note (as defined in the Funding Loan Agreement). Governmental Lender has irrevocably pledged and assigned to Bank, as security for Governmental Lender's obligations to repay amounts due under the Tax Exempt Funding Loan Note and the Taxable Funding Loan Notes and its obligations under the Funding Loan Agreement, all right, title and interest to the Borrower Loan Documents (other than the Reserved Rights, as defined in the Funding Loan Agreement), including all rights to payments with respect to the Borrower Note. Upon the execution of the Tax Exempt Funding Loan Note and the Taxable Funding Loan Note, all right, title and interest of Governmental Lender under and in the Borrower Loan (other than the Reserved Rights, as defined in the Funding Loan Agreement) will be assigned by Governmental Lender to Bank pursuant to the Funding Loan Agreement and the Assignment of Deed of Trust.

E. All of the rights, powers, elections, determinations, remedies, duties and functions of Governmental Lender hereunder (other than the Reserved Rights, as defined in the Funding Loan Agreement) may be exercised and performed on behalf of Governmental Lender by Bank unless and until the assignment to Bank is terminated, modified, assigned, in whole or in part, or otherwise amended in accordance with the provisions of the Funding Loan Agreement.

F. Subject to the execution of the Funding Loan Agreement and the terms and conditions of this Agreement, Governmental Lender is willing to make the Borrower Loan to Borrower.

THEREFORE, the parties hereto agree as follows:

**1. DEFINITIONS**.

**1.1 Acceptable Unit Lease**. A lease agreement on a lease form approved by Bank which is entered into by and between Borrower and the lessee of a Unit and the terms (including the amount of rent payments) of which comply with the provisions of all Regulatory Agreements, the HAP Contract, the Subordinate Documents, and the Land Use Restrictions.

**1.2 Act**. As defined in the Funding Loan Agreement.

**1.3 Advance**. Each disbursement of proceeds of the Borrower Loan made pursuant to this Agreement.

**1.4 Aggregate Change Order Limit**. $150,000.00.

**1.5 Agreement or Borrower Loan Agreement**. This Construction and Permanent Loan Agreement (Multifamily Housing Back to Back Loan Program).

**1.6 Agreement to Furnish Insurance**. The Agreement to Furnish Insurance dated as of the Contract Date executed by Borrower in favor of Governmental Lender and Bank, as the same may from time to time be amended, modified or supplemented.

**1.7 AHAP Contract**. The Agreement to Enter Into Housing Assistance Payments Contract between Borrower and Contract Administrator effective as of [_____], with respect to fifty-six (56) units at the Improvements, for a term of twenty (20) years, and such other terms as are acceptable to Bank.

**1.8 Allocation Committee**. The California Tax Credit Allocation Committee and any successor governmental agency appointed to carry out the obligations of the Allocation Committee.

**1.9 Amortization Date**. The first day of the calendar month after the Outside Conversion Date.

**1.10 Appraisal**. An appraisal or reappraisal of the Property (complying with Bank's appraisal policy) performed or to be performed by a certified real estate appraiser engaged by Bank.

**1.11 Appraised Value**. The market value of the Property as determined by Bank in its business judgment, reasonably exercised, based upon an Appraisal.

**1.12 Architect**. D33 Design and Planning., or such other architect as may be approved by Bank.

**1.13 Architect's Agreement**. The agreement between Borrower and Architect relating to the design and construction of the Improvements.

**1.14 Assignment of AHAP Contract**. The Assignment of Agreement to Enter Into Housing Assistance Payments Contract, on Bank's form, executed by Borrower in favor of Bank

as additional collateral security for the performance of Borrower's obligations under the Borrower Loan Documents, as the same may from time to time be amended, modified or supplemented, assigning to Bank all of Borrower's rights under the AHAP Contract, together with that certain Consent to Assignment of AHAP Contract attached thereto and executed by Contract Administrator.

**1.15 Assignment of Construction Contract**. The Assignment of Construction Contract dated as of the Contract Date executed by Borrower in favor of Governmental Lender and Bank, as the same may from time to time be amended, modified or supplemented.

**1.16 Assignment of HAP Contract**. The Assignment of Housing Assistance Payments Contract on Bank's form, to be executed by Borrower upon execution of the HAP Contract and prior to the Permanent Loan Conversion Date in favor of Bank as additional collateral security for the performance of Borrower's obligations under the Borrower Loan Documents as the same may from time to time be amended, modified or supplemented, assigning to Bank all of Borrower's rights under the HAP Contract together with that certain Consent to Assignment of HAP Contract attached thereto and executed by Contract Administrator.

**1.17 Assignment of Hedge**. As defined in Section 7.52.

**1.18 Assignment of Partnership Interest (GP)**. An Assignment of Partnership Interest dated as of the Contract Date executed by General Partner in favor of Governmental Lender and Bank as additional collateral security for the performance of the Borrower's obligations under the Borrower Loan Documents, assigning to Governmental Lender and Bank all of such General Partner's rights as a general partner in Borrower.

**1.19 Assignment of Plans and Specifications**. The Assignment of Architect's Agreement, Plans and Specifications dated as of the Contract Date executed by Borrower, in favor of Governmental Lender and Bank, as the same may from time to time be amended, modified or supplemented.

**1.20 Assignment of Tax Credits and Partnership Interests**. An Assignment of Rights to Tax Credits and Partnership Interests dated as of the Contract Date executed by Borrower in favor of Governmental Lender and Bank as additional collateral security for the performance of Borrower's obligations under the Borrower Loan Documents, assigning to Governmental Lender and Bank all of Borrower's rights under the Tax Credit Allocation Documents including, without limitation, the right to receive the Tax Credits set forth under the Tax Credit Allocation Documents and any interest Borrower may have in any partnership interest of Tax Credit Investor in the Borrower.

**1.21 Bank**. MUFG Union Bank, N.A. (i) acting in its capacity as owner of the Funding Loan Note and as assignee of the Governmental Lender pursuant to the Funding Loan Agreement, and (ii) its successors and assigns.

**1.22 Bonded Work**. Offsite, common area, or other improvements required by a Governmental Authority or for which bonds may be required in connection with the development of the Real Property.

**1.23 Borrower**. Linc-Wilmington Apts LP, a California limited partnership.

**1.24 Borrower's Equity**. As of any date of determination, Borrower's funds expended on Project costs in accordance with this Agreement as of such date, including Borrower's Funds and capital contributions made by the Tax Credit Investor, but excluding proceeds of the Borrower Loan, as determined by Bank in its sole discretion.

**1.25 Borrower's Funds**. All funds of Borrower deposited into Borrower's Funds Account pursuant to the terms of this Agreement, to be disbursed in payment of Construction Costs as more particularly set forth in this Agreement.

**1.26 Borrower's Funds Account**. An account with Bank into which Borrower's Funds shall be deposited as provided for in Section 7.2 or any other provision of this Agreement.

**1.27 Borrower Loan**. The loan in the maximum principal amount of $[AGGREGATE PRINCIPAL AMOUNT] made by the Governmental Lender to Borrower pursuant to this Agreement.

**1.28 Borrower Loan Documents**. This Agreement, the Borrower Note, the Tax-Exempt Regulatory Agreement, the Deed of Trust, the Guaranty, the ECA, the Security Documents, the Financing Statements, the Agreement to Furnish Insurance, any Hedge Documents, the Indemnity Agreement and all other agreements, instruments and documents (together with amendments, supplements and replacements thereto) now or hereafter executed and delivered to Governmental Lender or Bank in connection with the Borrower Loan.

**1.29 Borrower Note**. The Promissory Note (Multifamily Housing Back to Back Loan Program) dated as of the Contract Date from Borrower, as maker, in favor of Governmental Lender in the original principal amount of the Borrower Loan.

**1.30 Business Day**. (i) Except as otherwise provided in clause (ii) below, a day which is not a Saturday or Sunday on which banks in the State of California are open for business for the funding of corporate loans, or (ii) for use only in connection with the definition of LIBOR Rate, a day which is both a New York Banking Day and a London Banking Day.

**1.31 Capital Improvement Reserve Account**. A non-interest bearing account established with Bank by Borrower at the time of Conversion for the purpose of funding any capital improvements which are necessary for the continued operation of the Property.

**1.32 Capital Improvements**. As defined in Section 7.37.1.

**1.33 CDA**. Los Angeles County Development Authority, a public body corporate and politic.

**1.34 CDA Deed of Trust**. The deed of trust executed by Borrower for the benefit of CDA, encumbering the Project and securing repayment of amounts owing under the CDA Note, the lien of which is to be subject and subordinate to the lien of the Deed of Trust.

**1.35 CDA Documents**. The CDA Restrictions, the CDA Loan Agreement, the CDA Note, the CDA Deed of Trust, the CDA Subordination Agreement and all other documents and instruments evidencing, securing or pertaining to the CDA Loan.

**1.36 CDA Loan**. The $[_____] loan to be made by CDA to Borrower pursuant to the terms of the CDA Loan Agreement.

**1.37 CDA Loan Agreement**. The Loan Agreement entered into by and between Borrower and CDA pursuant to the terms of which CDA shall make to Borrower the CQA Loan.

**1.38 CDA Note**. The promissory note made by Borrower to the order of the CDA, evidencing all amounts disbursed and to be disbursed under the CDA Loan,

**1.39 CDA Restrictions**. The covenants, conditions, and restrictions executed by Borrower for the benefit of CDA in connection with the CDA's making the CDA Loan.

**1.40 CDA Subordination Agreement**. A Subordination Agreement in form and substance satisfactory to Bank, executed by CDA and Borrower, pursuant to which CDA shall unconditionally subordinate the lien and effect of the CDA Restrictions and the CDA Deed of Trust to the lien and effect of the Deed of Trust.

**1.41 Certification of Plans and Specifications**. The Certification of Plans and Specifications dated as of the Contract Date from Borrower, Contractor and Architect to Governmental Lender and Bank, as the same may from time to time be amended, modified or supplemented.

**1.42 Change Order**. Any change or supplement to the Plans, Construction Contract or subcontract as permitted by this Agreement.

**1.43 Closing Date**. The date on which the Deed of Trust is recorded and the Initial Advance is made.

**1.44 Code**. The Internal Revenue Code of 1986, as amended; including (a) any successor internal revenue law and (b) the applicable regulations promulgated thereunder whether final, temporary or proposed under the Code or such successor law.

**1.45 Completion Date**. The date of Project Completion, which date shall not be later than January 1, 2024.

**1.46 Conditions to Conversion**. The conditions precedent to Conversion as listed on Exhibit D attached hereto.

**1.47 Consent to Assignment (GP)**. A Consent to Assignment of Partnership Interest of even date of the Agreement executed by the Tax Credit Investor, consenting to the. General Partner's assignment to Governmental Lender and Bank of its general partnership interest in the Borrower as additional collateral security for the performance of the Borrower's obligations under the Borrower Loan Documents.

**1.48 Construction Contract**. The agreement between Borrower and Contractor relating to the construction of the Improvements.

**1.49 Construction Costs**. All costs approved by Bank relating to the construction of the Improvements or otherwise pertaining to the Property, as set forth in the Detailed Cost Breakdown.

**1.50 Construction Phase**. The period from the Closing Date through and including the date immediately preceding the Conversion Date.

**1.51 Contract Administrator**. Housing Authority of the City of Los Angeles.

**1.52 Contract Date**. [DATED DATE].

**1.53 Contractor**. Walton Construction, Inc., or such other contractor as may be approved by Bank, or Borrower acting in the capacity of general contractor.

**1.54 Conversion**. The conversion of the Borrower Loan from the Construction Phase to the Permanent Phase.

**1.55 Conversion Date**. The date on which all Conditions to Conversion have been satisfied, as such date is established by Bank in the Conversion Notice. The Conversion Date shall be the first day of the calendar month following the month in which Bank issues the Conversion Notice, but in no event later than the Outside Conversion Date.

**1.56 Conversion Election Notice**. Written notice delivered by Borrower to Bank that Borrower has elected to convert the Borrower Loan from the Construction Phase to the Permanent Phase.

**1.57 Conversion Notice**. Written notice delivered by Bank to Borrower that the Conditions to Conversion have been fully satisfied.

**1.58 Debt Coverage Ratio**. The ratio of (i) the annual stabilized Net Operating Income for the Property during a particular period of time, assuming a vacancy rate equal to the greater of the actual average vacancy rate for such period and 7.5%, to (ii) the assumed combined interest and principal payment for the Permanent Phase that would be required based upon the projected outstanding principal balance of the Borrower Note, as of the Conversion Date, a fixed interest rate on the Borrower Note equal to the fixed rate of the Hedge (inclusive of the Margin) and monthly amortization payments on the Borrower Note based upon a one hundred eighty (180) month amortization period and any secondary financing permitted pursuant to the Borrower Loan Documents.

**1.59 Deed of Trust**. The Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Construction and Permanent Trust Deed) (Multifamily Housing Back to Back Loan Program) dated as of the Contract Date from Borrower, as trustor, for the benefit of Governmental Lender and Bank, as beneficiary, as the same may from time to time be amended, modified or supplemented.

**1.60 Deed of Trust Assignment**. The Assignment of Deed of Trust and Related Documents dated as of the Contract Date by Governmental Lender in favor of Bank.

**1.61 Default Premium**. That amount calculated as the excess of the Default Rate over the Maximum Lawful Rate times the outstanding principal amount of the Borrower Loan. The Default Premium shall not constitute interest on the Borrower Loan.

**1.62 Default Rate**. A rate equal to 5% more than the Variable Rate.

**1.63 Detailed Cost Breakdown**. An itemized schedule on a component, unit and trade breakdown basis showing all costs and expenses required for construction of the Improvements in accordance with the Plans, which has been submitted to and approved by Bank.

**1.64 Disbursement Schedule**. The schedule or schedules for disbursement of the Advances and of Borrower's Funds, if any, set forth on Exhibit B, which may be amended from time to time by reallocations made in accordance with Section 5.5.

**1.65 Draw Request**. The certified invoice to be delivered by Borrower to Bank as a condition to Governmental Lender making an Advance, in such form and certified by such parties as required by Bank, together with such schedules, affidavits, releases, waivers, statements, invoices, bills, and other documents, certificates and information as may be required by Bank.

**1.66 ECA**. The Environmental Compliance Agreement, dated as of the Contract Date by Borrower in favor of Governmental Lender and Bank, as the same may from time to time be amended, modified or supplemented.

**1.67 Event of Default**. As defined in Section 8.

**1.68 Extended Outside Conversion Date**. As defined in Section 2.5.

**1.69 Extended Use Agreement**. An "extended low-income housing commitment" as defined in Section 42(h)(6)(B) of the Code.

**1.70 Extension Term**. As defined in Section 2.5.

**1.71 Financial Statements**. Balance sheets, income statements, statements of retained earnings with supporting schedules and such other financial reports as Bank may require, in form and content acceptable to Bank.

**1.72 Financing Statements**. All UCC financing statements required in connection with the Borrower Loan.

**1.73 First Payment Date**. [FIRST IPD].

**1.74 Fiscal Agent**. The Fiscal Agent from time to time under the Funding Loan Agreement. Initially the Fiscal Agent shall be [FISCAL AGENT].

**1.75 Force Majeure**. Strikes, lockouts, acts of God, severe shortages of labor or materials, acts of the public enemy, riot, war, fire or other delays beyond the reasonable control of Borrower.

**1.76 Funding Date**. The date on which the Initial Disbursement is made.

**1.77 Funding Loan**. The loan in the maximum amount of $[AGGREGATE PRINCIPAL AMOUNT] made by Bank to Governmental Lender pursuant to the Funding Loan Agreement.

**1.78 Funding Loan Agreement**. The Funding Loan Agreement dated as of the Contract Date among the Governmental Lender, the Bank and Fiscal Agent in connection with the issuance of the Funding Loan Note.

**1.79 Funding Loan Documents**. As defined in the Funding Loan Agreement.

**1.80 Funding Loan Note**. As defined in the Funding Loan Agreement.

**1.81 General Partner**. [GENERAL PARTNER], a California limited liability company.

**1.82 Governmental Authority**. Any federal, state or local governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, court, administrative tribunal or public or private utility having authority over the Property or its utilization.

**1.83 Governmental Lender**. City of Los Angeles, a charter city and a municipal corporation of the State of California.

**1.84 Governmental Requirement**. Any law, statute, order, ordinance, rule, regulation, permit or act of a Governmental Authority.

**1.85 Gross Operating Income**. The sum of any and all payments, fees, rentals, additional rentals (but specifically excluding any amounts received from tenant-based vouchers or other rent subsidies in excess of then maximum rents permitted under the Regulatory Agreements), expense reimbursements (including, without limitation, all reimbursements by tenants, subtenants, licensees and other users of the Property and amounts payable under the HAP Contract), income, interest, and other monies received directly or indirectly by or on behalf of Borrower from any Person with respect to Borrower's ownership, use, development or operation of the Property, including, without limitation, any leasing or licensing of the Property. Gross Operating Income shall be computed on a cash basis and shall include for each monthly statement all amounts actually received in such month whether or not such amounts are attributable to a charge arising in such month.

**1.86 Guarantor**. Any Person who executes a Guaranty in connection with the Borrower Loan.

**1.87 Guaranty**. Bank's standard form Loan and Completion Guaranty entered into in connection with the Borrower Loan.

**1.88 HAP Contract**. The Housing Assistance Payments Contract to be entered into between Borrower and Contract Administrator on or before the Permanent Loan Conversion Date in the form attached to the AHAP Contract and consistent with the terms of the final proposal attached to the AHAP Contract.

**1.89 HCID**. City of Los Angeles, a charter city and a municipal corporation of the State of California, acting by and through the Los Angeles Housing and Community Investment Department.

**1.90 HCID HHH Deed of Trust**. The deed of trust to be executed by Borrower for the benefit of HCID, encumbering the Property and securing repayment of amounts owing under the HCID HHH Note, the lien of which shall be subject and subordinate to the lien of the Deed of Trust.

**1.91 HCID HHH Documents**. The HCID HHH Loan Agreement, the HCID HHH Note, the HCID HHH Deed of Trust, the HCID HHH Restrictions, the HCID Subordination Agreement and all other documents and instruments evidencing, securing or pertaining to the HCID HHH Loan.

**1.92 HCID HHH Loan**. The $[_____] loan to be made by HCID to Borrower pursuant to the terms of the HCID HHH Documents.

**1.93 HCID HHH Loan Agreement**. The Loan Agreement to be entered into by and between Borrower and HCID pursuant to the terms of which HCID shall make to Borrower the HCID HHH Loan.

**1.94 HCID HHH Note**. The promissory note to be made by Borrower to the order of HCID, evidencing all amounts disbursed and to be disbursed under the HCID HHH Loan.

**1.95 HCID HHH Restrictions**. The regulatory agreement to be executed by Borrower for the benefit of HCID in connection with HCID's making the HCID HHH Loan.

**1.96 HCID Subordination Agreement**. A subordination agreement in form and substance satisfactory to Bank, executed by HCID and Bank, and joined by Borrower, pursuant to which HCID shall unconditionally subordinate the lien and effect of the HCID HHH Deed of Trust and HCID HHH Restrictions to the lien and effect of the Deed of Trust.

**1.97 Hedge**. As defined in Section 7.52.

**1.98 Hedge Documents**. As defined in Section 7.52.

**1.99 Improvements**. The fifty-six (56) units of affordable multifamily rental housing (including one manager unit) located on the Real Property, and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and related personal property.

**1.100 Indemnified Parties**. Collectively Governmental Lender, Fiscal Agent and Bank and each of their respective officers, members governing members or partners, directors, employees, attorneys and agents, past, present and future and as to Governmental Lender, members of its governing body and any person who controls the Governmental Lender within the meaning of The Securities Act of 1933, as amended.

**1.101 Indemnity Agreement**. Any Indemnity Agreement entered into in connection with the Borrower Loan.

**1.102 Initial Disbursement**. The initial Advance made by Governmental Lender to Borrower pursuant to this Agreement.

**1.103 Initial Outside Conversion Date**. As defined in Section 2.5.

**1.104 Interest Change Date**. The First Payment Date and the first day of each calendar month thereafter.

**1.105 Interest Period**. The period of time from one Interest Change Date to (but excluding) the next Interest Change Date or the Maturity Date, as the case may be.

**1.106 Interest Reserve**. The portion of the Project Budget allocated for the payment of interest due under this Agreement.

**1.107 Land Use Restrictions**. That certain Rental Covenant Agreement Running with the Land between Borrower and HCID recorded against the Property concurrently with the Deed of Trust in a non-subordinated senior lien priority, in the form approved by Bank.

**1.108 Late Charge**. An amount equal to 6% of any delinquent payment of amounts due from Borrower under the Borrower Loan Documents.

**1.109 Leases**. All leases of any portion of the Property and all amendments, guaranties and subleases relating thereto.

**1.110 LIBOR Rate**. As of any given date, a per annum rate of interest equal to the greater of (a) 0.00% and (b) the rate for U.S. Dollar deposits for a period of one month or, for the Stub Period, for a period equal to the number of days in the Stub Period which appears on the Reuters Screen LI BOR01 Page as of 11:00 a.m., London time, on the day that is two Business Days preceding such date. Should the LIBOR Rate cease to be available for any reason, then said rate shall be replaced by a rate which, in the sole discretion of Bank, most closely approximates the unavailable LIBOR Rate.

**1.111 Liquid Assets**. Immediately available cash, bank deposits, accounts and mutual funds; obligations of or guaranteed by the U.S. government or an agency thereof; and stocks, bonds and other debt instruments regularly traded on the New York, American or NASDAQ stock exchange which can be readily converted into cash.

**1.112 Loan Fee**. The nonrefundable fee in the amount of $[_____] to be paid to Bank.

**1.113 Loan Party**. Any general partner, managing member, joint venturer, trustee or trustor of Borrower, as applicable and any Guarantor.

**1.114 Loan-to-Value Ratio**. The ratio of (i) then outstanding indebtedness in connection with the Borrower Loan to (ii) the Appraised Value of the Property.

**1.115 London Banking Day**. A day in which dealings in U.S. Dollar deposits in London, England may be carried on by Bank.

**1.116 Margin**. [____] percent ([___]%).

**1.117 Maturity Date**. [MATURITY DATE].

**1.118 Maximum Lawful Rate**. The "Maximum Rate" as defined in the Funding Loan Agreement.

**1.119 Net Operating Income**. Gross Operating Income less Operating Expenses.

**1.120 New York Banking Day**. A day which is not a Saturday or Sunday on which banks in New York City, New York are open for business for the funding of corporate loans.

**1.121 Offsite Materials**. Materials to be incorporated into the Improvements or used in connection with the construction of the Improvements that are stored at a location other than the Real Property.

**1.122 Onsite Materials**. Materials to be incorporated into the Improvements or used in connection with the construction of the Improvements that are stored on the Real Property.

**1.123 Operating Expenses**. The following expenses to the extent that such expenses are reasonable in amount and customary for properties of a type similar to the Property, as determined by Bank in its sole discretion: (A) real property taxes and assessments imposed upon the Property, (B) premiums for insurance of the Property, including casualty and liability insurance, (C) reserves for capital expenditures, leasing commissions and tenant improvements, as determined by Bank in its business judgment, reasonably exercised, and (D) operating expenses actually incurred by Borrower in connection with the management, operation, cleaning, leasing, maintenance and repair of the Property or any part thereof. Operating Expenses shall be calculated on an accrual basis and shall not include any interest or principal payments due in respect of the Borrower Loan or any allowance for depreciation and similar noncash charges.

**1.124 Operating Statement**. A monthly, quarterly or annual statement that shows in detail the amounts and sources of Gross Operating Income, the amounts and nature of Operating Expenses, and Net Operating Income, in each case for the preceding calendar month, quarter or year. The Operating Statement shall be prepared in accordance with accounting practices and principles acceptable to Bank and consistently applied and in a form satisfactory to Bank.

**1.125 Outside Conversion Date**. [CONVERSION DATE], which date shall be subject to adjustment in accordance with any extension granted pursuant to Section 2.5 below.

**1.126 Partnership Agreement**. Borrower's agreement of limited partnership, as the same may be amended from time to time.

**1.127 Paydown Amount**. The amount by which (a) the current outstanding principal amount of the Borrower Note, plus all accrued but unpaid interest thereon, exceeds (b) the lesser of (i) the Projected Permanent Phase Loan Amount, (ii) the maximum outstanding principal balance of the Borrower Loan in order for the Property to satisfy the Debt Coverage Ratio pursuant to subsection (o) of Exhibit D (Conditions to Conversion) as of the Conversion Date, which Paydown Amount shall be applied towards the payment of principal balance outstanding and accrued and unpaid interest under the Borrower Loan and all other amounts due and owing under the Borrower Loan Documents and the Funding Loan Documents, and (iii) the notional amount of the Hedge as of the Conversion Date.

**1.128 Permanent Phase**. The period from the Conversion Date and ending on the Maturity Date.

**1.129 Permitted Liens**. Any easements and restrictions listed in a schedule of exceptions to coverage in the Title Policy as required by the Borrower Loan Documents.

**1.130 Person**. Any natural person or entity, including any corporation, partnership, joint venture, limited liability company, trust, trustee, unincorporated organization or Governmental Authority.

**1.131 Personal Property**. Any tangible or intangible personal property described in the Deed of Trust or Security Documents that is security for the Borrower Loan.

**1.132 Plans**. The final plans and specifications for construction of the Improvements (including any applicable general conditions), prepared by Architect and approved by Bank as required herein, and all amendments and modifications thereof made pursuant to Change Orders.

**1.133 Preliminary Reservation**. That certain Tax-Exempt Reservation Letter dated May 15, 2019, issued by the Allocation Committee.

**1.134 Project Budget**. The cost itemization (set forth in Exhibit B-1 hereto) of the total amount needed by Borrower to construct the Improvements and to perform Borrower's other obligations under the Borrower Loan Documents, which itemization may be amended from time to time in accordance with this Agreement.

**1.135 Project Completion**. The date of completion of construction of the Project and issuance of all licenses and permits necessary for the occupancy and use of the Units such that the Project shall be considered "placed in service" for purposes of the provisions of Section 42 of the Code, which date of completion shall not be later than the Completion Date.

**1.136 Projected Permanent Phase Loan Amount**. $[PERM LOAN AMOUNT].

**1.137 Project Fund**. As defined in the Funding Loan Agreement.

**1.138 Property or Project**. The Real Property, the Improvements and the Personal Property.

**1.139 Qualified Allocation Plan**. The Qualified Allocation Plan adopted by the Allocation Committee from time to time in accordance with the provisions of Section 42(m) of the Code.

**1.140 R&T Code**. The California Revenue and Taxation Code, as amended from time to time thereto. Any reference to a particular provision of the R&T Code shall include any amendment of such provision.

**1.141 Real Property**. That certain real property described in Exhibit A hereto.

**1.142 Recorded Documents**. The Regulatory Agreements, the Deed of Trust, the Deed of Trust Assignment, the Subordination Agreements, the CDA Deed of Trust, and the HCID HHH Deed of Trust, .

**1.143 Regulatory Agreements**. All regulatory agreements and restrictions (including, without limitation, the Tax-Exempt Regulatory Agreement, the Extended Use Agreement, the Land Use Restrictions, the CDA and the HCID HHH Restrictions) now or hereafter encumbering the Property setting forth restrictions with respect to the leasing, maintenance and use of the Units.

**1.144 Rent Restrictions**. The occupancy and rent restrictions on the Units as set forth in the Regulatory Agreements and the HAP Contract.

**1.145 Security Documents**. Any agreements granting a security interest in collateral securing the Borrower Loan and/or any Hedge provided by Bank other than the Deed of Trust, including without limitation, assignments and consents to assignments of the Architect's Agreement, Construction Contract, if any, Plans, any property management agreement or asset management agreement, the Assignment of Tax Credits and Partnership Interests, the Assignment of Partnership Interest (GP), the Assignment of Hedge (if any), the Assignment of AHAP Contract and the Assignment of HAP Contract.

**1.146 Set Aside Letter**. Any letter or letters to any Governmental Authority or Surety whereby Bank agrees to allocate proceeds of the Borrower Loan for construction of Bonded Work.

**1.147 Single Change Order Limit**. $50,000.00.

**1.148 Stub Period**. The period from the Funding Date through (but excluding) the first day of the calendar month following such date.

**1.149 Subordinate Documents**. The CDA Documents and the HCID HHH Documents.

**1.150 Subordinate Lenders**. The CDA and HCID.

**1.151 Subordinate Loans**. The CDA Loan, and the HCID HHH Loan.

**1.152 Subordination Agreements**. The CDA Subordination Agreement and the HCID Subordination Agreement.

**1.153 Surety**. The bonding company that issues the bonds covering the Bonded Work.

**1.154 Tax Certificate**. As defined in the Funding Loan Agreement.

**1.155 Tax Counsel**. As defined in the Funding Loan Agreement.

**1.156 Tax Credit Allocation Documents**. The Tax Credit Application, the Preliminary Reservation, IRS Form 8609 to be hereafter executed by the Allocation Committee and all other documents heretofore and hereafter submitted to, and received by the Borrower from, the Allocation Committee, and all amendments, extensions and modifications thereto.

**1.157 Tax Credit Application**. The 2020 Low-Income Housing Tax Credit Application submitted to the Allocation Committee to apply for Tax Credits with respect to the Project.

**1.158 Tax Credit Investor**. Collectively, [RBC ENTITY], and their permitted successors and assigns.

**1.159 Tax Credit Investor Estoppel Certificate**. An estoppel certificate on Bank's form duly executed by Tax Credit Investor, providing such certifications as Bank may require with respect to the Tax Credit Investor's obligation to make its capital contributions.

**1.160 Tax Credits**. Low income housing tax credits to be allocated under Section 42 of the Code pursuant to the terms of the Tax Credit Documents.

**1.161 Tax-Exempt Regulatory Agreement**. The "Regulatory Agreement", as defined in the Funding Loan Agreement.

**1.162 Title Insurer**. Commonwealth Land Title Insurance Company.

**1.163 Title Policy**. An ALTA LP-10 Policy of Title Insurance or its equivalent acceptable to Bank, naming Governmental Lender and Bank as insured, with a liability limit of not less than the amount of the Borrower Loan, issued by Title Insurer, insuring that the Deed of Trust constitutes a valid first lien on the Real Property and Improvements, with only such exceptions from its coverage as shall have been approved in writing by Bank, with such reinsurance or coinsurance agreements or endorsements to such policy as Bank may require.

**1.164 Transfer**. Any sale, lease or other transfer of any interest to any other Person.

**1.165 Unit(s)**. The fifty-six (56) apartment units constituting the Improvements.

**1.166 Variable Rate**. A rate of Interest which bears interest with reference to a LIBOR Rate, pursuant to Section 3.1.2.

**1.167 Variable Rate Principal**. The outstanding principal balance of the Borrower Loan that is bearing interest at a Variable Rate.

## 2. BORROWER LOAN.

**2.1 Purpose**. The purpose of the Borrower Loan is to finance the acquisition of the Real Property and construction of the Improvements and other costs related thereto and to provide permanent financing for the Project.

**2.2 Loan Terms and Conditions**. Subject to the terms and conditions contained in this Agreement, as may be modified by the provisions of Exhibit C and Section 3.4 of the Funding Loan Agreement, Governmental Lender agrees to make the Borrower Loan to Borrower. The repayment of all amounts due in connection with the Borrower Loan shall be secured by, among other things, the Deed of Trust, the Security Documents and such other collateral as may be required by Bank. Interest shall accrue and principal and interest shall be payable in accordance with the terms of this Agreement.

**2.3 Loan Fee**. Borrower shall pay the Loan Fee to Bank in immediately available funds on or before the Closing Date. The Loan Fee shall be nonrefundable.

**2.4 Full Payment and Reconveyance**. Upon Governmental Lender's and Bank's receipt, as applicable, of all sums owing and outstanding under the Borrower Loan Documents and under any other note or notes or any other obligation secured by the Deed of Trust, Bank shall issue a full reconveyance of the Property and Improvements from the lien of the Deed of Trust; provided, however, that all of the following conditions shall be satisfied at the time of, and with respect to, such reconveyance: (a) Bank shall have received all escrow, closing and recording costs, the costs of preparing and delivering such reconveyance and any sums then due and payable under the Borrower Loan Documents and the Funding Loan Documents; and (b) Bank shall have received a written release satisfactory to Bank of any Set Aside Letter, letter of credit or other form of undertaking that Bank has issued to any Surety, Governmental Authority or any other party in connection with the Borrower Loan and/or the Property. As of the earlier of the last day of disbursement of the Funding Loan under Section 3.4 of the Funding Loan Agreement, or date of repayment in full of the Borrower Loan, Governmental Lender's obligation to make further disbursements under the Borrower Loan shall terminate as to any portion of the Borrower Loan undisbursed, and any commitment of Governmental Lender to lend any undisbursed portion of the Borrower Loan shall be cancelled.

**2.5 Extension Term**. Borrower shall have the option to extend the Outside Conversion Date (the "Initial Outside Conversion Date") for an additional three (3) months ("Extension Term"), to and including [CONVERSION DATE] ("Extended Outside Conversion Date"), upon satisfaction of all of the following conditions, as determined by Bank:

(a) Borrower shall provide Bank with Borrower's written request to extend the term of the Borrower Loan not less than ninety (90) days prior to the Initial Outside Conversion Date.

(b) At the time of Bank's receipt of Borrower's written request to extend the term of the Borrower Loan, and as of the Initial Outside Conversion Date, no Event of Default shall have occurred and be continuing.

(c) There shall have been no substantial deterioration in the financial condition of Borrower or any Loan Party, as determined by Bank in Bank's sole discretion.

(d) Borrower and any Loan Party shall have executed such documents as Bank may require in connection with such extension, including any amendments to the Borrower Loan Documents.

(e) Neither Borrower nor any Loan Party shall be in default under any promissory note, deed of trust, security agreement, guaranty or other agreement between Bank and any such party, and no event shall have occurred which would constitute a default or event of default thereunder.

(f) Intentionally Omitted.

(g) Borrower shall have provided Bank with evidence that the Improvements shall be substantially completed in accordance with the Plans, as determined by Bank in its reasonable discretion, as of the Completion Date.

(h) Bank shall have the option, in its sole discretion, to re-balance the Interest Reserve to assure that there are sufficient funds in the Interest Reserve to pay the interest required under the terms of the Borrower Note during the Extension Term. In the event the Bank determines that the funds in the Interest Reserve are insufficient, Borrower shall pay into the Borrower's Funds Account such amount as is necessary, as determined by Bank in its sole discretion, to provide adequate funds to pay, at a minimum, the interest required under the terms of Section 3.1.2(a) during the Extension Term.

(i) Borrower shall have entered into one or more Hedges, in form and content and from a counterparty complying with the provisions contained in Section 7.52, which shall provide for the Borrower to pay a fixed rate of interest no greater than (or otherwise protects against the interest rate exceeding) [____]% (including the Margin), on an amount not less than the Projected Permanent Phase Loan Amount, for the period commencing no later than the Extended Outside Conversion Date and ending on the Maturity Date.

(j) From and after the Initial Outside Conversion Date, the interest payable under the Borrower Note during the Extension Term shall continue to accrue at the rate or rates specified in Section 3.1.2(a) and monthly payments of interest only shall continue to be payable as specified in Section 3.1.3(a).

(k) Borrower shall pay all costs and expenses incurred by Bank in connection with extending the Initial Outside Conversion Date, including without limitation, extension fees, documentation and/or recording fees, if any, and the cost of any title endorsements required by Bank.

**2.6 Assignment of Borrower Loan Documents to Bank**. Borrower acknowledges that the Governmental Lender has made an assignment to the Bank of all right, title and interest of the Governmental Lender in this Borrower Loan Agreement (except for the Reserved Rights, as defined in the Funding Loan Agreement), the Borrower Note, the Deed of Trust and the other Borrower Loan Documents and has authorized the Bank to advance moneys on behalf of the

Governmental Lender to fund the Borrower Loan upon satisfaction of the conditions set forth in this Agreement, to collect payments from the Borrower with respect to the Borrower Loan and to take all actions on behalf of Governmental Lender with respect to the Borrower Loan and the Borrower Loan Documents. Borrower hereby consents to all such assignments and the appointment of Bank as assignee of the Governmental Lender.

## 3. PAYMENTS; CONVERSION.

### 3.1 Payments.

**3.1.1 General Obligation**. To induce Governmental Lender to issue the Funding Loan Note, Borrower shall pay to Bank all amounts, including principal, interest and premium (if any) that become due and payable on the Funding Loan Note, as and when such amounts become due and payable under the Funding Loan Note. Without limitation on the foregoing, Borrower shall also pay to Bank when due all other amounts described in this Agreement, as and when due and payable under this Agreement, Each such payment shall be made to the Fiscal Agent by deposit to such account as the Fiscal Agent shall designate by written notice to the Borrower.

**3.1.2 Interest**.

(a) At all times from and after the Funding Date to (but excluding) the Outside Conversion Date, the outstanding principal balance of the Borrower Loan shall accrue interest at a rate which is 79% of the LIBOR Rate plus the Margin for the then current Interest Period. The Variable Rate for the next Interest Period shall change on each Interest Change Date based on changes in the LIBOR Rate. There is no limit on the amount the Variable Rate may increase or decrease during the term of the Borrower Loan, except that such interest rate shall not exceed the Maximum Lawful Rate.

(b) At all times from and after the Outside Conversion Date, the outstanding principal balance of the Borrower Loan shall accrue interest at a rate which is 79% of the LIBOR Rate plus the Margin for the then current Interest Period. The Variable Rate for the next Interest Period shall change on each Interest Change Date based on changes in the LIBOR Rate. There is no limit on the amount the Variable Rate may increase or decrease during the term of the Borrower Loan, except that such interest rate shall not exceed the Maximum Lawful Rate.

(c) At all times after the occurrence and during the continuance of an Event of Default, all principal outstanding under the Borrower Note shall accrue interest at the Default Rate, not exceeding the Maximum Lawful Rate.

**3.1.3 Monthly Payments**.

(a) Commencing on the First Payment Date and continuing on the 1st day of each calendar month thereafter through and including the Outside Conversion Date, payments in respect of the Borrower Loan shall be interest only, in arrears, on the outstanding principal of the Borrower Note at the Variable Rate.

Interest shall be calculated on the basis of a year of 360 days, for actual days elapsed, prior to the Outside Conversion Date.

(b) Commencing on the Amortization Date and on the 1st day of each calendar month thereafter through the Maturity Date, Borrower shall pay to Bank monthly installments of principal with respect to the Borrower Note as set forth on Schedule 1 to be attached hereto and incorporated herein by this reference (the "Principal Payments"), plus interest accrued for the applicable Interest Period on the principal balance outstanding from time to time on the Borrower Note at the Variable Rate. Said principal and interest payments are hereinafter collectively referred to as the "Regular Payments" and are subject to change as and when the Variable Rate changes. The Regular Payments will be applied first to accrued but unpaid interest then due, and then to principal. A payment will be treated as made on the date it is received. At Conversion, Schedule 1 shall be prepared by Bank and attached to this Agreement and shall consist of a schedule of the monthly installments of principal required to fully amortize the outstanding principal balance of the Borrower Note owing on the Conversion Date, assuming equal monthly payments of principal and interest, an amortization period of [____] months and a fixed rate of interest equal to the fixed rate or maximum interest rate of the Hedge in effect as of the Conversion Date. Bank shall provide Borrower with a copy of Schedule 1 once it is prepared by Bank, but the effectiveness and date of such payment shall not be affected by such notice or lack thereof. Bank's determination of said Regular Payments shall be conclusive absent manifest error. All computations of interest shall be made on the basis of a year of 360 days, for actual days elapsed. On the Maturity Date, all principal and accrued interest then outstanding shall be immediately due and payable.

**3.2 Conversion; Termination**.

**3.2.1** Not later than 30 days prior to the earlier to occur of the proposed Conversion Date or the Outside Conversion Date, Borrower shall deliver the Conversion Election Notice to Bank. The Conversion Election Notice shall be accompanied by (a) a written certification by Borrower to Bank that all of the Conditions to Conversion have been fully satisfied; (b) a rent roll covering the Property for each of the three full calendar months immediately preceding the date of the Conversion Election Notice, certified by Borrower as true, correct and complete; and (c) operating statements for the Property for each of such three calendar months, in the form required by Bank, and certified by Borrower to be true, correct and complete.

**3.2.2** The Conditions to Conversion specified in Exhibit D shall be applicable to the Conversion. Bank shall have the right to waive any Condition to Conversion set forth in Exhibit D in Bank's sole and absolute discretion.

**3.2.3** If, based upon the information delivered pursuant to Section 3.2,1 and such other information as Bank may require as evidence of satisfaction of the Conditions to Conversion, Bank determines that the Conditions to Conversion have been fully satisfied, Bank shall deliver the Conversion Notice, which Conversion Notice shall state the

Conversion Date and a copy of Schedule "1" to be attached hereto setting forth the monthly installments of principal required to be paid by Borrower under the Borrower Note, as more particularly set forth in Section 3.1.3(b) above.

**3.2.4** Upon Conversion (and so long as all Conditions to Conversion are satisfied) the following documents shall be deemed automatically terminated and shall have no further force or effect without any further action by any Loan Party: (i) the Guaranty (except for the Indemnity Agreement); (ii) the Assignment of Tax Credits and Partnership Interests and (iii) the Assignment of Partnership Interest (GP).

**3.2.5** If the Conditions to Conversion have not been fully satisfied prior to the Outside Conversion Date, as such date may be extended in accordance with this Agreement, Borrower shall pay to Bank, on the Outside Conversion Date, the entire outstanding principal balance of the Borrower Loan, together with all accrued and unpaid interest thereon and other accrued and unpaid fees, costs and expenses owing under the Borrower Loan Documents and the Funding Loan Documents.

**3.2.6 Non-Recourse After Conversion Date**. From and after the Conversion Date, Governmental Lender and Bank agree that Governmental Lender's and Bank's recovery against Borrower in the event of a default under this Agreement, the Borrower Note or under any of the other Borrower Loan Documents shall be limited solely to, and Governmental Lender and Bank shall only proceed against, the. Trust Estate (as defined in the Deed of Trust), together with the rents, issues, profits and income therefrom and proceeds and products thereof, and any other collateral given as security for Borrower's performance under the Borrower Loan Documents, and in no event shall (i) Borrower be personally liable for the payment of the Borrower Note or for the payment of any deficiency established upon foreclosure and the sale of the Trust Estate, or (ii) any other assets of Borrower (or any general partner of Borrower) be subject to levy, execution or other enforcement procedure in connection with any such default. Notwithstanding the foregoing, Borrower (and each general partner of Borrower) shall be fully and personally liable to Governmental Lender and Bank for the costs or damages arising from any of the following:

(a) gross negligence, fraud, willful misrepresentation or waste by Borrower, to the full extent of Governmental Lender's and Bank's loss attributable thereto;

(b) any inaccuracy in or breach of any representation' or warranty pertaining to any Hazardous Substances (as that term is defined in that certain Environmental Compliance Agreement (the "ECA") executed in favor of Governmental Lender and Bank by Borrower concurrently herewith), any failure in the due, prompt and complete observance and performance of any covenant or other obligation imposed under or pursuant to the EGA, or the presence of any Hazardous Substance on, under or about the Trust Estate, whenever arising;

(c) failure to pay taxes, assessments or other charges which can create liens on any portion of the Trust Estate (to the full extent of any such taxes, assessments or other charges);

(d) any loss which would have been covered by insurance required to be maintained under the terms of any of the Borrower Loan Documents, which Borrower failed to maintain;

(e) failure to deliver to Bank any funds which should have been paid to Bank under the terms of the Borrower Loan Documents or the distribution of earnings or income from the Trust Estate in violation of the Borrower Loan Documents; or

(f) any loss resulting from any claim or cause of action by a contractor, material supplier or other person or entity entitled to file a mechanic's lien against the Trust Estate.

In addition, Borrower and General Partner shall be fully and personally liable to Governmental Lender and Bank for the full amount of the Borrower Loan and all other obligations evidenced by the Borrower Loan Documents in the event (i) all or any part of the Trust Estate, other assets of Borrower or any ownership interest in Borrower is transferred in violation of the Borrower Loan Documents; (ii) any voluntary or involuntary proceeding under any laws relating to bankruptcy, insolvency, reorganization, arrangement, debt adjustment or debtor relief is commenced by or against Borrower or by or against any owner of the Property and, as to involuntary proceedings, is not dismissed within ninety (90) days; or (iii) Governmental Lender's or Bank's exercise of its rights and remedies under the Borrower Loan Documents is hindered, delayed, interfered with or prejudiced by or as a result of any act, omission, fraud or misrepresentation of Borrower or any other party now or hereafter liable for any part of the Borrower Loan.

The provisions hereof shall not be deemed to constitute a waiver of any obligation of Borrower or any other party or limitation of any kind of any right of Governmental Lender or Bank at law or equity or under any guaranty or other Borrower Loan Documents, provided that the assertion by Governmental Lender or Bank of any such right shall not result in a monetary claim upon the general unsecured assets of Borrower except as provided herein.

**3.3 Maturity Date**. All unpaid principal and interest on the Borrower Loan and other amounts due under the Borrower Loan Documents and the Funding Loan Documents shall be due and payable in full on the Maturity Date, as such date may be extended or accelerated.

**3.4 Application of Payments**. All payments and prepayments received by Governmental Lender or Bank pursuant to the terms hereof shall be applied in the following manner: first, to the payment of any Late Charge then due; second to the payment of all expenses, charges, costs and fees (including, but not limited to, the Prepayment Fee) incurred by or payable to Governmental Lender or Bank by Borrower pursuant to the terms of the Borrower Loan Documents (in such order and manner as Bank, in its sole discretion, may elect); third to the

payment of all interest accrued to the date of such payment; and fourth, to the payment of principal. Notwithstanding anything to the contrary contained herein, after the occurrence and during the continuation of an Event of Default, all amounts received by Governmental Lender and Bank from any party shall be applied in such order as Bank in its sole discretion, may elect.

**3.5 Acceleration**. If any of the payments required by the terms hereof shall not be paid when due and such failure shall continue beyond any applicable notice and cure periods, or if the payment due on the Maturity Date is not paid when due, whether by acceleration or otherwise, or if an Event of Default occurs, then, or at any time thereafter, the whole of the unpaid principal and interest owing on the Borrower Loan shall, at the option of Bank and without notice, become immediately due and payable. This acceleration option may be exercised at any time after any such event and the acceptance of one or more installments or other payments from any Person thereafter shall not constitute a waiver of Bank's acceleration option. Bank's failure to exercise such acceleration option in connection with any particular event or series of events shall not be construed as a waiver of the provisions hereof as regards such events or any subsequent events. The other Borrower Loan Documents may contain provisions that provide for the automatic acceleration of amounts owing in connection with the Borrower Loan upon the occurrence of certain specified events. Bank shall have, and be entitled to exercise, upon the occurrence of any Event of Default or other event described above, all rights and remedies available to Bank hereunder, under the other Borrower Loan Documents or Funding Loan Documents or at law or in equity. All such rights and remedies shall be cumulative.

**3.6 Late Charge; Default Interest; Default Premium**. Borrower recognizes that any default by Borrower in making the payments required under the Borrower Loan Documents when due will result in Governmental Lender and Bank incurring additional expense in servicing the Borrower Loan, in loss of the use of the money due and in frustration of meeting commitments under the Funding Loan Documents. Borrower agrees that, if for any reason Borrower fails to pay when due any payment due under this Agreement or under any of the other Borrower Loan Documents, any amount advanced under the Deed of Trust or the amount due on the Maturity Date, or the accelerated Maturity Date, whichever shall first occur, Bank shall be entitled to damages for the detriment caused thereby, but that it is extremely difficult and impractical to ascertain the extent of such damages. Borrower therefore agrees that a reasonable estimate of such damages to Bank is as follows:

**3.6.1** In the event Borrower fails to pay any installment of principal and interest (other than payment on the Maturity Date) within ten days after the same is due, then Borrower shall pay to Bank a Late Charge.

**3.6.2** In the event Borrower fails to reimburse Bank for any amount advanced under the Deed of Trust within ten days after written notice of such advance is made by Bank to Borrower, then such unreimbursed amount shall thereafter bear interest at the Default Rate until paid, such interest to be compounded annually.

**3.6.3** To the extent the Default Rate exceeds the Maximum Lawful Rate, the following provisions shall apply:

(a) At all times after the occurrence and during the continuance of an Event of Default, Borrower shall pay the Bank the Default Premium on all principal outstanding on the Borrower Note, such Default Premium to be compounded annually.

(b) In the event Borrower fails to reimburse Bank for any amount advanced under the Deed of Trust within ten days after written notice of such advance is made by Bank to Borrower, then Borrower shall pay to Bank the Default Premium on such unreimbursed amount until paid, such Default Premium to be compounded annually.

**3.6.4** In the event the payment of principal and accrued but unpaid interest due on the Maturity Date, or the accelerated Maturity Date, as applicable, is not made in full when due, then such amounts shall thereafter bear interest at the Default Rate, until paid, such interest to be compounded annually.

**3.7 Prepayment**. Pursuant to the terms of this Section 3.7, the Borrower Loan may be prepaid by Borrower when and to the extent that the Funding Loan Note is susceptible to prepayment under the Funding Loan Documents, provided that Borrower shall in no event voluntarily or involuntarily prepay the Borrower Loan in whole or in part unless Borrower pays to Bank, concurrently with such prepayment, a prepayment fee as calculated below.

**3.7.1 Variable Rate Principal**. Any Variable Rate Principal may be prepaid prior to the scheduled payment date, whether voluntary or involuntary, in whole or in part, provided Borrower has given Bank not less than five (5) business days prior written notice of Borrower's intention to make such prepayment and pays to Bank the prepayment fee due as a result. The prepayment fee shall be an amount equal to the present value of the product of: (i) the difference (but not less than zero) between (a) the Variable Rate applicable to the principal amount which is being prepaid, and (b) the return which Bank could obtain if it used the amount of such prepayment of principal to purchase a bid price regularly quoted securities issued by the United States having a Maturity Date most closely coinciding with the last day of the relevant Interest Period and such securities were held by Bank until the last day of the relevant Interest Period ("Yield Rate"); (ii) a fraction, the numerator of which is the number of days in the period between the date of prepayment and the last day of the relevant Interest Period, and the denominator of which is 360, and (iii) the amount of principal so prepaid. The present value shall be determined by discounting the above product to present value using the Yield Rate as the annual discount factor. Bank shall provide Borrower a statement of the amount payable on account of prepayment. Borrower acknowledges that (i) Bank establishes a Variable Rate upon the understanding that it apply to the Variable Rate Principal for the entire Interest Period, and (ii) Governmental Lender would not lend to Borrower at a Variable Rate without Debtor's express agreement to pay the prepayment fee described above.

**3.7.2 No Prepayment Fee Due**. Notwithstanding Section 3.7.1 above, no prepayment fee shall be payable (i) in connection with the prepayment of Variable Rate Principal in connection with the prepayment of principal during the ninety (90) day period

immediately preceding the Outside Conversion Date, as may be extended pursuant to Section 2.5 above, or the Maturity Date.

**3.7.3 No Refund**. In no event shall Bank be obligated to make any payment or refund to Borrower, nor shall Borrower be entitled to any setoff or other claim against Bank, should the return which Bank could obtain under the prepayment formula exceed the interest that Governmental Lender would have received if no prepayment had occurred.

**3.7.4 Payment of Accrued Interest**. All prepayments shall include payment of accrued interest on the principal amount so prepaid, shall be applied to payment of interest before application to principal, and shall be applied to the most remote principal installment or installments then unpaid (i.e., the principal balance due on the Maturity Date and then against installments due closest to the Maturity Date).

**3.7.5 Involuntary Prepayment**. Such prepayment fee shall also be payable if prepayment occurs as the result of any involuntary prepayment (e.g., proceeds of insurance or condemnation or any prepayment required in order to satisfy the Conditions to Conversion) or the acceleration of the principal hereof by Bank because of any default by Borrower (including any transfer or conveyance of any right, title or interest in the real property encumbered by the Deed of Trust) that gives Bank the right to accelerate the maturity of the Borrower Loan pursuant to the terms of the Deed of Trust. If, following any such acceleration, all or any portion of the unpaid principal is satisfied, whether through sale of the property encumbered by the Deed of Trust or other agreement securing the Borrower Loan at a foreclosure held thereunder or through the tender of payment at any time following such acceleration, but prior to such a foreclosure sale, then such satisfaction of principal shall be deemed an evasion of the prepayment provisions hereof, and Bank shall, automatically and without notice or demand, be entitled to receive, concurrently with such satisfaction of principal the prepayment fee set forth above, and the obligation to pay such prepayment fee shall be added to the principal hereof.

BORROWER HEREBY ACKNOWLEDGES AND AGREES THAT GOVERNMENTAL LENDER WOULD NOT LEND TO BORROWER THE BORROWER LOAN EVIDENCED BY THE BORROWER NOTE WITHOUT BORROWER'S AGREEMENT TO PAY BANK A PREPAYMENT FEE AS SET FORTH ABOVE. BORROWER EXPRESSLY WAIVES ANY RIGHT UNDER CALIFORNIA CIVIL CODE SECTION 2954.10 OR OTHERWISE TO PREPAY THE BORROWER LOAN WITHOUT A PREPAYMENT FEE AS HEREINABOVE SET FORTH. BORROWER ACKNOWLEDGES THAT PREPAYMENT OF THE BORROWER LOAN MAY RESULT IN GOVERNMENTAL LENDER AND BANK INCURRING ADDITIONAL COSTS, EXPENSES OR LIABILITIES. BORROWER THEREFORE AGREES THAT THE PREPAYMENT FEE HEREIN PROVIDED FOR REPRESENTS A REASONABLE ESTIMATE OF THE PREPAYMENT COSTS, EXPENSES OR LIABILITIES GOVERNMENTAL LENDER AND BANK MAY INCUR ON A PREPAYMENT. BORROWER AGREES THAT GOVERNMENTAL LENDER'S WILLINGNESS TO OFFER THE VARIABLE INTEREST RATE DESCRIBED ABOVE TO BORROWER IS SUFFICIENT AND INDEPENDENT CONSIDERATION, GIVEN INDIVIDUAL WEIGHT BY GOVERNMENTAL

LENDER AND BANK FOR THIS WAIVER. BORROWER UNDERSTANDS THAT GOVERNMENTAL LENDER WOULD NOT OFFER SUCH AN INTEREST RATE TO BORROWER ABSENT THIS WAIVER. BORROWER HAS CAUSED THOSE PERSONS SIGNING THIS AGREEMENT ON ITS BEHALF TO SEPARATELY INITIAL THIS PARAGRAPH BY PLACING THEIR INITIALS BELOW:

BORROWER INITIALS HERE: _____ _____ _____ _____ _____

**3.7.6 Certification**. A certificate as to the amount of any prepayment fee payable under this Section, setting forth the basis for such fee, prepared by Bank and submitted to Borrower shall be conclusive as to the matters set forth therein, and the Borrower Loan shall not be deemed to have been fully paid or satisfied until such fee shall have been paid.

**3.7.7 Effect of Prepayment on Hedge**. Borrower and Bank hereby agree that, in accordance with and subject to the terms of any Hedge Documents, any Hedge entered into between Borrower and Bank in connection with the Borrower Loan shall, upon the making of any prepayment of amounts outstanding under the Borrower Loan, be subject to an Additional Termination Event (as defined in such Hedge Documents) and may be terminated as and to the extent more particularly provided in the documents and agreements evidencing such Hedge. Any amounts (which may be substantial) payable by Borrower to Bank, or by Bank to Borrower in respect of such full or partial termination of such Hedge shall be determined under the terms and conditions of the Hedge Documents relating to such Hedge.

**3.8 Additional Fee Payment Obligations**. All payments to fund taxes, insurance or any other escrow or reserve required to be established, funded or created pursuant to any Borrower Loan Document or Funding Loan Document, shall be due and payable by Borrower to Fiscal Agent the date monthly payments are due pursuant to Section 3.1,3 commencing in the month following the month in which the Conversion Date occurs in accordance with the applicable Borrower Loan Document or Funding Loan Document, Borrower shall pay to Fiscal Agent Fiscal Agent's Fees (as defined in the Funding Loan Agreement) and the ongoing Governmental Lender's Fee described in Section 7(n) of the Tax-Exempt Regulatory Agreement in accordance with the terms of the Funding Loan Agreement and the Tax-Exempt Regulatory Agreement.

## 4. CONDITIONS PRECEDENT.

**4.1 Conditions to Closing of the Borrower Loan**. Prior to the Closing Date, Bank shall have received all of the following documents, instruments and other items (each of which, in the case of documents or instruments, shall be fully and properly executed and, where required by Bank, acknowledged by all parties thereto), each in form and content acceptable to Bank:

**4.1.1** The original Borrower Loan Documents.

**4.1.2** Copies of organizational documents of Borrower and all Loan Parties, duly filed and/or recorded in the appropriate jurisdiction and certified as required by Bank, including without limitation, and as applicable, (a) articles of organization and operating

agreements, (b) certificates of limited partnership, statements of partnership and partnership agreements, (c) statements of joint venture and joint venture agreements, (d) articles of incorporation, (e) trust agreements, and (f) any amendments to any of the foregoing.

**4.1.3** Evidence that the insurance required by the Agreement to Furnish Insurance is in full force and effect.

**4.1.4** All Borrower's Funds required under this Agreement.

**4.1.5** Copies of the Detailed Cost Breakdown, the Project Budget, the Plans, the Construction Contract (if any), the Architect's Agreement, and any other agreements that Bank determines are material to construction of the Improvements, all certified as required by Bank.

**4.1.6** Copies of the building permits and any other authorizations required from any Governmental Authority in connection with construction of the Improvements.

**4.1.7** If required by Bank, a current ALTA survey of the Real Property, including dimensions and delineation and location of all easements thereon, certified to and satisfactory to Bank and Title Insurer,

**4.1.8** If required by Bank, letters from local utility companies and any Governmental Authority stating that electric, gas, sewer, water, cable and telephone facilities are or will be available to the Real Property upon completion of the Improvements.

**4.1.9** Written results of such due diligence investigations with respect to Borrower, any Loan Party and the Property as Bank deems necessary, including without limitation, environmental reviews, engineering inspections, seismic studies and financial analysis.

**4.1.10** An opinion of Borrower's counsel as to (a) the proper formation, valid existence and good standing of Borrower and all Loan Parties, (b) the due authorization and execution of all Borrower Loan Documents and any Hedge Documents with Bank by Borrower and all Loan Parties, (c) whether all necessary consents have been obtained with respect to the Borrower Loan and any Hedge Documents with Bank, (d) the absence of any threatened or pending actions, suits or proceedings against or affecting the Property, Borrower or any Loan Party, (e) the violation of any agreements to which Borrower or any Loan Party is bound, and (f) such other matters as Bank may determine to be necessary or appropriate.

**4.1.11** A performance bond naming Governmental Lender and Bank as co-obligee and a labor and material payment bond, in an amount equal to the amount of the Construction Contract, or if there is no Construction Contract, then in such amounts as Bank may require, issued by a surety acceptable to Bank and otherwise in form and content acceptable to Bank, The performance and the labor and material bonds shall have been

recorded in the official records of the county in which the Real Property is located prior to the commencement of work on the Improvements.

**4.1.12** Such evidence as Bank may reasonably require to confirm the accuracy of the representations and warranties set forth in Section 6.29 of this Agreement.

**4.1.13** A copy of the Subordinate Documents in a form acceptable to Bank.

**4.1.14** Borrower shall have entered into one or more Hedges, in form and content and from a counterparty complying with the provisions contained in Section 7.52, with respect to the Borrower Note in an amount not less than $[AGGREGATE PRINCIPAL AMOUNT], which provides for a fixed rate of interest on the Borrower Note not to exceed (or otherwise protects against the interest rate on the Borrower Note exceeding) [_____] percent ([____]%) (including the Margin) for the period commencing on the Closing Date and ending on the Initial Outside Conversion Date.

**4.1.15** Borrower shall have entered into one or more Hedges, in form and content and from a counterparty complying with the provisions contained in Section 7.52, with respect to the Borrower Note in an amount not less than $[_____], which provides for a fixed rate of interest on the Borrower Note not to exceed (or otherwise protects against the interest rate on the Borrower Note exceeding) [_____] percent ([____]%) (including the Margin) for the period commencing on the Initial Outside Conversion Date and ending on the Maturity Date.

**4.1.16** Borrower shall have entered into the AHAP Contract on terms and conditions acceptable to Bank.

**4.1.17** Contract Administrator shall have consented to the collateral assignment of the AHAP to Bank pursuant to the Assignment of AHAP.

**4.1.18** Such other documentation, certifications, opinions and information as may be reasonably required by Governmental Lender or Bank.

**4.1.19** Bank shall have received the executed Assignment of Construction Contract, Assignment of Plans and Specifications and Certification of Plans and Specifications.

**4.1.20** Borrower shall have paid all fees and costs associated with the closing of the Borrower Loan, including, without limitation, Bank's attorneys' fees, recording, reconveyance and title insurance costs, and escrow and closing costs incurred by Bank.

**4.1.21** Any special conditions set forth in the Special Conditions attached hereto as Exhibit C shall have been satisfied.

**4.2 Conditions to Issuance of the Funding Loan Note**. Governmental Lender's obligation to execute the Funding Loan Note, and Governmental Lender's and Bank's obligation to enter into this Agreement, the other Borrower Loan Documents and the Funding Loan Documents, and to make the Initial Disbursement, are subject to the satisfaction, or waiver by

Governmental Lender or Bank, as applicable, each of the conditions in Section 4.1 and of all of the following conditions precedent:

**4.2.1** Governmental Lender and Bank shall have received fully executed originals of each of the Borrower Loan Documents and the Funding Loan Documents.

**4.2.2** The Tax-Exempt Regulatory Agreement shall have been duly executed, acknowledged and delivered by Borrower to Governmental Lender and Bank.

**4.2.3** Each of the Recorded Documents shall have been executed and acknowledged by all parties thereto, and either recorded or delivered to the Title Company and irrevocably released for recording in the Official Records of the county in which the Real Property is located.

**4.2.4** The Financing Statements have been filed with the Secretary of State of California, and Bank shall have received a certificate of the Secretary of State showing such Financing Statements to be subject to no prior filings (other than filings perfecting Permitted Liens) except as otherwise agreed to by Bank.

**4.2.5** Title Insurer shall have committed to deliver to Bank the Title Policy.

**4.2.6** Bank and Governmental Lender shall have received and approved an executed original of each of the following opinions, in each case addressed to each of Governmental Lender and Bank and in each case in form and substance approved by Governmental Lender and Bank: (a) the opinion of counsel to Borrower and the other Loan Parties, opining as to the due formation, qualification and good standing of Borrower and the other Loan Parties, the due authorization by Borrower and the Loan Parties of the execution, delivery and performance of the Borrower Loan Documents, and the enforceability of the Borrower Loan Documents, and covering such other matters as Bank may require; and (b) an opinion of Tax Counsel, opining as to the due organization and valid existence of the Governmental Lender, due execution and delivery by the Governmental Lender of the Funding Loan Agreement, and this Agreement, the enforceability of the Funding Loan Agreement and this Agreement, and the exclusion of interest on the Funding Loan Note from gross income for federal income tax purposes.

**4.2.7** Bank shall have received and approved such Financial Statements and other financial information as it may require regarding the financial condition of Borrower, the Loan Parties and/or the Property.

**4.2.8** Bank shall have received and approved a detailed sources and uses statement showing (i) all costs and expenses of issuance of the Funding Loan Note, and (ii) all sources for payment of such costs and expenses.

**4.2.9** To the extent not funded from the Initial Disbursement, Borrower shall have paid to Governmental Lender and Bank, as applicable, in immediately available good funds (a) all costs and expenses incurred by Governmental Lender and Bank in connection with the Funding Loan, the making of the Borrower Loan and the negotiation, preparation and closing of the Borrower Loan Documents and Funding Loan Documents, (b) the Tax

Counsel fees and expenses due and payable; (c) all of fees to Governmental Lender then due and payable; and (d) the Fiscal Agent's acceptance fee.

**4.2.10** Borrower shall have delivered to Bank, and Bank shall have approved such information, and/or documentation as Bank may require to evidence that paragraph (1) of Section 42(h) of the Code does not apply to the Tax Credits by virtue of the provisions set forth in subparagraph (4)(B) of Section 42(h) of the Code.

**4.2.11** Any special conditions set forth in the Special Conditions attached hereto as Exhibit C shall have been satisfied.

## 5. DISBURSEMENTS.

### 5.1 Initial Disbursement.

**5.1.1** Prior to the Initial Disbursement, the following conditions shall have been satisfied in addition to the conditions set forth in Sections 4.1 and 4.2, as determined by Bank:

(a) Borrower and all Loan Parties shall have performed to Bank's reasonable satisfaction all covenants required to be performed under this Agreement, the other Borrower Loan Documents and the Funding Loan Documents on or before the Funding Date.

(b) No change shall have occurred that could have a material adverse effect on Borrower, any Loan Party, the Property or Bank's right or ability to receive payment in full of the Borrower Loan, as determined by Bank in its sole discretion.

(c) No Event of Default shall exist.

(d) The representations and warranties of Borrower in this Agreement and the other Borrower Loan Documents shall be true and correct on and as of the date of the disbursement with the same effect as if made on such date.

(e) Bank shall have approved in its sole discretion, the Detailed Cost Breakdown, the Project Budget, the Plans, the Construction Contract (if any), the Architect's Agreement, and any other agreements that Bank determines are material to the construction of the Improvements.

(f) Bank shall have received satisfactory evidence that there are no liens on Personal Property, except as otherwise agreed to by Bank.

(g) If required by Bank, Bank shall have received a list of the names and addresses of all suppliers, laborers and subcontractors with whom agreements have been made with Contractor and/or Borrower to deliver materials and/or perform work on the Improvements.

(h) Such evidence as Bank may require evidencing expenditure of Borrower's Equity on Project costs in accordance with this Agreement is at least $[_____].

(i) Any special conditions set forth in the Special Conditions attached hereto as Exhibit C shall have been satisfied.

**5.1.2** Upon satisfaction of the conditions contained in Sections 4.1, 4.2 and 5.1.1, Bank, on behalf of Governmental Lender, shall make an Advance in accordance with the Project Budget and the Disbursement Schedule as further set forth on the closing statement approved by Bank.

**5.2 Subsequent Disbursements**.

**5.2.1** Prior to making any Advances after the Initial Disbursement, except for the final Advance, the following additional conditions shall have been satisfied, as determined by Bank:

(a) All specific requirements for the disbursement set forth in the Disbursement Schedule shall have been satisfied.

(b) No Event of Default shall exist.

(c) The representations and warranties of Borrower in this Agreement and the other Borrower Loan Documents shall be true and correct in all material respects on and as of the date of the disbursement with the same effect as if made on such date.

(d) The Improvements shall not have been damaged by fire or other casualty unless Bank has determined that Bank will receive proceeds sufficient in Bank's judgment to effect the satisfactory restoration of the Improvements and permit Project Completion prior to the Completion Date.

(e) If required by Bank, Bank shall have received confirmation to its satisfaction that (A) to date, the Improvements have been constructed in accordance with the Plans and the Construction Contract (if any), and (B) the present state of construction of the Improvements will, barring the unforeseen and unknown delays, permit Project Completion on or before the Completion Date.

(f) If Bank has determined that the undisbursed proceeds of the Borrower Loan, together with the undisbursed amount of the Subordinate Loans designated for payment for construction of the Improvements and Borrower's Funds (if any), are insufficient to pay all costs to complete construction of the Improvements (and all other costs included within the Project Budget), Borrower shall have deposited into the Borrowers' Funds Account cash in the amount of such shortfall as provided in Section 7.2.

(g) If required by Bank, (A) Title Insurer shall have issued its continuation endorsement to the Title Policy indicating that since the last preceding disbursement, there: (1) has been no change in the condition of title to the Real Property; and (2) are no intervening liens that may now or hereafter take priority over the disbursement to be made, and (B) upon completion of the foundation, Title Insurer shall have issued its foundation endorsement to the Title Policy insuring Bank that the foundation is constructed wholly within the boundaries of the Real Property and does not encroach on any easements or violate any covenants, conditions or restrictions or any Governmental Requirement.

(h) Bank shall have received satisfactory evidence that there are no liens on Personal Property, except as otherwise agreed to by Bank.

(i) If requested by Bank, each Subordinate Lender shall have executed and delivered to Bank an estoppel certificate in a form and substance which shall contain such certifications as Bank shall reasonably require with respect to the applicable Subordinate Documents.

(j) All amounts deposited into the Borrower's Funds Account shall have been withdrawn by Borrower to cover Project costs in accordance with the terms and conditions of this Agreement, the amount of $[_____] of the HCID HHH Loan shall have been fully disbursed by HCID to or for the account of Borrower and applied towards Project costs, and the entire amount of the CDA Loan shall have been fully disbursed by the applicable Subordinate Lender to or for the account of Borrower and applied towards Project costs.

(k) Any special conditions set forth in the Special Conditions attached hereto as Exhibit C shall have been satisfied.

**5.2.2** Upon satisfaction of the conditions contained in Sections 5.2.1 and 5.4 (as applicable), on or about the first day of each calendar month following commencement of construction of the Improvements, Contractor shall submit to Borrower a Draw Request showing the estimated cost of labor performed on and materials incorporated into the Improvements, a pro-rata portion of Contractor's profit and that pro-rata portion of overhead of Contractor attributable to the construction of the Improvements. The original of such Draw Request, certified true and correct by Contractor and approved by Borrower, shall be submitted to Bank for payment. Upon verification of the accuracy of the Draw Request by inspection of the Real Property and Improvements (if required by Bank), Bank, on behalf of Governmental Lender shall disburse the amount of the respective approved Draw Request in accordance with the Disbursement Schedule (i) directly to Borrower or, upon the occurrence and during the continuance of an Event of Default, directly to Contractor or to such Persons as have actually supplied labor, materials or services in connection with the construction of the Improvements (at Bank's option as to whom and in what amounts payments are to be made), or (ii) if specifically required by Bank, through a fund control service acceptable to Bank under a fund control agreement in form and content acceptable to Bank.

**5.3 Final Disbursement**.

**5.3.1** Prior to making the final Advance, the conditions set forth in Sections 5.1, 5.1.2 and 5.4 (as applicable) and the following conditions shall have been satisfied, as determined by Bank:

(a) Bank shall have received confirmation to its satisfaction that the Improvements have been completed in accordance with the Plans and the Construction Contract (if any).

(b) If required by Bank, Bank shall have received a copy of the final certificate of occupancy (or its equivalent as determined by Bank) issued by the appropriate Governmental Authority.

(c) Bank shall have received evidence that Borrower has recorded a notice of completion (or its equivalent as determined by Bank) with respect to the Improvements.

(d) Bank shall have received (A) such endorsements to the Title Policy as Bank may require which shall insure that the Improvements have been completed free of all mechanic's and materialmen's liens or claims thereof, or (B) such additional title policies with endorsements as Bank may require, with a liability limit of not less than the principal amount of the Borrower Loan, issued by Title Insurer, with coverage and in form satisfactory to Bank, insuring Governmental Lender's and Bank's interest under the Deed of Trust as a first lien on the Real Property, excepting only such items as shall have been approved in writing by Bank.

(e) All Subordinate Loans shall have been fully disbursed by the applicable Subordinate Lender to or for the account of Borrower and applied towards Project costs, except for $[_____] of the HCID HHH Loan and $[_____] of the CDA Loan.

(f) If requested by Bank, (a) Tax Credit Investor shall have executed and delivered to Bank an estoppel certificate in form and substance of the Tax Credit Investor Estoppel Certificate, which shall contain such certifications as Bank shall reasonably require with respect to Tax Credit Investor's obligations under the Partnership Agreement, and (b) each Subordinate Lender shall have executed and delivered to Bank an estoppel certificate in a form and substance which shall contain such certifications as Bank shall reasonably require with respect to the applicable Subordinate Documents.

**5.3.2** The final disbursement shall consist of the payment of any monies retained from progress payments or disbursements as set forth in this Agreement. Subject to the provisions of this Agreement, the final disbursement shall be made only after Borrower has satisfied the conditions of Sections 5.3.1 and 5.4 (as applicable).

**5.4 Additional Conditions to Advances**. Bank shall have the right to condition any Advance upon Bank's receipt and approval of the following, each in form and content acceptable to Bank:

**5.4.1** The Draw Request.

**5.4.2** Bills, invoices; documents of title, vouchers, statements, receipts and any other documents evidencing the total amount expended, incurred or due for any requested line item shown in the Project Budget.

**5.4.3** Evidence of Borrower's use of a lien release, joint check or voucher system acceptable to Bank for payments or disbursements to Contractor or to such Persons as have actually supplied labor, materials or services in connection with the construction of the Improvements.

**5.4.4** Architect's, inspector's and/or engineer's periodic certifications of the percentage and/or stage of construction that has been completed and its conformance to the Plans and any Governmental Requirement based upon such architect's, inspector's and/or engineer's periodic physical inspections of the Real Property and Improvements.

**5.4.5** Waivers and releases of any mechanic's lien, stop notice claim, equitable lien claim or other lien claim rights.

**5.4.6** Any other documents, requirements, evidence or information that Bank may request under any provision of the Borrower Loan Documents.

**5.4.7** Evidence that any goods, materials, supplies, fixtures or other work in progress for which disbursement is requested have been incorporated into the Improvements.

**5.4.8** In the event any Draw Request includes the cost of Offsite Materials, such Draw Request shall include each of the following: (a) evidence that the Offsite Materials have been purchased by Borrower, have been segregated from other materials in the facility where they are stored and have been appropriately marked to indicate Borrower's ownership thereof and Bank's security interest therein; (b) evidence that the Offsite Materials are insured as required by this Agreement; and (c) at Bank's request, a security agreement, financing statement, acknowledgment, and/or subordination agreement in form and content satisfactory to Bank executed by the supplier of the Offsite Materials, and/or such other Persons as Bank determines may have an interest in or claim to the Offsite Materials, together with such other additional documentation and evidence as Bank may reasonably require to assure itself that it has a perfected first priority lien on the Offsite Materials.

**5.4.9** In the event any Draw Request includes the cost of Onsite Materials, such Draw Request shall include each of the following: (a) evidence that the Onsite Materials have been purchased by Borrower; (b) evidence that the Onsite Materials are insured as required hereunder; and (c) evidence that the Onsite Materials are stored in an area on the Real Property for which adequate security is provided against theft and vandalism.

**5.5 Disbursement Limits**.

**5.5.1** Borrower hereby represents to Bank that, as of the date of this Agreement, the Project Budget represents the total amount needed by Borrower to construct the Improvements and to perform Borrower's obligations under the Borrower Loan Documents and Funding Loan Documents. Bank shall not be required to make any Advance for any Construction Costs or any other purpose that is not set forth in the Project Budget nor shall Bank be required to make any Advance for any line item in the Project Budget in an amount that when added to the sum of all prior Advances for that line item would exceed the sum allocated in the Project Budget for that line item.

**5.5.2** Bank reserves and shall have the right to make Advances that are allocated to any line items in the Project Budget for such other purposes or in such different proportions as Bank may, in its sole discretion, deem necessary or advisable. Borrower shall have no right whatsoever to reallocate Advances from one line item in the Project Budget to another or otherwise amend the Project Budget without the prior consent of Bank.

**5.5.3** All Advances shall be made in accordance with the applicable provisions of the Project Budget and the Disbursement Schedule. All funds disbursed to Borrower shall be received by Borrower in trust and Borrower agrees that such funds shall be used only for the payment of those items contemplated by the particular Advance.

**5.5.4** Bank shall not be required to disburse an aggregate amount of the proceeds of the Borrower Loan for labor furnished to and materials incorporated into the Improvements during any stage of construction that exceeds the lesser of (a) the value of such labor and materials, and (b) the amount allocated to that stage of construction in the Project Budget. In any event, Bank shall not be required to disburse any amount that, in Bank's opinion, will reduce that portion of the undisbursed proceeds of the Borrower Loan designated for completion of the Improvements below the amount needed to pay for the labor and materials necessary to complete the Improvements.

**5.5.5** Notwithstanding anything to the contrary contained herein, disbursements of the Borrower Loan shall be made from the Project Fund held by the Fiscal Agent pursuant to the Funding Loan Agreement.

**5.6 Disbursement Into Borrower's Funds Account**. Notwithstanding anything to the contrary contained in the Funding Loan Documents or the Borrower Loan Documents, if the Funding Loan has not been fully disbursed by December 1, 2024 and Conversion has not yet occurred, or in the event the Bank determines that legislative, judicial or other developments have occurred or other circumstances have emerged which could result in interest on any undisbursed portions of the Funding Loan (the "Remaining Undisbursed Funding Loan") not being excluded from gross income for federal income tax purposes, or otherwise determines that it is in the Bank's best interest to fully fund the Funding Loan in order to assure that interest on the Funding Loan will remain excluded from gross income for federal income tax purposes (each, a "Contingency Event"), then Bank may, in its discretion, upon five (5) days' written notice to Borrower, disburse all or any portion of the Remaining Undisbursed Funding Loan to the Fiscal Agent for deposit into

the Project Fund established pursuant to the Funding Loan Agreement, at which time the proceeds so advanced shall constitute (i) an advance of the Funding Loan to the Governmental Lender, and (ii) an advance of the Borrower Loan by Governmental Lender to the Borrower, unless Bank receives an opinion of Tax Counsel to the effect that the draw of Funding Loan proceeds after the Contingency Event will not adversely affect the exclusion of interest on the Funding Loan Note from gross income for federal income tax purposes. The portion of the Borrower Loan disbursed into the Project Fund pursuant to this Section shall be deemed outstanding as of the date advanced into the Project Fund and will immediately commence to accrue interest as provided in Section 3.1.2. All funds disbursed into the Project Fund shall continue to be disbursed by Bank to pay Project costs pursuant to the provisions of the Funding Loan Agreement, this Section 5 and the Disbursement Schedule as if they were Advances of the Borrower Loan.

**6. REPRESENTATIONS AND WARRANTIES OF BORROWER**. Borrower makes the following representations and warranties for the benefit of Governmental Lender and Bank, each of which is material and is relied upon by Governmental Lender in making the Borrower Loan and Governmental Lender and Bank in executing this Agreement . Each of the following representations and warranties shall be true and accurate as of the Contract Date, the Closing Date and upon disbursement of the Initial Disbursement and each Advance. Borrower agrees that such representations and warranties shall survive and continue until full and final payment of all sums owed under the Borrower Loan Documents.

**6.1 Formation/Authority**. Borrower has complied with all applicable laws and regulations concerning Borrower's organization, existence and the transaction of Borrower's business, and is in good standing in each state in which Borrower conducts business. Borrower is authorized to execute, deliver and perform Borrower's obligations under each of the Borrower Loan Documents and the Funding Loan Documents, and Borrower is authorized to construct the Improvements and to own and operate the Property.

**6.2 No Defaults Under Existing Agreements**. The transactions contemplated hereby and the performance by Borrower of Borrower's obligations under the Borrower Loan Documents and the Funding Loan Documents will not result in any breach of or default under any deed of trust, mortgage, lease, loan, security agreement or any other agreement to which Borrower is a party or may be bound or affected.

**6.3 No Actions**. There are no actions, suits or proceedings pending or, to the best knowledge of Borrower, threatened against or affecting Borrower or the Property or involving the validity, priority or enforceability of the Deed of Trust or any other Borrower Loan Document or Funding Loan Documents or affecting Bank's right to receive payment in full of all amounts outstanding under this Agreement, the other Borrower Loan Documents or the Funding Loan Documents. Borrower is not in default with respect to any order, writ, injunction, decree or demand of any court or any Governmental Authority. There (a) is no completed, pending or threatened bankruptcy, reorganization, receivership, insolvency or like proceeding, whether voluntary or involuntary, affecting the Property, the Borrower, or any Loan Party, and (b) has been no assertion or exercise of jurisdiction over the Property, the Borrower or any Loan Party by any court empowered to exercise bankruptcy powers. Borrower is not presently under any cease or desist order or other orders of a similar nature, temporary or permanent, of any Governmental Authority that would have the effect of preventing or hindering performance of its duties under

this Agreement, any other Borrower Loan Documents or any Funding Loan Documents, nor are there any proceedings presently in progress or to its knowledge contemplated that would, if successful, lead to the issuance of any such order.

**6.4 Other Liens**. Borrower has made no contract or arrangement of any kind, the performance of which by the other party thereto would give rise to a lien on the Property, except for its arrangements with the Architect, the Contractor or the subcontractors if there is no Contractor.

**6.5 Leases**. Following Project Completion and initial lease-up of the Improvements, all Leases will be in full force and effect, there are no defaults under any of the provisions thereof by any party thereto, and all conditions to the effectiveness or continuing effectiveness of the Leases required to be satisfied as of the date hereof have been satisfied.

**6.6 Financial Statements**. The Financial Statements delivered to Bank by Borrower and any Loan Party are true and correct in all material respects, have been prepared in accordance with accounting practices and principles acceptable to Bank and consistently applied, and fairly present the financial condition(s) of the Person(s) referred to therein as of the respective dates; no materially adverse change has occurred in the financial condition reflected in any such financial statement since the date shown thereon, and no additional material liabilities have been incurred by any such Person since the date thereof other than the borrowing contemplated hereby or other borrowing disclosed in writing to and approved by Bank.

**6.7 Compliance With Laws**. The Property and the actual use thereof by Borrower complies in all material respects with all applicable Governmental Requirements. Borrower has received no notices of violations of any Governmental Requirement.

**6.8 Permits, Approvals, Licenses**. Borrower has obtained all licenses, permits and approvals necessary for the ownership, construction operation and management of the Property, including all approvals essential to the transactions contemplated by this Agreement, the Funding Loan Documents, the Borrower Loan Documents and any other documents contemplated hereby or thereby

**6.9 Ownership of Real Property**. Borrower has, or as of the Closing Date will have, and will continue to have fee simple title to Real Property, subject only to the Permitted Liens. The Borrower is the sole borrower under the Borrower Loan. Borrower shall make no changes to the Property, when it is built, or to the operation thereof that would affect the qualification of the Property under the Act. The Borrower intends to utilize the Property as multifamily rental housing during the Qualified Project Period (as defined in the Tax-Exempt Regulatory Agreement).

**6.10 Ownership of Personal Property**. Borrower owns directly all of the Personal Property free and clear of all liens, encumbrances and adverse claims and the security interest of Bank in the Personal Property shall be a first lien thereon.

**6.11 Other Financing**. Except for the Subordinate Loans or as otherwise disclosed in writing to Bank and approved by Bank in writing prior to the Closing Date, Borrower has not received other financing for either the acquisition of the Property or the construction and installation of the Improvements.

**6.12 Plans, Defects**. The Plans are satisfactory to Borrower, and to the extent required by any Governmental Requirement or any effective restrictive covenant, have been approved by all applicable Governmental Authorities and the beneficiaries of any such covenant respectively; the Plans so approved have been approved by Borrower and Contractor as set forth in the Certification of Plans and Specifications delivered to Bank by Borrower.

**6.13 Utilities**. All utility services necessary for the construction of the Improvements and the operation thereof for their intended purpose are either available at the boundaries of the Real Property or all necessary steps have been taken by Borrower and applicable Governmental Authorities to assure the complete construction and installation thereof, including water supply, storm drain and sanitary sewer facilities, and gas, electric, cable and telephone facilities.

**6.14 Roads**. All roads necessary for the full use of the Improvements for their intended purposes have been completed or the necessary rights-of-way therefor have either been acquired by the applicable Governmental Authority or dedicated to public use and accepted by such Governmental Authority. All necessary steps have been taken by Borrower and such Governmental Authority to assure the complete construction thereof.

**6.15 CC&Rs, Zoning**. Borrower has examined, is familiar with, and the Improvements will in all respects conform to and comply with, all covenants, conditions, restrictions, reservations and zoning ordinances affecting the Property.

**6.16 Finder's Fees**. Borrower has not dealt with any Person who is or may be entitled to any finder's fee, brokerage commission, loan commission or other sum in connection with the execution of this Agreement, consummation of the transactions contemplated hereby, or the making of the Borrower Loan to Borrower.

**6.17 Draw Request**. Each Draw Request shall be true, complete and accurate and the submission of same shall constitute a reaffirmation of the representations, warranties and covenants contained herein.

**6.18 Other Information**. No information, statement or report furnished in writing to Governmental Lender or Bank by Borrower, any Loan Party or any of their respective representatives in connection with this Agreement, the Funding Loan Documents or the other Borrower Loan Documents or the consummation of the transactions contemplated hereby and thereby (including, without limitation, any information furnished by Borrower in connection with the preparation of any materials related to the issuance, delivery or offering of the Funding Loan Note) contains 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 Borrower and the statements, information and descriptions contained in 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 Borrower

delivered as of the Closing Date are reasonable and based on the best information available to Borrower.

**6.19 No Default**. No event has occurred and no condition exists with respect to Borrower, any Loan Party or the Property that would constitute an Event of Default or with the giving of notice or passage of time, or both, if not cured would become an Event of Default.

**6.20 Tax Certificate**. Borrower has complied with all terms and conditions of the Tax Certificate, including the terms and conditions of the exhibits thereto, and the representations set forth in the Tax Certificate pertaining to Borrower and the Property are true and accurate.

**6.21 Regulatory Agreement**. Borrower is not in default under the Regulatory Agreements. The Property is, as of the Closing Date, in compliance with all requirements of the Regulatory Agreements, including all applicable requirements of the Act and the Code. Borrower intends to cause the residential units at the Property to be rented or available for rental on a basis that, satisfies the requirements of the Regulatory Agreements, including all applicable requirements of the Act and the Code. All Leases will comply with all Governmental Requirements and the Regulatory Agreements. The Property meets the, requirements of this Agreement, the Regulatory Agreements, the Act and the Code with respect to multifamily rental housing.

**6.22 No Governmental Lender Relationships**. To the best knowledge of Borrower, no member, officer, agent or employee of Governmental Lender has been or is in any manner interested, directly or indirectly, in that Person's own, name or in the name of any other Person, in the Funding Loan Note, the Funding Loan Documents, the Borrower Loan Documents, Borrower, any Loan Party or the Property, in any contract for property or materials to be furnished or used in connection with the Property, or in any aspect of the transactions contemplated by the Funding Loan Documents or the Borrower Loan Documents.

**6.23 Authorizations and Consents**. 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 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 Agreement, the Funding Loan Documents, the Borrower Loan Documents or any other documents contemplated by this Agreement, the Funding Loan Documents or the Borrower Loan Documents, or the performance of the terms and provisions hereof or thereof by the Borrower.

**6.24 No Reliance**. Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Property; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it or Governmental Lender is a party or of which it is a beneficiary including, without limitation, the Funding Loan Agreement; that it understands the risks inherent in such transactions, including, without limitation, the risk of loss of the Property; and that it has not relied on the Governmental Lender or Bank for any guidance or expertise in analyzing the financial or other

consequences of the transactions contemplated by this Agreement, the Funding Loan Agreement or otherwise relied on Governmental Lender, Bank or Bank in any manner.

**6.25 Environmental Matters**. Borrower has not received any notice that it or the Property is not in compliance with all provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"); the Resource Conservation and Recovery Act; the Superfund Amendments and Reauthorization Act of 1986; the Toxic Substances Control Act and all environmental laws of the State (collectively "Environmental Laws"), or with any rules, regulations and administrative orders of any Governmental Authority, or with any judgments, decrees or orders of any court of competent jurisdiction with respect thereto; and 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 materials" (as defined in the Environmental Laws), nor has 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.

**6.26 ERISA**. Borrower has not received any notice that it is not in full compliance with the Employment Retirement Income Security Act of 1974, as amended, and the Department of Labor regulations thereunder, with the Code and with terms of such plan or plans with respect to each pension or welfare benefit plan to which Borrower is a party or makes any employer contributions with respect to its employees, for the current or prior plan years of such plans.

**6.27 Funding Loan Note**. The weighted average maturity of the Funding Loan Note does not exceed 120% of the average reasonably expected economic life of the Property financed with the proceeds of the Borrower Loan. The Funding Loan Note is not and shall not be "federally guaranteed" as defined in Section 149(b) of the Code. Borrower intends to hold the Property for its own account and has no current plans to sell and has not entered into any agreement to sell all or any portion of the Property.

**6.28 Intentionally Omitted**.

**6.29 Tax Credit Allocation Documents Effective**. The Tax Credit Allocation Documents are in full force and effect and have not been revoked, amended or modified in any way. Borrower knows of no reason why Project Completion could not occur on or before the Completion Date.

**6.30 Satisfaction of Conditions Under Tax Credit Allocation Documents, Subordinate Documents, Land Use Restrictions, AHAP Contract and HAP Contract**. Each and every covenant, condition and obligation contained in the Tax Credit Allocation Documents, the Subordinate Documents, the Land Use Restrictions, the AHAP Contract and the HAP Contract required to be performed or satisfied as of the date hereof, and each and every matter required to be approved thereunder as of the date hereof, has been satisfied or approved, as applicable.

**6.31 Tax Credits Not Subject to State Ceiling**. Fifty Percent (50%) or more of the aggregate basis of the Improvements and Borrower's interest in the Property will be financed with proceeds from the Funding Loan Note and, therefore, paragraph (1) of Section 42(h) of the Code will not apply to the Tax Credits by virtue of the provisions set forth in subparagraph (4)(B) of Section 42(h) of the Code.

**6.32 Additional Representations and Warranties**. Borrower also makes the representations and warranties set forth in Section 1 of the Special Conditions attached hereto as Exhibit C.

**7. BORROWER'S COVENANTS**. Borrower covenants and agrees with Governmental Lender and Bank that until the full and final payment of all sums owed under the Borrower Loan Documents and the Funding Loan Documents, unless Bank waives compliance in writing:

**7.1 Application of Advances**. Borrower shall receive the Advances made hereunder in trust, strictly for the purpose of paying the costs identified in the request for such Advance.

**7.2 Borrower's Funds**. At the time and in amounts required by Bank, Borrower shall deposit Borrower's Funds into the Borrower's Funds Account. Should it appear at any time in Bank's judgment that the sum of undisbursed proceeds of the Borrower Loan and the then balance of the Borrower's Funds Account are insufficient to provide the financing for completion of the Improvements, Borrower shall pay to Bank, within ten days following receipt of written demand by Bank, an amount equal to such deficiency for deposit into the Borrower's Funds Account.

**7.3 Lien Priority**. At Borrower's sole cost and expense, Borrower shall maintain the Deed of Trust as a first lien on the Property.

**7.4 Construction Start and Completion**.

**7.4.1** Borrower shall not commence construction of the Improvements, including, but not limited to, grading and site clearance, and shall not undertake any other act on the Real Property prior to recordation of the Deed of Trust, the result of which would cause any mechanics' or materialmen's lien thereafter filed to take priority over the lien of the Deed of Trust, unless prior arrangements satisfactory to both Bank and Title Insurer have been made.

**7.4.2** Borrower shall cause construction of the Improvements to be commenced not more than thirty (30) days after the recordation of the Deed of Trust.

**7.4.3** Borrower shall cause (a) the Improvements to be constructed in a good and workmanlike manner, with materials of high quality, and in accordance with the Plans, Governmental Requirements and sound building and engineering practices, (b) the construction of the Improvements to be prosecuted with diligence and continuity and completed in accordance with the Plans and to otherwise cause Project Completion to occur on or before the Completion Date, free and clear of liens or claims for liens, and (c) all licenses and permits necessary for the occupancy, use or sale of the Improvements to be issued. Borrower shall promptly commence and diligently proceed with the Project.

**7.4.4** Borrower shall complete the construction of the Improvements on or before the Completion Date. The construction of the Improvements shall be considered complete for purposes of this Agreement only when (a) the construction of the Improvements has been completed substantially in accordance with the Plans and has been fully paid for subject to Borrower's obligations to pay and discharge or cause the release of any mechanics' lien, (b) all work requiring inspection or certification by any Governmental Authority has been completed and all requisite certificates, approvals and other necessary authorizations (including any required certificates of occupancy) have been obtained, and (c) streets and offsite utilities located within or pertaining to the Property have been completed to the satisfaction of all applicable authorities.

**7.5 Change Orders**.

**7.5.1** Borrower shall not permit any change in the Plans without Bank's prior consent if any such change (a) constitutes a material change in material or equipment specifications, architectural or structural design, or the value or quality of the Improvements, or (b) would result in an increase or decrease in the cost of construction of the Improvements in excess of the Single Change Order Limit for any single change, or in excess of the Aggregate Change Order Limit for all changes.

**7.5.2** Borrower shall submit any proposed change in the Plans to Bank not later than ten (10) Business Days prior to the commencement of construction relating to such change.

**7.5.3** Borrower shall deliver to Bank in connection with any proposed change requiring Bank's prior written consent (a) a written request therefor, together with working drawings and a written description of the proposed change, submitted. on a change order form acceptable to Bank and executed by Borrower, Architect and Contractor, and (b) evidence satisfactory to Bank as to the cost and time necessary to complete the proposed change.

**7.5.4** Prior to permitting any change in the Plans requiring Bank's consent, Borrower shall satisfy any condition of Bank's consent, including, but not limited to, depositing funds to cover any increased Construction Costs into the Borrower's Funds Account as required by Bank, which Bank is authorized to disburse in accordance with the Project Budget and the Disbursement Schedule for payment of such Change Orders upon completion of such changes to Bank's satisfaction.

**7.6 Detailed Cost Breakdown**. Borrower shall not modify the Project Budget or the Detailed Cost Breakdown without Bank's prior written consent, which consent may be conditioned upon, among other things, (a) Bank's receipt of evidence satisfactory to Bank that the change in the. Project Budget or the Detailed Cost Breakdown is reasonably necessary, and (b) Bank's confirmation that, in the opinion of Bank, sufficient funds remain in the undisbursed proceeds of the Borrower Loan (and in the Borrower's Funds Account, if any) to pay for all remaining direct or indirect costs to complete construction of the Improvements.

**7.7 Contractor Covenants**. Borrower shall (a) require from the Contractor (i) covenants similar to the covenants made by Borrower in Sections 7.3, 7.4 and 7.5, and (ii) a covenant that Contractor will, upon request, deliver to Bank the names of all Persons with whom Contractor has contracted or intends to contract for construction of the Improvements or for furnishing of labor or materials therefor; and (b) cause the Contractor (or if no Contractor, the subcontractors) to cooperate with Bank.

**7.8 Construction Contract Only**. Borrower shall not execute any contract or become party to any arrangement for the performance of work on the Real Property with any Person except Contractor, and if there is no Contractor, Borrower shall contract only with major subcontractors approved by Bank for the performance of work on the Real Property.

**7.9 Paid Vouchers**. Borrower shall deliver to Bank, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which Borrower claims title to any materials, fixtures or articles incorporated in the Improvements.

**7.10 Application of Disbursements**. Borrower shall receive the disbursements to be made hereunder in trust, strictly for the purpose of paying the costs identified in the request for such disbursement.

**7.11 Foundation Completion**. Borrower shall notify Bank immediately upon completion of the foundation of the Improvements and, if required by Bank, deliver to Bank, promptly after completion of the foundation, a foundation survey in form satisfactory to Bank and Title Insurer.

**7.12 Personal Property Installation**. Without Bank's written consent, Borrower shall not install materials, personal property, equipment, or fixtures subject to any security agreement or other agreement or contract giving any Person other than Borrower any right or title to such property.

**7.13 Defect Corrections**. Upon demand of Bank, Borrower shall correct any defect in the Improvements or any departure from the Plans not approved by Bank.

**7.14 Stop Notices; Mechanic's Liens**. If (a) a bonded stop notice is received by Bank that Bank believes requires the withholding of funds from any Advance or from any disbursement of proceeds from the Borrower's Funds Account, or (b) a mechanics' lien, material supplier's lien or other construction lien is recorded against the Real Property, then Borrower shall within 20 days of such receipt or recordation or within five days of Bank's demand (whichever first occurs):

**7.14.1** pay and discharge same;

**7.14.2** effect the release of same by recording a surety bond in sufficient form and amount issued by a surety acceptable to Bank; or

**7.14.3** provide Bank with such other assurance as Bank, in its sole discretion, deems to be satisfactory for the payment of, and protection of Bank from, such lien or bonded stop notice.

**7.15 Record Keeping, Financial and Other Information**. Borrower shall keep and maintain full and complete books of account and other records reflecting the results of operations of the Property in accordance with accounting practices and principles acceptable to Bank and consistently applied, and shall furnish or cause to be furnished to Bank such financial information concerning Borrower, each Loan Party and the Property as Bank may require, including but not limited to:

**7.15.1** within forty-five (45) days after the close of each quarter, except for the final quarter of each year, Borrower's and Guarantor's Financial Statement as of the close of such period,

**7.15.2** within one hundred twenty (120) days of the close of each fiscal year-end, the annual Financial Statements for Borrower, Guarantor and General Partner.

**7.15.3** within thirty (30) days after written request by Bank, a copy of the most recent filed Federal income tax returns for Borrower, Guarantor and General Partner, together with all supporting schedules,

**7.15.4** within thirty (30) days after written request by Bank, the Financial Statements of all affiliates and subsidiaries of Borrower, Guarantor and General Partner,

**7.15.5** within forty-five (45) days after the close of each quarter, including the final quarter of each year, a certified statement of Liquid Assets for Guarantor,

**7.15.6** within thirty (30) days of the final quarter of each year, a projected cash flow statement for the next succeeding calendar year for Guarantor, and

**7.15.7** Promptly, upon request, any other financial information requested by Governmental Lender and Bank.

**7.16 Post-Construction Financial Reporting**. Upon completion of construction of the Improvements, Borrower shall furnish to Bank, without prior request or demand:

**7.16.1** Within thirty (30) days after the close of each calendar month prior to Conversion and, thereafter within thirty (30) days of written request by Bank, a monthly or quarterly (as applicable) Operating Statement, a current rent roll and, if retail property, a schedule of gross sales; and

**7.16.2** Within thirty (30) days of written request by Bank, an annual Operating Statement for the preceding operating year for the Property; provided that Borrower shall not be obligated to deliver such annual Operating Statement earlier than one hundred twenty (120) days after the close of the preceding operating year.

**7.17 Audit and Inspection Rights**. Borrower shall permit any representative of governmental Lender or Bank, at any reasonable time during regular business hours on a Business Day, to inspect, audit and examine and copy the books and records of Borrower, Guarantor and General Partner. Bank shall have the right to obtain new appraisals or update existing appraisals at any time while the Borrower Loan or any portion thereof remains outstanding. Borrower agrees

to cooperate with Bank and the appraiser (and use best efforts to cause the tenants on the Project to cooperate with Bank and the appraiser) in permitting access to the Property and in obtaining operating and other relevant information on the Property. Following an Event of Default hereunder or in the case of a request to transfer the Property pursuant to the Deed of Trust, Borrower shall pay all appraisal fees and related expenses incurred by Bank in obtaining such appraisal reports.

**7.18 Dividends, Distributions**. Following the occurrence and during the continuance of an Event of Default, Borrower shall not (a) make any distribution either in cash, stock or any other property, (b) redeem, retire, repurchase or otherwise acquire any shares or interest in Borrower, or (c) repay any outstanding indebtedness or other advance to any shareholder, partner, member or, if a trust, any trustor or beneficiary of Borrower.

**7.19 Payment of Lawful Claims**. Borrower shall pay or discharge all lawful claims, including taxes, assessments and governmental charges or levies imposed upon Borrower or Borrower's income or profits or upon any property belonging to Borrower prior to the date upon which any penalties attach; provided that Borrower shall not be required to pay any such tax, assessment, charge or levy, the payment of which is being contested in good faith and by proper proceedings and for which Borrower is maintaining adequate reserves in accordance with generally accepted accounting principles.

**7.20 Payment of Costs**. Borrower shall pay all costs and expenses incurred by Bank in connection with the enforcement by Bank of any of Borrower's obligations under this Agreement or the other Borrower Loan Documents, and the preparation of this Agreement and the other Borrower Loan Documents, including but not limited to (a) all appraisal fees, cost engineering and inspection fees, reasonable legal fees and expenses (including the fees and costs of in-house counsel and legal staff), accounting fees, environmental consultant fees and costs of title insurance, survey, seismic, escrow and other fees and charges, and (b) all taxes and recording expenses, including stamp taxes, if any.

**7.21 Approval of Easements and Other Documents**. Borrower shall submit to Bank for Bank's approval, which shall not be unreasonably withheld, all prospective easements, private or public dedications, and declarations of covenants, conditions and restrictions intended to affect the Real Property and Bank's approval shall be obtained in writing prior to the execution or granting thereof by Borrower. Borrower's request for approval of any prospective easement or private or public dedication shall be accompanied by a drawing or survey showing the precise location of such prospective easement or private or public dedication. Borrower's request for approval of any prospective declaration of covenants, conditions and restrictions shall be accompanied by a description of the property affected thereby.

**7.22 Compliance With Laws; Preservation of Rights**.

(a) Borrower shall comply promptly with all Governmental Requirements, and shall obtain, preserve and maintain in good standing, as applicable, all rights, privileges and franchises necessary or desirable for the operation of the Property and the conduct of Borrower's business thereon and therefrom.

(b) If the Improvements contain wooden exterior elevated elements with load bearing components, Borrower shall comply with the requirements of California Health and Safety Code Section 17973, including all inspection and reporting requirements.

(c) If payment of the indebtedness secured by the Deed of Trust or any of the other Security Documents is to be insured or guaranteed by any governmental agency, Borrower shall comply with all rules, regulations, requirements and statutes relating thereto or provided in any commitment issued by any such agency to insure or guarantee payment of such indebtedness.

**7.23 Notices**. Borrower shall promptly notify Bank and the Governmental Lender in writing of:

**7.23.1** the occurrence of any Event of Default;

**7.23.2** any litigation affecting Borrower, any Loan Party or the Property, or any other circumstance, event or occurrence that may reasonably be expected to result in a material adverse change in (a) the financial condition of Borrower or any Loan Party, (b) Borrower's ability to timely perform any of Borrower's obligations under any of the Borrower Loan Documents and the Funding Loan Documents, (c) the physical condition or operation of the Property; or (d) the tax exempt status of the interest payable on the Funding Loan Note; and

**7.23.3** any notice that the Improvements or construction thereof, the Property or Borrower's business fails in any respect to comply with any applicable Governmental Requirement.

**7.23.4** any notice of default under the Regulatory Agreements, the Subordinate Documents, the Land Use Restrictions, the HCD Documents, the AHAP Contract or the HAP Contract (after the HAP Contract has been fully executed).

**7.24 Indemnity**.

**7.24.1** Without limiting the Indemnity provided in the Tax-Exempt Regulatory Agreement, the Borrower shall indemnify, defend and hold each of the Indemnified Parties harmless from and against any and all losses, claims, damages, demands, liabilities, costs and expenses (including reasonable attorney's fees and expenses, including, but not limited to, the fees and costs of any such party's in-house counsel and legal staff), taxes (other than income taxes payable by any party as a result of any fees payable to such parties in connection with the transaction contemplated hereby), causes of action, proceedings, suits, claims, demands and judgments of any nature, joint or several arising out of or resulting from (except to the extent caused by the gross negligence or willful misconduct of Bank or the active negligence or willful misconduct of Governmental Lender):

(a) the transactions provided for in the Funding Loan Documents or the Funding Loan Agreement or otherwise in connection with the Project, the Funding Loan Note, the Borrower Loan or the execution and delivery or amendment of any

other document entered into in connection with the transactions provided for in the Funding Loan Agreement or the Funding Loan Documents;

(b) the approval of the financing for the Project or the making of the Borrower Loan;

(c) the making of the Borrower Loan or any certifications or representations made by any person other than the party seeking indemnification;

(d) any and all claims arising in connection with the interpretation, performance, enforcement, breach, default or amendment of the Funding Loan Agreement, the Funding Loan Documents or any other documents relating to the Project or the Funding Loan Note or in connection with any federal or state tax audit or any questions or other matters arising under such documents (however in no case shall payment of the Funding Loan Note be a recourse obligation);

(e) the carrying out by Borrower of any of the transactions provided for in the Funding Loan Agreement or the Funding Loan Documents;

(f) Fiscal Agent's acceptance or administration of the trusts created by the Funding Loan Agreement or the exercise of its powers or duties under the Funding Loan Agreement or under this Agreement, the Tax-Exempt Regulatory Agreement or any other agreements to which it is a party or otherwise in connection with the transactions provided for in the Funding Loan Agreement or the Funding Loan Documents except for claims arising from Fiscal Agent's administration where such is a result of actions contrary to Fiscal Agent's duties and obligations;

(g) any and all claims arising in connection with the funding and delivery of the Funding Loan Note or any certifications or representations made by any person other than the Indemnified Party seeking indemnification, including, without limitation, any statement or information made by Borrower with respect to Borrower or the Project in any offering document or materials regarding the initial purchase of the Funding Loan Note (in connection with its issuance under the Funding Loan Agreement), the Project or Borrower or the Tax Certificate executed by Borrower or any other certificate executed by Borrower which, at the time made, is misleading, untrue or incorrect in any material respect and any untrue statement or alleged untrue statement of a material fact by the Borrower relating to Borrower or the Project contained in any offering material relating to the funding and delivery of the Funding Loan Note, as from time to time amended or supplemented with information provided by Borrower, or arising out of or based upon the omission or alleged omission to state in such offering material a material fact relating to Borrower or the Project required to be stated in such offering material or necessary in order to make the statements in such offering material not misleading, or failure to properly register or otherwise qualify the funding and delivery of the Funding Loan Note or failure to comply with any licensing or other law or regulation which would affect the manner in which or to whom the Funding Loan Note could be sold

and the carrying out by Borrower of any of the transactions contemplated by the Funding Loan Agreement or the Funding Loan Documents;

(h) Borrower's failure to comply with any requirement of this Agreement or the Tax-Exempt Regulatory Agreement (however in no case shall payment of the Funding Loan Note be a recourse obligation);

(i) any act or omission of Borrower or any of its agents, servants, employees or licensees in connection with the Borrower Loan or the Project, including violation of any law, ordinance, court order or regulation affecting the Project or any part of it or the ownership, occupancy or use of it (however in no case shall payment of the Funding Loan Note be a recourse obligation);

(j) any damage or injury, actual or claimed, of whatsoever kind, cause or character, to property (including loss of use of property) or persons, occurring or allegedly occurring in, on or about the Project or arising out of any action or inaction of Borrower, whether or not related to the Project, or resulting from or in any way connected with the acquisition and construction or management of the Project, the funding and delivery of the Funding Loan Note or otherwise in connection with the transactions contemplated or otherwise in connection with the Project, the Funding Loan Note or the execution or amendment of any document relating to the Project or the Funding Loan Note;

(k) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project;

(l) any and all claims arising in connection with the operation of the Project, or the conditions, environmental or otherwise, occupancy, use, possession, conduct or supervision of work done in or about, or from the planning, design, acquisition, rehabilitation, construction, repair or equipping of, the Project or any part of it, including, but not limited to, the Americans with Disabilities Act, if applicable (as evidenced by an architect's certificate to such effect);

(m) The Borrower Loan, the Borrower Loan Documents, the Funding Loan Documents, the Regulatory Agreements, the Subordinate Documents, the Land Use Restrictions, the AHAP Contract, the HAP Contract, or the execution or amendment or performance thereof or in connection with the transactions contemplated therein, including the issuance, sale and/or resale of the Funding Loan Note;

(n) Any finder's fee, brokerage commission, loan commission or other sum in connection with the consummation of the transactions contemplated hereby;

(o) The development of the Property, construction of the Improvements or the ownership, operation or use of the Property;

(p) Any declaration of taxability of interest on the Funding Loan Note, or allegations (or regulatory inquiry) that interest on the Funding Loan Note is taxable, for federal tax purposes;

(q) The issuance any Set Aside Letter, whether such matters are based on theories of derivative liability, comparative negligence or otherwise, at Borrower's own cost and with counsel reasonably approved by Bank, unless Bank elects to conduct its own defense at the expense of Borrower;

(r) Any lien or charge upon payments by the Borrower to the Governmental Lender and/or the Bank hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Governmental Lender in respect of any portion of the Project;

(s) 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;

(t) The defeasance and/or redemption, in whole or in part, of the Funding Loan Note;

(u) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower contained in any closing certificate, offering statement or disclosure or continuing disclosure document for the Funding Loan Note or any of the documents relating to the Funding Loan Note to which the Borrower is a party, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for the Funding Loan Note of any material fact necessary to be stated therein in order to make the statements made therein by the Borrower, in the light of the circumstances under which they were made, not misleading; and

(v) The Bank's acceptance or administration of the Funding Loan Agreement, or the exercise or performance of any of its powers or duties as Bank thereunder or under any of the documents relating to the Funding Loan Note to which it is a party.

**7.24.2** The liability of Borrower under this indemnity shall not be limited or impaired in any way by (a) the release, reconveyance, foreclosure or other termination of the Deed of Trust, the payment in full of the Borrower Loan, any bankruptcy or other bankruptcy proceeding, or any other event whatsoever; (b) any provision in the Borrower Loan Documents or the Funding Loan Documents or applicable law limiting Borrower's liability or any Indemnified Party's recourse or rights to a deficiency judgment; or (c) any change, extension, release, inaccuracy, breach or failure to perform by any party under the Borrower Loan Documents or the Funding Loan Documents. Borrower's liability hereunder is direct and primary and not secondary as a guarantor or surety.

**7.24.3** This indemnity is not intended to give rise to, and shall not give rise to, a right of Bank to claim payment of the principal and accrued interest with respect to the Borrower Loan as a result of any claim under this Section 7.24.

**7.24.4** In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought under this Agreement, Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense of the action or proceeding, including the employment of counsel selected by Borrower, subject to the approval of the Indemnified Party, which approval shall not be unreasonably withheld, conditioned or delayed, and shall assume the payment of all expenses related to the action or proceeding, with full power to litigate, compromise or settle the same in its sole discretion, provided that such Governmental Lender and Fiscal Agent, as appropriate, 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 of the action or proceeding, and Borrower shall be obligated to pay the reasonable fees and expenses of such separate counsel if (A) the Indemnified Party, upon the advice of counsel, determines that a conflict of interest exists between the interests of the Indemnified Party and the interests of Borrower or (B) such separate counsel is employed with the approval of Borrower, which approval shall not be unreasonably withheld, conditioned or delayed.

**7.24.5** Notwithstanding any transfer of the Property to another owner in accordance with the provisions of this Agreement, Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 7.24 if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless such Indemnified Party has consented to such transfer and to the assignment of the rights and obligations of Borrower hereunder.

**7.24.6** The rights of any persons to indemnity hereunder and to payment of fees and reimbursement of expenses pursuant to this Agreement shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan Note and, in the case of Bank, any resignation. The provisions of this Section 7.24 shall survive the termination of this Agreement.

**7.25 Performance of Acts**. Upon request by Bank, Borrower shall perform all acts that may be necessary or advisable to perfect any lien or security interest provided for in the Borrower Loan Documents or the Funding Loan Documents to carry out the intent of the Borrower Loan Documents or the Funding Loan Documents.

**7.26 Notice of Change**. Borrower shall give Bank prior written notice of any change in the location of Borrower's place of business (or Borrower's chief executive office if Borrower has more than one place of business) or Borrower's name, business structure or place of incorporation or other formation, and, unless otherwise approved by Bank in writing, Borrower shall maintain all tangible Personal Property (other than the books and records) at the Real Property and all books and records at Borrower's place of business (or chief executive office if Borrower has more than one place of business).

**7.27 Tax Certificate**. Borrower shall timely comply with all of its obligations under the Tax Certificate (which Tax Certificate is hereby incorporated herein as fully as if set forth at length herein).

**7.28 Funding Loan Documents**. Borrower shall timely perform its obligations under the Funding Loan Documents.

**7.29 Regulatory Agreements**. Borrower hereby covenants and agrees (a) to comply with all provisions of the Regulatory Agreements; to advise Bank and Governmental Lender in writing promptly upon learning of any default with respect to the covenants, obligations and agreements of Borrower set forth in the Regulatory Agreements; (b) upon written direction by Governmental Lender, to cooperate fully and promptly with Governmental Lender in enforcing the terms and provisions of the Tax-Exempt Regulatory Agreement; and (c) to file in accordance with the time limits established by the Regulatory Agreements all reports and certificates required thereunder, and the Certification to the Secretary of the Treasury required by the Tax-Exempt Regulatory Agreement. Neither Governmental Lender nor Bank shall incur any liability in the event of any breach or violation of any of the Regulatory Agreements by Borrower, and Borrower agrees to indemnify the Indemnified Parties from any claim or liability for any such breach under the Regulatory Agreements.

**7.30 Prohibited Activities**. Without Bank's prior written consent Borrower shall not:

**7.30.1** Engage in any business activities substantially different from Borrower's present business or liquidate or dissolve Borrower's business;

**7.30.2** Suffer or permit any liens or encumbrances to be placed on the Property other than the Permitted Liens.

**7.30.3** Borrower shall not merge or consolidate with or into, or enter into any partnership, joint venture, syndicate or similar business arrangement with, any Person or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person.

**7.30.4** Transfer any interest in the Property (other than the lease of residential units within the Property for a term of one-year or less and otherwise in compliance with the Regulatory Agreements and dispositions of Personal Property expressly permitted by the Borrower Loan Documents) without the prior written consent of Bank, which consent may be withheld in Bank's absolute discretion. In connection with the foregoing consent requirements, Borrower acknowledges that Bank relied upon Borrower's particular expertise in entering into this Agreement and continues to rely on such expertise to ensure the satisfactory completion and operation of the Property. Transfers requiring Bank's prior written consent shall include, without limitation, (a) involuntary transfers and transfers by operation of law; (b) liens and assignments as security for obligations, whether voluntary or involuntary other than those entered into in connection with the Subordinate Loans; and (c) except as otherwise expressly permitted by the terms of the Deed of Trust, the issuance, sale, assignment, disposition, encumbering or other transfer of any direct or indirect

ownership interest in Borrower, Guarantor, General Partner or any general partner, member or shareholder of Borrower, Guarantor or General Partner, whether voluntary or involuntary, by operation of law or otherwise. No sale, lease or other transfer shall relieve Borrower from primary liability for its obligations under the Borrower Loan Documents or the Funding Loan Documents, and Borrower shall deliver to Bank all documents reasonably required by Governmental Lender to evidence its continuing liability. No consent by Bank in connection with any Transfer shall constitute (x) a consent by Governmental Lender under the Tax-Exempt Regulatory Agreement to any sale, assignment, encumbrance, transfer or other disposition of all or any part of the Property, or any direct or indirect interest therein, or (y) a waiver by Governmental Lender of any term or condition of the Tax-Exempt Regulatory Agreement. Notwithstanding the foregoing, (a) Tax Credit Investor may transfer its limited partnership interests in Borrower to any limited partnership or limited liability company in which Tax credit Investor, or an affiliate thereof is the general partner or managing member, (b) the transfer of limited partnership interests or non-managing membership interest in Tax Credit Investor shall not constitute a "transfer" hereunder, and (c) subject to Bank's consent, which shall not be unreasonably withheld, Tax Credit Investor may remove and replace the General Partner in accordance with the Partnership Agreement following a default by the General Partner thereunder.

**7.30.5** In no event shall Bank's consent to any transfer of the Property herein constitute the consent of the Bank to any transfer of the Property under any other document.

**7.30.6** Amend or modify in any material respect any organizational documents pertaining to Borrower or any Loan Party. Notwithstanding the foregoing, Borrower may modify its partnership agreement solely in connection with permitted transfers as described in Section 7.30.4 above, provided (a) no additional material changes are made thereto and (b) copies of any such modifications are provided to Bank within ten (10) days of execution.

**7.30.7** Cause or otherwise consent to the formation of any community facilities district that includes the Property or any part of the Property pursuant to the Mello-Roos Community Facilities Act of 1982, any assessment district that includes the Property or any part of the Property pursuant to the Municipal Improvement Act of 1913, or any other comparable or similar district, area or territory that includes the Property or any part of the Property pursuant to any Law, or cause or otherwise consent to the levying of special taxes by any community facilities district against the Property or any part thereof, the levying of assessments by any such assessment district against the Property or any part thereof, or the levying of assessments, taxes and/or other impositions by any such district, area or territory.

**7.30.8** Enter into any new Funding Loan Documents, Subordinate Documents, AHAP Contract, HAP Contract, or amend, modify, supplement, cancel or terminate any Funding Loan Documents, Subordinate Documents, the Land Use Restrictions, the AHAP Contract (including the form of HAP Contract attached as an exhibit to the AHAP Contract), or the HAP Contract.

**7.30.9** Take, or omit to take, any action that, if taken or omitted, would jeopardize or adversely affect the tax-exempt status of the interest payable on the Funding Loan Note.

**7.30.10** Except for the Regulatory Agreements, accept any deed or other restriction or enter into any regulatory or other similar agreement regulating or restricting the use or operation of the Property or restricting the tenant income and/or rent levels for the Property in connection with the allocation to the Property of federal low-income housing tax credits or otherwise.

**7.31 Set Aside Letters**. In the event Bank issues, at Borrower's request, any Set Aside Letter, Borrower represents, warrants and agrees as follows:

**7.31.1** The sum that Borrower requests Bank to allocate for Bonded Work shall be sufficient to pay for the costs of construction and completion of the Bonded Work in accordance with any agreement between Borrower and the Governmental Authority and a copy of such agreement shall be furnished to Bank by Borrower as a condition precedent to the issuance by Bank of any Set Aside Letter;

**7.31.2** Bank is irrevocably and unconditionally authorized to disburse to the Governmental Authority or Surety all or any portion of proceeds of the Borrower Loan upon a demand of the Governmental Authority or Surety made in accordance with the terms and conditions of the Set Aside Letter;

**7.31.3** Any disbursement or payments that Bank makes or may be obligated to make under any Set Aside Letter, whether made directly to the Governmental Authority, Surety, or to others for completion of all or part of the Bonded Work, shall be deemed an Advance to or for the benefit of Borrower; and

**7.31.4** Bank shall have no obligation to release any security under the Borrower Loan Documents unless and until Bank has received a full and final written release of its obligations under each Set Aside Letter.

**7.31.5** The fee for issuing each Set Aside Letter hereunder shall be determined when each Set Aside Letter is issued by Bank.

**7.32 Management of Property**. Borrower shall not enter into any agreement providing for the management or operation of the Real Property or the Improvements without the prior written consent of Bank, which shall not be unreasonably withheld.

**7.33 Leases**.

**7.33.1 Negative Covenants**. In addition to the provisions of the Deed of Trust, and regardless of whether or not Bank's prior written approval is required, Borrower shall not, without Bank's prior written consent: (a) grant to any tenant any right or option to purchase the Property or any portion thereof, or any other present or future interest in any portion of the Property other than the right to use and occupy the leased premises, (b) grant to any tenant the right to terminate its lease if the lease of one or more other tenant is

terminated, or (c) accept payment of rent from any tenant in any form other than cash or cash equivalent.

**7.33.2 Affirmative Covenants**. In addition to the provisions of the Deed of Trust, Borrower shall (a) document all Leases covering any portion of the Property or the Improvements on a standard lease form approved by Bank (with no material change), (b) not enter into any lease for any Unit with a potential tenant unless such lease is an Acceptable Unit Lease and the rent charged thereunder complies with the Rent Restrictions and Regulatory Agreements and is consistent with the rent proforma submitted by Borrower and approved by Bank (c) enter into Leases only with bona fide third party tenants in an arm's length transaction at the then current rates for comparable space in accordance with the Rent Restrictions and on such other terms and conditions as are reasonably acceptable to Bank, (d) whether or not Bank's prior written approval is required, deliver to Bank, within ten days of written request, all Leases (together will all financial information obtained by Borrower regarding the tenant) and all modifications, amendments and consents to assignment or subletting of existing Leases, and (e) promptly notify Bank in writing of (i) the termination, abandonment, or surrender of any Lease, and (ii) claims of any breach of any of Borrower's obligations as landlord under any Lease.

**7.34 Compliance**. Upon the request of Bank from time to time and at any time certification of the matters set forth below is provided to Governmental Lender or any Governmental Authority, Borrower shall promptly provide to Bank the following:

**7.34.1** Borrower's certification of the Property's compliance with the rules qualifying the interest payable on the Funding Loan Note for federal tax exemption pursuant to Section 142(d) of the Code and the regulations issued under Section 142(d) and the requirements of the Regulatory Agreements;

**7.34.2** Property has received or receives a tax credit allocation, Borrower's certification of the Property's compliance with the requirements of Section 42 of the Code and the regulations issued under Section 42 and if the tax credits have not yet been syndicated, Borrower's report regarding progress in syndicating the tax credit allocation until the syndication is completed; and

**7.34.3** Such other documents, certificates and other information as may be deemed necessary or appropriate to enable Bank to perform the functions under this Agreement or the Funding Loan Agreement.

**7.35 Property Reserves**. Borrower shall establish and maintain such operating, replacement and/or tenant improvement reserves for the Property as required by Bank, and Borrower hereby grants to Bank a security interest in all such reserves. Borrower agrees to execute such supplemental security documentation as Bank may request confirming such security interest.

**7.35 Intentionally Omitted.**

**7.36 Intentionally Omitted**.

**7.37 Establishment of Capital Improvement Reserve Account**.

**7.37.1** Concurrently with the Conversion and as a condition precedent thereto, Borrower shall: (i) establish with Bank the Capital Improvement Reserve Account and Borrower shall execute such documents as are necessary to evidence same and to create and perfect in favor of Bank a security interest therein for the purpose of paying for any capital improvements which are necessary for the continued operation of the Property and which capital improvements are approved by Bank, which approval will not be unreasonably withheld ("Capital Improvements"); and (ii) commencing after the Conversion Date, on the first (1st) day of the month in which Borrower is required to make its first (1st) principal and interest payment under the Borrower Note, and continuing on the first day of every month thereafter, deposit or cause to be deposited into the Capital Improvement Reserve Account an amount equal to no less than $[____] each month.

**7.37.2** Borrower shall be entitled to withdraw funds from the Capital Improvement Reserve Account from time to time (but no more often than once every thirty (30) days and in an amount of no less than $1,000 for each such withdrawal) to cover Capital Improvements, but only upon ten (10) days prior written notice from Borrower to Bank requesting to withdraw such funds and only so long as no Event of Default exists and no event has occurred that, with the giving of notice or the passage of time, or both, would constitute an Event of Default. Said written request shall set forth the amount of funds Borrower wishes to withdraw from the Capital Improvement Reserve Account, shall set forth with specificity those Capital Improvements for which the funds are to be used and shall be accompanied by copies of invoices or other evidence satisfactory to Bank confirming the cost of such Capital Improvements. Bank may also condition the withdrawal of funds from the Capital Improvement Reserve Account upon delivery by Borrower of such contractor's affidavits, owner's sworn statements, partial and final waivers of lien and other additional documentation Bank may require to insure that the Capital Improvements have been completed free and clear of any claims of lien, and in a good and workmanlike manner and otherwise in accordance with all applicable legal requirements. The disbursement of funds withdrawn from the Capital Improvements Reserve Account may be made, in Bank's discretion, either directly to the parties entitled thereto or to Borrower to pay the same. If such funds are disbursed directly to Borrower, Borrower shall provide Bank with evidence of the payment of the cost of the Capital Improvements within ten (10) days after the date such funds are withdrawn from the Capital Improvement Reserve Account.

**7.37.3** Borrower shall diligently pursue completion of all Capital Improvements upon the commencement of the same. All Capital Improvements shall be made in a good and workmanlike manner and shall be completed free and clear of any mechanic's or materialman's liens and encumbrances. Borrower shall pay all costs necessary for completion of all Capital Improvements without regard to the sufficiency of the funds in the Capital Improvement Reserve Account. Borrower shall not commence construction of any Capital Improvement or other work prior to obtaining a building permit and all other governmental authorizations required with respect thereto, which Borrower shall provide to Bank upon request. Once any construction work has commenced, Borrower shall cause same to be completed in accordance with the plans and specifications therefor and in

compliance with all restrictive covenants applicable thereto, free and clear of liens or claims for liens, and shall correct all defects therein. No disbursement of funds from the Capital Improvement Reserve Account shall constitute a waiver of Bank's right to require compliance with the foregoing covenants.

**7.38 Rent Restrictions**. Borrower shall comply, and cause the tenants occupying the Units to comply, with the Rent Restrictions, including, without limitation, maintaining all appropriate records.

**7.39 Preservation of Tax Credits**. Borrower shall observe and perform all obligations imposed on Borrower for the purpose of obtaining, maintaining and utilizing the maximum amount of Tax Credits allocated pursuant to the Tax Credit Allocation Documents and to operate the Project, or to cause the appropriate parties to operate the Project, in accordance with all applicable provisions of the Code and the R&T Code, if applicable, and all other statutes and regulations governing the Tax Credits including, without limitation, the monitoring and reporting requirements set forth in the Qualified Allocation Plan.

**7.40 Election of Credit Period**. Borrower shall not make its election (electing whether the first year of the ten (10) year "credit period" shall commence in the year the Project is placed in service or the following year) under Section 42(f) of the Code without first obtaining Bank's prior written consent to Borrower's election, which consent shall not be unreasonably withheld or delayed.

**7.41 Compliance with Subordinate Documents, Land Use Restrictions, Regulatory Agreements, AHAP Contract and HAP Contract**. Borrower shall observe and comply with all of the terms and conditions set forth in the Subordinate Documents, the Land Use Restrictions, all Regulatory Agreements, the AHAP Contract and the HAP Contract.

**7.42 Payment of Development Fee**. Borrower shall not pay in the aggregate more than (i) $[_____] of its development fee on or prior to the Closing Date, (ii) $[_____] of its development fee prior to 25% Project Completion, $[_____] of its development fee prior to 50% Project Completion, and $[_____] of its development fee prior to Project Completion; (iii) $[_____] of its development fee on or prior to Conversion, and (iv) $[_____] of its development fee on or prior to receipt of IRS Form 8609 from the Allocation Committee.

**7.43 IRS Form 8609**. Borrower shall deliver to Bank the IRS Form 8609 within five (5) business days following Borrower's receipt of the same from the Allocation Committee.

**7.44 Obtaining and Maintaining Real Property Tax Exemption**. Borrower shall cause General Partner of Borrower to maintain its status as an "eligible non-profit corporation" or "eligible limited liability company" (as such term is used in Section 214(g) of the R&T Code) and take all actions and provide such certifications as may be necessary from time to time so that the Project shall be exempt from the payment of real property taxes in accordance with the provisions of Section 214(g) of the R&T Code.

**7.45 Draws Under Subordinate Loans and Disbursement of Borrower's Funds**. Borrower shall request and receive disbursements of $[_____] of the HCID HHH Loan, and the entire amount of the CDA Loan prior to requesting disbursements of Borrower's Funds.

**7.46 Intentionally Omitted**.

**7.47 Intentionally Omitted**.

**7.48 Intentionally Omitted**.

**7.49 Draw Requests**. Borrower shall furnish to Bank such statements and other financial data as Bank shall from time to time reasonably request in writing with respect to disbursements made under the Subordinate Loans, if any. Borrower shall deliver, or cause to be delivered, to Bank (concurrently with the delivery of the same to any Subordinate Lender) copies of all draw requests (and accompanying back-up documentation), if any, submitted to any Subordinate Lender with respect to disbursements made under the applicable Subordinate Loan from time to time.

**7.50 Progress Reports and Annual Project Status Reports; Allocation Committee Notices**. Borrower shall promptly deliver to Bank copies of all "Progress Reports" all "Annual Project Status Reports" and all other reports delivered by Borrower to the Allocation Committee or Subordinate Lender from time to time including, without limitation, those reports required by the terms and conditions of the Qualified Allocation Plan or as otherwise required under the terms of the Tax Credit Allocation Documents; such reports shall be delivered to Bank concurrently with the delivery of the same to the Allocation Committee. Borrower shall promptly deliver to Bank copies of all notices and\or correspondence it receives from time to time from the Allocation Committee to the extent the same relate to the allocation of Tax Credits as evidenced by the Preliminary Reservation.

**7.51 Intentionally Omitted**.

**7.52 Hedge**.

**7.52.1** As a condition precedent to making the Borrower Loan, the Borrower shall enter into one or more interest rate caps, collars, swaps, swaptions, forward swaps or similar transactions designed to protect against fluctuations in the interest rate of the Borrower Note commencing no later than the Closing Date and expiring no earlier than the Initial Outside Conversion Date and another commencing no later than the Initial Outside Conversion Date and expiring no earlier than the Maturity Date, each with a counterparty acceptable to Bank (which counterparty may, but is not required to be, Bank) (together, as modified from time to time, the "Hedge"). The notional amount of the Hedge must be $[AGGREGATE PRINCIPAL AMOUNT] as of the Closing Date and the outstanding principal amount of the Borrower Note as of the Initial Outside Conversion Date, or, if later, the effective date of the Hedge. The Hedge shall provide for a fixed rate of interest not to exceed (or otherwise protect against the interest rate on the Borrower Note exceeding) [_____] percent ([___]%) (inclusive of the Margin) prior to the Outside Conversion Date and [_____] percent ([____]%) (inclusive of the Margin) thereafter. The cost of the Hedge must be paid in full on its effective date. The identity of the counterparty and the form and substance of the documents and agreements evidencing, securing, guarantying or otherwise governing the Hedge, including, without limitation, any ISDA Master Agreement and Schedule thereto, and any confirmations evidencing the

Hedge (together, the "Hedge Documents"), shall be acceptable to Bank in the Bank's sole discretion. In no event shall the counterparty have a rating by a national rating agency which is less than the rating assigned by such rating agency to Bank. No Hedge Document shall be secured by the Project unless expressly consented to in writing by Bank, which consent may be withheld in Bank's sole discretion.

**7.52.2** On the Closing Date, the Borrower shall acquire a Hedge complying with the requirements of this Section 7.52, Section 4.1.14 and Section 4.1.17. As a condition to the effectiveness of the Extension Term, Borrower shall acquire a Hedge complying with the requirements of this Section 7.52 and Section 2.5(i). As a condition to the Conversion, the Hedge shall comply with the requirements of this Section 7.52 and Section (v) of Exhibit D (Conditions to Conversion).

**7.52.3** The Borrower shall timely perform all of its obligations under the Hedge Document in accordance with its terms, including payment of all breakage and termination fees due under the applicable Hedge Documents. Unless Bank is the counterparty, the Borrower may not exercise any right or remedy under any Hedge Document without the Bank's prior written consent and shall exercise its rights and remedies under the Hedge Documents as directed by the Bank in writing.

**7.52.4** So long as the Borrower is required to maintain a Hedge, the Borrower shall not terminate, transfer or consent to any termination or transfer of the Hedge without the Bank's prior written consent, which consent may be withheld in Bank's sole discretion. No Hedge shall be terminated for any reason unless Borrower enters into a new Hedge complying with the requirements of this Section 7.52; provided, that no Hedge undertaken with Bank may be terminated, terminated and replaced or transferred by the Borrower without the consent of Bank, which consent may be withheld by Bank in its sole discretion Each replacement Hedge must have a term which commences no later than the later of the Outside Conversion Date or the termination date of the preceding Hedge. If Borrower desires to transfer or terminate a Hedge, Borrower shall provide Bank for Bank's approval written notice thereof at least sixty (60) days prior to termination of the existing Hedge, together with a description of the terms proposed for the replacement Hedge and the identity of the financial institutions who will bid to be the counterparty on the replacement Hedge. In addition, the Borrower shall provide the Bank for Bank's approval the identity of the counterparty and copies of the proposed replacement Hedge Documents at least fourteen (14) business days prior to the termination of the existing Hedge; provided, however, that if a Hedge unexpectedly and unavoidably terminates on a date other than its scheduled expiration date, the Borrower shall, within fourteen (14) business days of such termination, obtain a new Hedge satisfying the requirements of this Section 7.52; provided that if such terminated Hedge is one provided by Bank, Bank shall be under no obligation to permit such replacement Hedge to be entered into or to forbear from exercising its creditor remedies during such time.

**7.52.5** If Bank is not (or is no longer) the counterparty to the Hedge, the Borrower shall assign each Hedge in effect from time to time to Governmental Lender and Bank pursuant to an assignment of hedge ("Assignment of Hedge") in a form and content acceptable to Bank in its sole discretion. The Assignment of Hedge must be entered into

on or before the effective date of the Hedge. The Hedge Documents and the Assignment of Hedge shall direct the counterparty to make any payments on the Hedge directly to Bank to be applied by Bank to payments due under the Borrower Loan, provided that after the occurrence of an Event of Default, Bank may apply such payments as may determine in its discretion.

**7.53 Americans with Disabilities Act**. Borrower hereby certifies that it and any contractor and subcontractor will comply with the Accessibility Requirements (as defined in Exhibit I of the Tax-Exempt Regulatory Agreement). Borrower and any contractor and subcontractor will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the applicable provisions of: (i) the Americans with Disabilities Act, 42 U.S.C. 12101 et seq., and its implementing regulations and the American Disabilities Act Amendments Act (ADAAA) Pub. L. 110 325 and all subsequent amendments; (ii) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, the implementing regulations at 24 C.F.R. Part 8, as well as the requirements of Uniform Federal Accessibility Standards 24 C.F.R. §40, Appendix A; (iii) the Fair Housing Act, 42 U.S.C. §§ 3601-3620;24 C.F.R. Parts 100, 103, and 104, and its implementing regulations; and (iv) applicable California building codes. Borrower and any contractor and subcontractor will not discriminate against persons with disabilities or against persons due to their relationship to or association with a person with a disability. Any contract and subcontract entered into by Borrower, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this Section.

**7.54 Business Tax Registration Certificate**. Subject to any exemption available to it, Borrower and Bank each represent that it has obtained or will obtain the Business Tax Registration Certificate(s) required by the Governmental Lender's Business Tax Ordinance (Article 1, Chapter 2, Section 21,00 and following, of the Los Angeles Municipal Code). For the term covered by this Agreement, Borrower and Bank each shall maintain, or obtain as necessary, any such Business Tax Registration Certificate(s) required of it under said Ordinance and shall not allow any such Business Tax Registration Certificate(s) to be revoked or suspended.

**7.55 Child Support Assignment Orders**. This Agreement is subject to Section 10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, Borrower certifies that it will (a) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (b) that the principal owner(s) of Borrower are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (c) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230 et seq.; and (d) maintain such compliance throughout the term of the Tax-Exempt Regulatory Agreement. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of Borrower to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Borrower to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by Borrower as appropriate under the terms of this Agreement, subjecting Borrower to the remedies provided herein where, in either case, such failure shall continue for more than ninety (90) days after notice of such failure to Borrower by the Governmental Lender. Any subcontract

entered into by Borrower relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of Borrower to obtain compliance of its subcontractors shall constitute a default by Borrower under the terms of this Agreement, subjecting Borrower to the remedies provided herein where such failure shall continue for more .than 90 days after notice of such failure to Borrower by the Governmental Lender. Borrower shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. Borrower hereby affirms that to the best of its knowledge it is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (b) of Section 7110 of the Public Contract Code.

**7.56 Nondiscrimination and Affirmative Action**. Borrower shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the Governmental Lender. Borrower shall not discriminate in its employment practices against any employee or applicant for employment or deny family and medical care leave; pregnancy disability leave or reasonable accommodations against any employee or applicant for employment because of such person's race, ancestry, color, citizenship, national origin, religion, sex, sexual orientation, gender identity/expression, transgender status, age, marital status, familial status, domestic partner status, physical handicap, mental disability, medical condition, political affiliation or belief. Borrower shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 C.F.R. Part 60). Borrower shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. The affirmative action program of Borrower shall include the mandatory contract provisions set forth in the Los Angeles Administrative Code Section 10.8.4, and said provisions are incorporated herein by this reference. Borrower shall also comply with all rules, regulations, and policies of the Governmental Lender's Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by the Governmental Lender. Any subcontract entered into by Borrower relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this section. No person shall on the grounds of race, ancestry, color, citizenship, national origin, religion, sex, sexual orientation, gender identity/expression, transgender status, age, marital status, familial status, domestic partner status, physical handicap, mental disability, medical condition, political affiliation or belief be excluded from participation in, be denied the benefit of, or be subjected to discrimination under this Agreement. For purposes of this Section, Title 24 Code of Federal Regulations Part 107 and Section 570.601(b) defines specific discriminatory actions that are prohibited and corrective action that shall be taken in a situation as defined therein.

**7.57 Disclosure of Border Wall Contracting Ordinance**. Borrower shall comply with Los Angeles Administrative Code Section 10.50 et seq., "Disclosure of Border Wall Contracting". Governmental Lender may declare a default under this Agreement if the Governmental Lender determines that Borrower failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in Los Angeles Administrative Code Section 10.50.1.

**7.58 Pet Ownership in Publicly-Financed Housing Developments**. Borrower shall comply with the Pet Ownership in Publicly-Financed Housing Developments Ordinance, Los Angles Municipal Code Sections 51.20., et seq., as amended from time to time.

**7.59 Compliance With the AHAP Contract and HAP Contract**. Borrower hereby agrees to observe and comply with all provisions of the AHAP Contract and the HAP Contract (after the HAP Contract has been fully executed). Borrower shall advise Bank in writing promptly upon learning of any default with respect to the AHAP Contract and the HAP Contract (after the HAP Contract has been fully executed).

**8. EVENTS OF DEFAULT**. The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder and at Bank's option, exercisable in its sole discretion, shall, if not cured within the applicable notice and cure period (if any), terminate any obligation of Bank to make any Advance or disbursement of Borrower's Funds. Upon the occurrence of an Event of Default, Bank shall also have the option, exercisable in its sole discretion, to declare the Borrower Loan immediately due and payable, without notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor, or other notices or demand of any kind or character; provided, however, upon the occurrence of any Event of Default that, under the terms of any Borrower Loan Document or Funding Loan Document results in the Borrower Loan becoming automatically due and payable, such occurrence shall result in automatic acceleration of payments of all principal and interest due under the Borrower Loan:

**8.1** Borrower fails to (a) pay when due any sums payable under any Borrower Loan Document or Funding Loan Document after giving effect to any express curative provisions (if any) provided herein or therein, and, in the case of payments other than principal or interest, in the event that there is no curative provision, within five (5) days after the date when due, or (b) deposit with Bank any of Borrower's Funds as and when required under this Agreement.

**8.2** Borrower has breached, or defaulted under, any term, condition or provision contained in (a) any Borrower Loan Document that is not specifically referred to in this Section 8, which is not cured within thirty (30) days of written notice from Bank or such other time as specifically set forth in the Borrower Loan Documents, or (b) the Tax-Exempt Regulatory Agreement or other Funding Loan Document, which is not cured within any applicable notice and cure period set forth therein.

**8.3** Borrower or Contractor does not (a) commence construction of the Improvements within the time period required in this Agreement, (b) proceed diligently and continuously with the construction of the Improvements, or the construction of the Improvements is otherwise discontinued for a period of ten (10) consecutive Business Days or more, for any reason other than Force Majeure, or (c) complete the construction of the Improvements and cause the issuance of all licenses and permits necessary for the occupancy and use of the Improvements, on or before the Completion Date.

**8.4** Any representation or warranty by Borrower or any Loan Party made hereunder or under any other Borrower Loan Document proves to be materially false or misleading.

**8.5** Any person obtains an order or decree in any court of competent jurisdiction prohibiting the construction of the Improvements or Borrower or Governmental Lender and Bank from performing this Agreement, and such order or decree is not vacated within thirty (30) days after the granting thereof.

**8.6** Borrower neglects, fails or refuses to keep in full force and effect any permit or approval with respect to the construction of the Improvements or the use and occupancy thereof which is not cured within ten (10) days of the date on which such permit or approval is not in full force and effect.

**8.7** Any bonded notice to withhold in connection with the Borrower Loan is validly served on Governmental Lender or Bank and within five (5) days of the receipt of such service (a) is not discharged, or (b) if the amount claimed is disputed in good faith by Borrower or Contractor, an appropriate counter bond or equivalent acceptable to Bank is not provided to Bank.

**8.8** The imposition, voluntary or involuntary, of any lien or encumbrance upon the Property without Bank's written consent, unless an adequate counter bond is provided and such lien is accordingly released within ten (10) days of the imposition of such lien.

**8.9** Bank fails to have an enforceable first lien on or security interest in any property given as security for the Borrower Loan, except as permitted by Bank in writing.

**8.10** An event or condition occurs or arises that materially impairs Borrower's intended use of the Property.

**8.11** Borrower neglects, fails or refuses to keep in force and effect any insurance coverage required by Bank.

**8.12** Any Funding Loan Document is amended, modified or terminated without Bank's prior written consent.

**8.13** Interest on the Funding Loan Note is no longer excludable from the gross income of the holder thereof for federal income tax purposes.

**8.14** Intentionally omitted.

**8.15** The occurrence of an event of default by Borrower under the Subordinate Documents, the Land Use Restrictions, the HAP Contract (after the HAP Contract has been fully executed), the AHAP Contract, or Regulatory Agreements (following the expiration of any curative periods set forth therein).

**8.16** The failure of Borrower to comply with any of the terms and conditions of the Tax Credit Allocation Documents, the failure of Borrower to cause Project Completion to occur on or before the Completion Date, or the failure of Borrower to comply with any of the monitoring or reporting requirements set forth in the Qualified Allocation Plan.

**8.17** The determination by Bank (in Bank's reasonable opinion) at any time that (i) paragraph (1) of Section 42(h) of the Code will apply to the allocation of the Tax Credits or (ii) Project Completion will not occur on or before the Completion Date.

**8.18** The maximum amount of Tax Credits reserved by the Allocation Committee under the Preliminary Reservation is reduced by the Allocation Committee which results in a reduction of the Tax Credit Investor's capital contributions to Borrower which, together with other financing or equity investment permitted under the Borrower Loan Documents, would prevent Borrower from making the full Paydown Amount on or before the Outside Conversion Date, as determined by Bank in its sole discretion.

**8.19** Borrower shall fail to obtain the Hedge in accordance with the terms and provisions of Section 7.52. Borrower shall fail to perform any of its obligations under any agreement relating to any Hedge or Hedge Documents following the expiration of any applicable curative provision.

**8.20** Intentionally omitted.

**8.21** Borrower fails to satisfy the conditions to Conversion in accordance with Section 3.2 above on or before the Outside Conversion Date, as may be extended pursuant to Section 2.5.

**8.22** The AHAP Contract (including the form of HAP Contract attached as an exhibit to the AHAP Contract) or the HAP Contract (after the HAP Contract has been fully executed) are modified, amended or terminated without the prior written consent of Bank, except for modifications or amendments which only have the effect of extending the term of the AHAP Contract or HAP Contract.

**8.23** Borrower modifies, amends or terminates the Subordinate Documents or the Regulatory Agreements without the prior written consent of the Bank.

The Tax Credit Investor shall have the right to cure any default by Borrower under the Borrower Documents within the time periods (if any) set forth herein for such cure and Bank agrees to accept such cure as if cured by Borrower.

**9. REMEDIES**. If an Event of Default occurs under this Agreement:

**9.1** Governmental Lender and Bank may exercise any right or remedy that it has under any of the Borrower Loan Documents, or that is otherwise available at law or in equity or by statute (which may be exercised directly or by directing the actions of the Fiscal Agent), and all of Governmental Lender's and Bank's rights and remedies shall be cumulative.

**9.2** Bank shall have the right, in its sole discretion, to enter the Property (subject to tenant leases) and take possession of it, whether in person, by agent or by court-appointed receiver, to perform any and all work and labor necessary to complete the Improvements substantially in accordance with the Plans, and to collect rents and otherwise protect its collateral and exercise its rights and remedies under the Borrower Loan Documents. If Bank exercises any of the rights or remedies provided in this Section, that exercise shall not make Bank a partner or joint venturer of Borrower. All sums that are expended by Bank in completing the Improvements or in preserving

Bank's collateral for the Borrower Loan shall be considered an additional loan to Borrower secured by the Deed of Trust and Security Documents and shall bear interest at the Default Rate.

**9.3** Notwithstanding the exercise of any remedy described above or the existence of any Event of Default, Bank, at its option, may make any Advance or disburse any or all of Borrower's Funds without (a) waiving Bank's right to demand payment of the Borrower Loan, (b) incurring liability to make any other or further Advances, and (c) waiving Bank's right to require compliance with Borrower's covenant to correct any defect in the Improvements or departure from the Plans not approved by Bank.

**10. POWER OF ATTORNEY**. Borrower hereby constitutes and appoints Bank as Borrower's true and lawful attorney in fact with the power and authority, including full power of substitution upon the occurrence and during the continuance of an Event of Default, as follows:

**10.1** To take possession of the Property and complete the Improvements or the Capital Improvements.

**10.2** To use any of Borrower's Funds and any undisbursed proceeds of the Borrower Loan for the purpose of completing the Improvements and for other costs related thereto and/or to use any of the funds in the Capital Improvement Reserve Account for the purpose of completing any Capital Improvements and for other costs related thereto.

**10.3** To make such additions and changes and corrections in the Plans as may be necessary or desirable, as Bank, in Bank's sole discretion, deems proper to complete the Improvements.

**10.4** To employ such contractors, subcontractors, agents, architects, engineers and inspectors as are required to complete the Improvements or any Capital Improvements.

**10.5** To employ security personnel to protect the Property from damage.

**10.6** To pay, settle or compromise all existing bills and claims against Borrower's Funds, the Capital Improvements Reserve Account or any undisbursed proceeds of the Borrower Loan as may be necessary or desirable or as Bank deems proper, in Bank's sole discretion, for the completion of the Improvements or any Capital Improvements, or for the protection or clearance of title to the Property, or for the protection of Bank's interest with respect thereto.

**10.7** To prosecute and defend all actions and proceedings in connection with the construction of the Improvements or any Capital Improvements.

**10.8** To record any notices of completion, cessation of labor and other notices that Bank deems necessary to protect any interest of Bank under the provisions of this Agreement, the Deed of Trust, any of the Security Documents, or any other Borrower Loan Document.

**10.9** To execute, acknowledge, and deliver all instruments and documents in the name of Borrower that may be necessary or desirable or as Bank deems proper, in Bank's sole discretion, and to perform any and every act with respect to the construction of the Improvements and/or any Capital Improvements that Borrower might perform on Borrower's own behalf.

This Power of Attorney is a power coupled with an interest and cannot be revoked. Any costs or expenses incurred by Bank in connection with any acts performed by Bank under or pursuant to this Section shall be paid by Borrower. If such costs are not paid by Borrower upon demand of Bank, interest shall accrue thereon at the Default Rate. Any such advances made or costs or expenses incurred by Bank shall be secured by the Deed of Trust and Security Documents.

**11. MISCELLANEOUS**.

**11.1 Disclaimer**. WHETHER OR NOT GOVERNMENTAL LENDER OR BANK ELECT TO EMPLOY ANY OR ALL OF THE REMEDIES AVAILABLE TO GOVERNMENTAL LENDER OR BANK UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, NEITHER GOVERNMENTAL LENDER NOR BANK SHALL BE LIABLE FOR THE CONSTRUCTION OF, OR FAILURE TO CONSTRUCT, COMPLETE OR PROTECT, THE IMPROVEMENTS.

**11.2 Notices**. All notices, demands, requests or other communications (including communications by facsimile transmission or e-mail) provided for or allowed hereunder shall be in writing and shall be effective only if the same is delivered by personal service, mailed (postage prepaid, return receipt requested), faxed, or e-mailed to the address given with the signatures at the end of this Agreement. Any such notice shall be deemed to have been received by the addressee, (a) if mailed, on the third day following the date of such mailing, or (b) if faxed or e-mailed, upon telephone confirmation of receipt. Any party may at any time change its address for such notices by delivery or mailing the other parties to this Agreement a notice of such change.

**11.3 Waivers**. Any forbearance, failure or delay by Bank in exercising any right, power or remedy shall not be deemed a waiver thereof and any single or partial exercise of any power, right or remedy shall not preclude any further exercise thereof. No waiver of or consent to any breach of any of the covenants or conditions of this Agreement or any other Borrower Loan Document shall be construed to be a waiver of or a consent to any previous or subsequent breach of the same or any other condition or covenant. No waiver or consent shall be effective under any Borrower Loan Document unless it is in writing and signed by an officer of Bank.

**11.4 Governmental Lender's and Bank's Expenses; Rights of Governmental Lender and Bank**.

**11.4.1** Borrower shall promptly pay to Governmental Lender and Bank, upon demand, with interest thereon from the date of demand at the Default Rate, reasonable attorneys' fees (including the fees and costs of Governmental Lender's, Fiscal Agent's and Bank's in-house counsel and legal staff) and all costs and other expenses paid or incurred by Governmental Lender, Fiscal Agent and Bank in exercising its rights or remedies provided for in this Agreement or any other Loan Document. If at any time Borrower fails to perform any of its obligations hereunder, Bank shall have the right, but not the obligation, to perform such obligations at the expense of Borrower, The amount of any monies so expended or obligations so incurred by Governmental Lender, Fiscal Agent and Bank, together with interest thereon at the Default Rate, shall be repaid to Governmental Lender, Fiscal Agent and Bank promptly upon demand and payment thereof shall be secured by the Deed of Trust and Security Documents. The obligations of this

Section 11.4.1 and those in Section 7.24 (Indemnity) shall remain valid and in effect notwithstanding repayment of the Borrower Loan or the Funding Loan Note or termination of this Borrower Loan Agreement or the Funding Loan Agreement.

**11.4.2** Governmental Lender and Bank, and any of Governmental Lender's and Bank's representatives, shall have the right, at any time and from time to time, and without notice, to enter upon the Property, to inspect the Improvements and all materials to be used in the construction thereof and to examine the Plans and all detailed plans and shop drawings that are or may be kept at the construction site.

**11.5 No Third Party**. This Agreement is made for the sole benefit of Borrower, Governmental Lender, Bank and Governmental Lender's and Bank's successors and assigns, and no other Person shall have any rights or remedies under or by reason of this Agreement or any right to exercise any right or power of Governmental Lender and Bank hereunder or arising from any default by Borrower. Governmental Lender and Bank shall owe no duty whatsoever to any claimant for labor performed or material furnished in connection with the construction of the Improvements nor any duty whatsoever to apply any undisbursed proceeds of the Borrower Loan to the payment of any such claim or to exercise any right or power of Bank hereunder or arising from any default by Borrower.

**11.6 Time of Essence**. Time is of the essence of this Agreement and every part hereof.

**11.7 Successors and Assigns**. Neither this Agreement nor any right of Borrower to receive any sums, proceeds or disbursements hereunder, may be assigned, pledged, hypothecated, anticipated or otherwise encumbered by Borrower without the prior written consent of Bank. Subject to the foregoing restriction and the restrictions contained in the Deed of Trust, this Agreement shall inure to the benefit of Governmental Lender and Bank and Governmental Lender's and Bank's successors and assigns and shall bind Borrower and Borrower's successors and assigns.

**11.8 Participation or Syndication**. Bank shall have the right, in its sole discretion, to assign all or any part of Bank's rights in the Borrower Loan and under the Borrower Loan Documents or the Funding Loan Documents, either through direct assignment or through participating interests, subject to the provisions of Section 4.3 of the Funding Loan Agreement. Bank is hereby authorized to disclose to any prospective assignee or participant in the Borrower Loan any and all information regarding Borrower, any Loan Party, the Property or the Borrower Loan, provided such recipient agrees to keep such information confidential.

**11.9 Governing Jurisdiction**. This Agreement shall be governed by and construed in accordance with the laws of the state in which the Property is located.

**11.10 Entire Agreement**. This Agreement and all other Borrower Loan Documents and the Funding Loan Documents constitute the entire understanding between the parties hereto with respect to the subject matter hereof, superseding all prior written or oral understandings. This Agreement and the other Borrower Loan Documents may be modified, amended or terminated only in writing signed by all parties hereto or thereto.

**11.11 Joint and Several Liability**. If Borrower consists of more than one Person, each shall be jointly and severally liable to Bank for the performance of this Agreement and the other Borrower Loan Documents.

**11.12 Publicity, Signs**. Borrower hereby agrees that Bank, at Bank's expense, may publicize the financing of the Property (including the name of Borrower) and, in connection therewith, may use the project name and address, and a description, photograph or other illustrative drawing of the Property. Borrower hereby grants Bank the right to erect or cause to be erected Bank's sign or signs in size and location desired by Bank on the Property so long as such sign or signs do not interfere with the construction of the Improvements. Borrower will exercise, and will cause Contractor and subcontractors to exercise, due care to protect said sign or signs from damage.

**11.13 Credit Information and Reports**. Borrower authorizes Bank to release information concerning Borrower's financial condition to suppliers, other creditors, credit bureaus and other credit reporters, and to obtain such information from any third party at any time.

**11.14 Headings**. The various headings of this Agreement are included for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

**11.15 Severability**. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall be effective.

**11.16 Counterparts**. This Agreement and each other Borrower Loan Document may be executed in two (2) or more counterparts, each of which shall be deemed an original but taken together shall be one and the same document.

**11.17 USA Patriot Act**. Bank is subject to the USA Patriot Act and hereby notifies Borrower that pursuant to the requirements of that Act, Bank is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow Bank to identify Borrower in accordance with the Act.

**11.18 Waiver of Jury Trial**. To the extent permitted by law, in connection with any action or proceeding, whether brought in state or federal court, the Borrower and Bank hereby expressly, intentionally and deliberately waive any right they may otherwise have to trial by jury of any Claim (as defined below). For purposes of clarity, this provision shall not constitute a waiver of any right to trial by jury held by Governmental Lender.

**11.19 Judicial Reference**. If the waiver of jury trial set forth hereinabove is not enforceable under the laws of the state in which the Property is located, then Borrower and Bank hereby agree that all Claims, including any and all questions of law or fact relating thereto, shall, at the written request of Borrower or Bank, be determined by Reference (as hereinafter defined) as set forth hereinbelow:

**11.19.1 Selection or Appointment of Referee**. The Bank and Borrower shall select a single neutral referee, who shall be a retired state or federal judge. In the event

that the Bank and Borrower cannot agree upon a referee, the referee shall be appointed by the court.

**11.19.2 Conduct of Reference**. Except as otherwise provided in this Agreement, the Reference shall be conducted pursuant to the laws of the state in which the Property is located. The referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of the Borrower Loan Documents or Funding Loan Documents. The referee shall report a statement of decision to the court. The Bank and Borrower shall equally bear the fees and expenses of the referee, unless the referee otherwise provides in the statement of decision.

**11.19.3 Provisional Remedies, Self-Help and Foreclosure**. No provision of this Agreement shall limit the right of any party to (i) exercise self-help remedies including, without limitation, set-off, (ii) foreclose against or sell any collateral, by power of sale or otherwise or (iii) obtain or oppose provisional or ancillary remedies from a court of competent jurisdiction before, after or during the pendency of the Reference. The exercise of, or opposition to, any such remedy does not waive the right of any party to a Reference pursuant to this Agreement.

**11.19.4 No Decision by Jury**. Borrower and Bank hereby acknowledge that if a referee is selected or appointed to determine the Claims, then the Claims in accordance with this Section 11.19 will not be decided by a jury.

**11.19.5 Miscellaneous**. In the event that multiple Claims are asserted, some of which are not subject to this Section, Borrower and Bank agree to stay the proceedings of the Claims not subject to this Section until all other Claims are resolved in accordance with this Section. In the event that Claims are asserted against multiple parties, some of whom are not subject to this Section, the Borrower and Bank agree to sever the Claims subject to this Section and resolve them in accordance with this Section.

**11.19.6 Claim**. "Claim" shall mean any claim, cause of action, action, dispute or controversy between or among the Borrower and Bank, whether sounding in contract, tort or otherwise, which arises out of or relates to: (i) any of the Borrower Loan Documents or the Funding Loan Documents; (ii) and negotiations or communications relating to any of the Borrower Loan Documents or the Funding Loan Documents, whether or not incorporated into the Borrower Loan Documents or the Funding Loan Documents or any indebtedness evidenced thereby; or (iii) any alleged agreements, promises, representations or transactions in connection therewith.

**11.19.7 Reference**. "Reference" shall mean a judicial reference conducted pursuant to this Agreement and in accordance with the laws of the state in which the Property is located, as in effect at the time the referee is selected or appointed.

**11.20 Limitation on Damages**. In the event that punitive damages are permitted under the laws of the state in which the Property is located, the amount thereof shall not exceed a sum equal to three times the amount of actual damages.

**11.21 Governmental Lender's Limited Liability**. No covenant, agreement or obligation contained herein shall be deemed to be a covenant, agreement or obligation of any present or future director, officer, employee, attorney or agent of the Governmental Lender in his or her individual capacity, and neither any employee, attorney, director or officer of the Governmental Lender nor any officer thereof executing the Funding Loan Note shall be liable personally on the Funding Loan Note or be subject to any personal liability or accountability by reason of the issuance thereof. No director, officer, employee, attorney or agent of the Governmental Lender shall incur any personal liability with respect to any other action taken by him or her pursuant to this Agreement, the Act or the Law, provided such director, officer, employee, attorney or agent acts in good faith. No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by the Governmental Lender contained in any document executed by Issuer in connection with the Project or the issuance, sale and delivery of the Funding Loan Note shall give rise to any pecuniary liability of the Governmental Lender or a charge against its general credit or taxing powers, or shall obligate the Governmental Lender financially in any way.

THE FUNDING LOAN NOTE IS NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DOES NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER, OF THE CITY OF LOS ANGELES (THE "CITY"), THE STATE OF CALIFORNIA (THE "STATE") OR ANY POLITICAL SUBDIVISION THEREOF, BUT IS PAYABLE SOLELY FROM THE PROJECT REVENUES AND PROPERTY PLEDGED THEREFOR IN THE FUNDING LOAN AGREEMENT AND NOT FROM ANY OTHER REVENUES, FUNDS OR ASSETS OF THE CITY. NEITHER THE CITY, THE STATE NOR ANY SUCH POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL CORPORATION OR SUBDIVISION OR AGENCY THEREOF NOR THE FAITH AND CREDIT OF THE CITY IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE FUNDING LOAN NOTE OR OTHER COSTS INCIDENT THERETO. THE FUNDING LOAN NOTE IS NOT A DEBT OF THE UNITED STATES OF AMERICA.

No recourse shall be had for the payment of the principal of or interest on the Funding Loan Note, or for any claim based thereon or on this Agreement or any other Funding Loan Document, any Issuer Document or any instrument or document executed and delivered by or on behalf of the Governmental Lender in connection with the transactions contemplated hereby, against the Governmental Lender or any officer, board member, employee or agent, past, present or future, of the Governmental Lender or any successor body, as such, either directly or through the Governmental Lender or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or by any legal or equitable proceeding or otherwise and all such liability of the Governmental Lender or any such officer, board member, employee or agent, past, present or future as such is hereby expressly waived and released as a condition of and consideration for the adoption of the resolution authorizing the execution of the Funding Loan Documents and issuance of the Funding Loan Note and the delivery of other documents in connection herewith. No officer, board member, employee or agent, past, present or future, of the Governmental Lender or any successor body shall be personally liable on the Funding Loan Documents, the Funding Loan Note or any other documents in connection herewith, nor shall the issuance of the Funding Loan Note be considered as misfeasance or

malfeasance in office. The Funding Loan Note and the undertakings of the Governmental Lender under the Funding Loan Documents do not constitute a pledge of the general credit or taxing power of the Governmental Lender, the State, or any political subdivision thereof, do not evidence and shall never constitute a debt of the State or any political subdivision thereof and shall never constitute nor give rise to a pecuniary liability of the State or any political subdivision thereof.

No covenant, agreement or obligation contained herein shall be deemed to be a covenant, agreement or obligation of any present or future director, officer, employee, attorney or agent of the Governmental Lender in his or her individual capacity, and neither any employee, attorney or officer of the Governmental Lender nor any officer thereof executing the Funding Loan Note shall be liable personally on the Funding Loan Note or be subject to any personal liability or accountability by reason of the issuance thereof. No director, officer, employee, attorney or agent of the Governmental Lender shall incur any personal liability with respect to any other action taken by him or her pursuant to this Agreement, the Law or the Act, provided such director, officer, employee, attorney or agent acts in good faith. No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by the Governmental Lender contained in any document executed by Governmental Lender in connection with the Project or the funding and delivery of the Funding Loan Note shall give rise to any pecuniary liability of Issuer or a charge against its general credit or taxing powers, or shall obligate Issuer financially in any way.

**11.22 Reliance by Governmental Lender**. Anything in the Funding Loan Agreement to the contrary notwithstanding, it is expressly understood by the parties to this Agreement that (a) the Governmental Lender may rely exclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Governmental Lender by the Fiscal Agent, the Borrower or the Bank as to the existence of any fact or state of affairs, (b) the Governmental Lender shall not be under any obligation under the Funding Loan Agreement or this Agreement to perform any record keeping or to provide any legal services, it being understood that such services shall be performed or caused to be performed by the Fiscal Agent or the Bank and (c) none of the provisions of the Funding Loan Agreement, this Agreement, the Tax-Exempt Regulatory Agreement or any Funding Loan Document shall require the Governmental Lender to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under the Funding Loan Agreement, this Agreement, the Tax-Exempt Regulatory Agreement and any Funding Loan Document unless it shall first have been adequately indemnified to its satisfaction against any costs, expenses and liability which it may incur as a result of taking such action. It is recognized that notwithstanding any other provision of this Agreement, neither the Borrower nor the Bank shall look to the Governmental Lender or the members of its City Council, officers, program participants, attorneys, accountants, financial advisors, agents or staff for damages suffered by the Borrower or the Bank as a result of the failure of the Governmental Lender to perform any covenant, undertaking or obligation under this Agreement, the Funding Loan Note, the Tax-Exempt Regulatory Agreement, any of the Funding Loan Documents or any of the other documents referred to herein, or as a result of the incorrectness of any representation made by the Governmental Lender in any of such documents, nor for any other reason except for representations made by the Governmental Lender in any certificate of the Governmental Lender and the opinion of counsel to the Governmental Lender delivered on the Closing Date.

**11.23 Exhibits**. All exhibits attached hereto are incorporated herein as if fully set forth within this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Construction and Permanent Loan Agreement as of the date and year first above written,

BORROWER:

[BORROWER SIGNATURE BLOCK]

Address for Notice to Borrower:

[BORROWER NOTICE ADDRESS]

[Signatures continue on following page]

BANK:

MUFG UNION BANK, N.A.

By _____
Name _____
Title _____

Addresses for Notice to Bank:

MUFG Union Bank, N.A.
Attn: Manager
Loan Administration Department
MC 4-35A-8556
145 S. State College Blvd., Suite 600
Brea, CA 92821
Phone No. (714) 985-2469
Fax No. (949) 752-8361
E-mail address: maria.trevias@unionbank.com

MUFG Union Bank, N.A.
Attn: Manager
Community Development Finance
1901 Avenue of the Stars, Suite 600
Los Angeles, CA 90067
Phone No. (310) 551-8964
Fax No. (310) 551-8980
E-mail address: zennia.harris©unionbank.com

[Signatures continue on following page]

GOVERNMENTAL LENDER:

CITY OF LOS ANGELES

By Housing and Community Investment Department

By _____
Name: Daniel Huyhn
Title: Assistant General Manager

Approved as to form:

MICHAEL N. FEUER, City Attorney:

By _____
Name _____
Title _____

Addresses for Notice to Governmental Lender:

Los Angeles Housing and Community Investment Department
1200 West 7th Street, 8th Floor
Los Angeles, CA 90017
HIMS #[_____]
Attention: Supervisor, Affordable Housing Bond Program
Facsimile: (213) 808-8918

with a copy to:

Los Angeles Housing and Community Investment Department
P.O. Box 532729
Los Angeles, CA 90053-2729
HIMS #[_____]
Attn: Supervisor, Affordable Housing Bond Program

## JOINDER REGARDING DEVELOPMENT FEE

The undersigned hereby acknowledges and agrees that the undersigned shall not be entitled to receive in the aggregate more than (i) $[_____] of its development fee on or prior to the Closing Date, (ii) $[_____] of its development fee prior to 25% Project Completion, $[_____] of its development fee prior to 50% Project Completion, and $[_____] of its development fee prior to Project Completion; (iii) $[_____] of its development fee on or prior to Conversion, and (iv) $[_____] of its development fee on or prior to receipt of IRS Form 8609 from the Allocation Committee; any portion of such development fee received by the undersigned in excess of such limits shall be remitted to MUFG Union Bank, N.A. to be held as additional collateral for the Borrower Loan and, upon an event of default with respect thereto, applied in reduction of amounts outstanding under the Borrower Loan in such amounts and in such order as MUFG Union Bank, N.A. shall elect in its sole and absolute discretion.

[Signatures on following page]

## SIGNATURE PAGE TO JOINDER REGARDING DEVELOPMENT FEE

[DEVELOPER SIGNATURE BLOCK]

## SCHEDULE 1

## POST CONVERSION DATE INSTALLMENTS OF PRINCIPAL AND INTEREST

[To be attached on the Conversion Date]

# EXHIBIT A

# LEGAL DESCRIPTION

## EXHIBIT B

## DISBURSEMENT SCHEDULE

This Exhibit B is attached to and a part of that certain Construction and Permanent Loan Agreement dated [DATED DATE] by and among Linc-Wilmington Apts LP, a California limited partnership, the City of Los Angeles, a charter city and a municipal corporation of the State of California, and MUFG Union Bank, N.A. (the "Agreement"). All terms not defined herein shall have the meanings given them in the Agreement.

Borrower Loan proceeds in the amount of $[_____], plus other funds in the amount of $[_____], are allocated as provided in the Project Budget attached as Exhibit B-1 to this Agreement.

1. **Acquisition Cost**. The portion of the Project Budget allocated for "Total Acquisition" in Exhibit B-1 hereto, shall be disbursed to or for the benefit or account of Borrower for the payment of the cost of the acquisition of the Real Property.

2. **Hard Costs**. As construction of the Improvements progresses, the portion of the Project Budget allocated for "Hard Costs" in Exhibit B-1 hereto, shall be periodically disbursed to or for the benefit or account of Borrower for the payment of costs incurred for the construction of the Improvements. Subject to the provisions of the "Subsequent Disbursements" and "Additional Conditions to Advances" subsections in the "LOAN DISBURSEMENT" Section of the Agreement, Governmental Lender shall make each such disbursement to Borrower, Contractor or to such Persons as have actually supplied labor, materials or services in connection with the construction of the Improvements (at Bank's option as to whom and in what amounts payments are to be made), with the percentage to be ninety percent (90%) of the Draw Request submitted by Borrower and approved by Bank. Upon satisfaction of the provisions of the "Final Disbursement" and "Additional Conditions to Advances" subsections in the "LOAN DISBURSEMENT" Section of the Agreement, the remaining ten percent (10%) shall be disbursed to or for the benefit of or account of Borrower upon completion of the Improvements in accordance with the Plans and Governmental Requirements, but only when the statutory lien period has expired or Bank has received an acceptable lien-free title endorsement from the Title Insurer.

3. **Hard Cost Contingency**. The portion of the Project Budget allocated for "Hard Cost Contingency" in Exhibit B-1 hereto, may be reallocated to other line items as Borrower may, from time to time, request in writing and as such reallocation is approved by Bank, in its sole discretion. The reallocation or depletion of, or the refusal of Bank to increase, reallocate or deplete, the Hard Cost Contingency shall not release Borrower from any of Borrower's obligations under any of the Borrower Loan Documents.

4. **Interest Reserve**. The portion of the Project Budget allocated for "Interest Reserve" in Exhibit B-1 hereto, plus any funds not disbursed as part of the Initial Disbursement, or less any additional funds disbursed as part of the Initial Disbursement, shall be disbursed from time to time directly to Bank for the payment of interest which accrues and becomes due under the Note and under any Hedge entered into in connection with the Borrower Loan. Bank is authorized to charge the Borrower Loan and Borrower's Funds Account directly for such interest payments

when due. Each such interest payment shall then be deemed paid in full. Depletion of the Interest Reserve shall not release Borrower from any of Borrower's obligations under the Borrower Loan Documents, including without limitation, the obligation to pay all accrued interest due and owing and the obligation to deposit Borrower's Funds as required by the "BORROWER'S COVENANTS" Section of the Agreement.

At such time as Borrower receives any Net Operating Income from the operation of the Property, Bank may require, in Bank's sole and absolute discretion, that Borrower pay to Bank an amount equal to the lesser of (i) the interest payment then due and payable under the Note, and (ii) Net Operating Income for the prior calendar month. Borrower shall make such payment from funds other than undisbursed proceeds of the Borrower Loan. If Bank elects to require Net Operating Income be paid to Bank pursuant to the terms hereof, to the extent such Net Operating Income is insufficient to pay in full the interest payment then due and payable under the Note, and provided that (X) Borrower is not then in default under the terms of the Agreement, Note, Deed of Trust or any other Borrower Loan Document, (Y) there is then available in the Interest Reserve sufficient funds for such purposes, and (Z) Borrower has delivered timely to Bank an Operating Statement for the preceding calendar month, Borrower shall be entitled to have such shortfall paid by Bank withdrawing from the Interest Reserve an amount equal to such shortfall, whereupon such interest payment shall then be deemed paid in full.

5. **Cash Developer Fee**. The portion of the Project Budget allocated for "Cash Developer Fee" in Exhibit B-1 hereto, shall be disbursed to or for the benefit or account of Borrower on the Closing Date for the payment of the portion of the developer fee to be disbursed on or prior to the Closing Date in accordance with the terms of the Agreement.

6. **Soft Cost Contingency**. The portion of the Project Budget allocated for "Soft Cost Contingency" in Exhibit B-1 hereto, may be reallocated to other line items as Borrower may, from time to time, request in writing and as such reallocation is approved by Bank, in its sole discretion, The reallocation or depletion of, or the refusal of Bank to increase, reallocate or deplete, the Soft Cost Contingency shall not release Borrower from any of Borrower's obligations under any of the Borrower Loan Documents.

7. **Other Soft Costs**. The portion of the Project Budget allocated for "Total Soft Costs" in Exhibit B-1 hereto, shall be periodically disbursed to or for the benefit or account of Borrower for payment of soft costs. If Bank shall require, Borrower shall submit to Bank for approval, invoices or other evidence of the amounts of soft costs.

8. **Method of Disbursement**. Funds disbursed to Borrower under the terms of this Agreement shall be made by wire transfer to U.S. Bank National Association, ABA/Routing #091000022 for credit to Account #180121167365 under Account Name: LA (Summit View).

9. **Payment Processing**. Borrower agrees to pay Bank's usual and customary fees for non-automated payment processing.

10. **Good Funds Disclosure**. BORROWER ACKNOWLEDGES THAT STATE LAW REQUIRES ANY ESCROW AGENT HANDLING FUNDS IN AN ESCROW CAPACITY (INCLUDING ANY TITLE INSURANCE COMPANY) TO HAVE DEPOSITED INTO ITS

ESCROW DEPOSITORY ACCOUNT, PRIOR TO RECORDING A TRANSACTION, IMMEDIATELY AVAILABLE FUNDS REPRESENTING ALL DISBURSEMENTS TO BE MADE BY THE ESCROW AGENT. ACCORDINGLY, WITH RESPECT TO ALL FUNDS TO BE DISBURSED PURSUANT TO THE ABOVE, BORROWER AUTHORIZES BANK TO MAKE SUCH DISBURSEMENT TO THE TITLE INSURER ON THE DATE SPECIFIED BY SAID TITLE INSURER, WHICH DATE MAY BE PRIOR TO THE RECORDING OF THE DEED OF TRUST. INTEREST ON AMOUNTS OUTSTANDING UNDER THE NOTE SHALL ACCRUE FROM THE DATE OF DISBURSEMENT, WHICH MAY NOT BE THE DATE OF RECORDING OF THE DEED OF TRUST. TITLE INSURER SHALL SPECIFY THE DATE IT REQUIRES SUCH PROCEEDS (INCLUDING BORROWER LOAN PROCEEDS) FOR USE IN SAID ESCROW.

This Disbursement Schedule is executed by Borrower, Governmental Lender and Bank this 1st day of [DATED DATE].

BORROWER:

[BORROWER SIGNATURE BLOCK]

GOVERNMENTAL LENDER:

CITY OF LOS ANGELES

By Housing and Community Investment Department

By _____
Name _____
Title _____

Approved as to form:

MICHAEL N. FEUER, City Attorney:

By _____
Name _____
Title _____

BANK:

MUFG UNION BANK, N.A.

By _____
Name _____
Title _____

# EXHIBIT B-1

# PROJECT BUDGET

## EXHIBIT C

## SPECIAL CONDITIONS

1. The following representations and warranties are incorporated by reference in Section 6 of this Agreement:

(a) The Project is located wholly within the jurisdiction of the City of Los Angeles.

(b) The Borrower shall make no changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act or impair the exclusion from gross income for federal income tax purposes of the interest on the Funding Loan Note. The Borrower intends to utilize the Project as multifamily rental housing during the Qualified Project Period (as defined in the Tax-Exempt Regulatory Agreement).

(c) Not in excess of two percent (2%) of the proceeds of the Borrower Loan will be used to pay costs of issuance of the Funding Loan Note.

(d) The acquisition, construction and operation of the Project in the manner presently contemplated and as described herein and in the Tax-Exempt Regulatory Agreement will not conflict with any zoning, water or air pollution or other ordinance, order, law or regulation applicable thereto. The Borrower will cause the Project to be constructed and operated in all material respects in accordance with all applicable federal, state and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality.

(e) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the Project; that it is familiar with the provisions of all of the documents and instruments relating to the financing of the Project to which it is a party; 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 Governmental Lender for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Governmental Lender in any manner except to issue the Funding Loan Note in order to provide funds for the Borrower Loan.

The Borrower intends to hold the Project for its own account, has no current plans to sell and has not entered into any agreement to sell the Project.

(g) The Borrower has contacted all "related persons" thereof (within the meaning of Section 147(a) of the Code) of which it is aware; and none of them shall, at any time, pursuant to any arrangement, formal or informal, acquire any interest in the Funding Loan Note in an amount related to the amount of the Borrower Loan.

(h) All of the proceeds from the Borrower Loan plus any income from the investment of the proceeds of the Borrower Loan will be used to pay or reimburse the Borrower for Project Costs (as defined in the Tax-Exempt Regulatory Agreement), and at least 97% of the proceeds of the Borrower Loan will be used to pay or reimburse the

Borrower for Qualified Project Costs (as defined in the Tax-Exempt Regulatory Agreement) and less than 25% of such amount will be used to pay or reimburse the Borrower for the cost of land or any interest therein. The Borrower shall assure that the proceeds of the Borrower Loan are expended so as to cause the Funding Loan Note to constitute a "qualified residential rental bond" within the meaning of Section 142(d) of the Code.

(i) The Borrower has not knowingly taken or permitted to be taken and will not knowingly take or permit to be taken any action which would have the effect, directly or indirectly, of causing interest on the Funding Loan Note to be included in the gross income of the owners thereof for purposes of federal income taxation.

(j) The Borrower hereby represents and warrants that, within the meaning of Section 147(b) of the Code, the weighted average maturity of the Funding Loan Note does not exceed 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of the Funding Loan Note.

(k) The Borrower represents and warrants that no portion of the proceeds of the Borrower Loan will be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises, and no portion of the proceeds of the Borrower Loan will be used for an office unless (i) the office is located on the premises of the facilities constituting the Project and (ii) not more than a de minimis amount of the functions to be performed at such office is not related to the day-to-day operations of the Project.

2. The following covenants of Borrower are incorporated by reference in Section 7 of this Agreement:

(a) The Borrower covenants that it shall not take, or permit or suffer to be taken by the Governmental Lender or otherwise, any action with respect to the proceeds of the Funding Loan Note which if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Funding Loan Note would have caused the Funding Loan Note to be an "arbitrage bond" within the meaning of Section 148(a) of the Code.

(b) **Payment of Governmental Lender Fees and Expenses**.

(i) Borrower hereby agrees to pay to the Governmental Lender the amounts described in Sections 7(n) and (o) of the Tax-Exempt Regulatory Agreement.

(ii) The Borrower agrees to pay to the Governmental Lender, within fifteen (15) days after receipt of request for payment thereof, all reasonable out-of-pocket expenses of the Governmental Lender related to the Project and the financing thereof that are not otherwise required to be paid by the Borrower under the terms of this Agreement and are not paid from disbursements of the Borrower Loan, 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 Funding Loan.

(c) **Tax Exempt Status of the Funding Loan Note**.

(i) It is the intention of the Governmental Lender, Bank and the Borrower that interest on the Funding Loan Note shall be and remain excludable from gross income for federal income taxation purposes, and to that end the covenants and agreements of the Borrower in this Section are for the benefit of the Bank and the Governmental Lender.

(ii) The Borrower covenants and agrees that it will not knowingly and willingly use or permit the use of any of the funds provided by the Governmental Lender or the Bank hereunder or any other funds of the Borrower, directly or indirectly, in such manner as would, or enter into, or allow any "related person" (as defined in Section 147(a)(2) of the Code) to enter into, any arrangement, formal or informal, for the purchase of the Funding Loan Note that would, or take or omit to take any other action that would cause the Funding Loan Note to be an "arbitrage bond" within the meaning of Section 148 of the Code or "federally guaranteed" within the meaning of Section 156(b) of the Code and applicable regulations promulgated from time to time thereunder.

(iii) In the event that at any time the Borrower is of the opinion or becomes otherwise aware that for purposes of this Section it is necessary to restrict or to limit the yield on the investment of any moneys held under the Funding Loan Agreement, the Borrower Loan Documents or otherwise by the Bank, the Borrower shall determine the limitations and so instruct the Bank in writing and cause the Bank to comply with those limitations.

(iv) The Borrower will take such action or actions as may be reasonably necessary in the opinion of Tax Counsel or of counsel to the Governmental Lender, or of which it otherwise becomes aware, to fully comply with Section 148 of the Code.

(v) The Borrower further agrees that it shall not discriminate on the basis of race, creed, color, sex, sexual preference, source of income (e.g. AFDC, SSI), physical disability, national origin or marital status 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, to the extent required by applicable State or federal law.

(vi) The Borrower further warrants and covenants that it has not executed and will not execute any other agreement, or any amendment or supplement to any other agreement, with provisions contradictory to, or in opposition to, the provisions of this Borrower Loan Agreement and of the Tax-Exempt Regulatory Agreement, and that in any event, the requirements of this Borrower Loan Agreement and the Tax-Exempt Regulatory Agreement are

paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith and therewith.

(vii) The Borrower shall not purchase, and shall use its best efforts to prevent any guarantor of the Borrower from purchasing, pursuant to an arrangement, formal or informal, any interest in the Funding Loan Note in an amount related to the amount of the Borrower Loan.

(viii) The Borrower will use due diligence to complete the acquisition and construction of the Project and reasonably expects to fully expend the portion of the Borrower Loan by the Completion Date.

(ix) The Borrower will calculate or cause to be calculated, at the times required by the Code, any rebate due to the federal government in respect of the Funding Loan Note, and will make timely payment of any rebate amount due to the federal government.

(d) **Federal Guarantee Prohibition**. The Borrower shall take no action, nor permit nor suffer any action to be taken if the result of the same would be to cause the Funding Loan Note to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(e) **Limited Liability**. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Borrower Loan Agreement, the Funding Loan Note or any of the other Borrower Loan Documents, except only to the extent amounts are received for the payment thereof from the Borrower under this Borrower Loan Agreement. All obligations and any liability of the Governmental Lender shall be further limited as provided in Sections 4.1, 5.2 and 6.14 of the Funding Loan Agreement.

**EXHIBIT D**

**CONDITIONS TO CONVERSION**

The following shall be the conditions precedent to conversion:

| | Conditions to Conversion | Check When Satisfied |
|---|---|---|
| (a) | The final disbursement shall have occurred. | ☐ |
| (b) | All indebtedness incurred by the Borrower in connection with the Project, including, but not limited to, the Borrower Loan and the Subordinate Loans, shall be completely funded and, if applicable, converted to permanent financing. | ☐ |
| (c) | No material adverse change has occurred in the financial condition of Borrower, Guarantor or General Partner, as evidenced by current Financial Statements provided by Borrower to Bank. | ☐ |
| (d) | All representations and warranties made by Borrower in the Borrower Loan Documents and the Funding Loan Documents shall be true and correct on and as of the Conversion Date as if made on and as of the Conversion Date (and, if required by Bank, Bank shall have received a certificate of Borrower to that effect). | ☐ |
| (e) | The Improvements shall not have been materially injured or damaged by fire or other casualty (unless otherwise restored or repaired in accordance with the provisions of the Borrower Loan Documents). | ☐ |
| (f) | Bank shall have received (A) such endorsements to the Title Policy as Bank may require which shall insure that the Improvements have been completed free of all mechanic's and materialmen's liens or claims thereof, or (B) such additional title policies with endorsements as Bank may require, with a liability limit of not less than the principal amount of the Borrower Loan, issued by Title Insurer, with coverage and in form satisfactory to Bank, insuring Governmental Lender's and Bank's interest under the Deed of Trust as a first lien on the Real Property, excepting only such items as shall have been approved in writing by Bank. | ☐ |
| (g) | Borrower delivers to Bank fully executed copies of any amendments or assignments affecting the formation documents of Borrower and, if applicable, its constituent general partners or members, to the extent not previously provided to and approved by Bank. | ☐ |

| | Conditions to Conversion | Check When Satisfied |
|---|---|---|
| (h) | Borrower provides Bank with current evidence of the insurance coverage required pursuant to this Agreement, provided that Borrower need not provide evidence of course of construction insurance and Borrower shall in addition provide evidence of business interruption and/or rental interruption insurance, as applicable. | ☐ |
| (i) | Bank shall have received the Paydown Amount in cash or current funds. | ☐ |
| (j) | During each month of the three-month period immediately preceding the Conversion Date, at least ninety percent (90%) of the Units within the Property shall have been leased to, and occupied by, third-party residential tenants under Acceptable Unit Leases executed by Borrower in strict compliance with the terms and conditions of this Agreement and the Regulatory Agreements as evidenced by the rent rolls delivered pursuant to Section 3.2.1 of this Agreement. | ☐ |
| (k) | The Improvements shall have been completed in substantial accordance with the Plans free and clear of all liens other than Permitted Liens and Bank shall have received copies of the final certificates of occupancy for each Unit within the Property. | ☐ |
| (l) | As of the Conversion Date, no Event of Default and no other event or condition that, with the giving of notice or the passage of time, or both, would become an Event of Default, shall have occurred and be continuing. | ☐ |
| (m) | If required by Bank, a current survey of the Real Property, including dimensions and delineation of all the Improvements and location of all easements thereon, certified to and satisfactory to Bank and Title Insurer. | ☐ |
| (n) | Guarantor has executed and delivered to Governmental Lender and Bank the Indemnity Agreement. | ☐ |
| (o) | The Debt Coverage Ratio for the Property shall have been at least 1.15 to 1.00 for the ninety (90) consecutive days immediately prior to the Conversion Date (i) assuming an annual rate of interest equal to the fixed rate on the Hedge (inclusive of the Margin) and (ii) an amortization period of one hundred eighty (180) months. | ☐ |
| (p) | Borrower shall have established with Bank the Capital Improvement Reserve Account and collaterally assigned such account to Bank. | ☐ |

| | Conditions to Conversion | Check When Satisfied |
|---|---|---|
| (q) | Borrower shall have paid to Bank all reasonable costs and expenses incurred by Bank and Fiscal Agent in connection with the Conversion. | ☐ |
| (r) | Borrower delivers to Bank such other documentation, certifications, opinions and information as may be required by Bank. | ☐ |
| (s) | If requested by Bank, Borrower shall have delivered to Bank evidence reasonably satisfactory to Bank demonstrating the Project is in compliance with all applicable provisions of the Code and the R&T Code pertaining to Tax Credits, if applicable, and all other statutes and regulations governing the Tax Credits including, without limitation, the monitoring and reporting requirements set forth in the Qualified Allocation Plan. | ☐ |
| (t) | Intentionally Omitted. | ☐ |
| (u) | If requested by Bank, (a) each Subordinate Lender shall have executed and delivered to Bank an estoppel certificate which contains such certifications similar to the estoppel certifications provided in the applicable Subordination Agreement, as Bank shall reasonably require with respect to the applicable Subordinate Documents and/or the Land Use Restrictions, and (b) Tax Credit Investor shall have executed and delivered to Bank an estoppel certificate in form and substance reasonably acceptable to the Bank, which shall contain such certifications as Bank shall reasonably require with respect to Tax Credit Investor's obligations under the Partnership Agreement. | ☐ |
| (v) | Borrower shall have entered into one or more Hedges, in form and content and from a counterparty complying with the provisions contained in Section 7.52, which shall provide for the Borrower to pay a fixed rate of interest no greater than [_____] ([____]%) (including the Margin), on an amount not more than the entire outstanding principal balance of the Borrower Note as of the Conversion Date for the period commencing on the Outside Conversion Date and ending on the Maturity Date. | ☐ |
| (w) | Such evidence as Bank may require evidencing expenditure of Borrower's Equity on Project costs in accordance with this Agreement is at least $[_____] in the aggregate. | ☐ |

| | Conditions to Conversion | Check When Satisfied |
|---|---|---|
| (x) | The Loan-to-Value Ratio shall not exceed eighty percent (80%). In the event the Loan-to-Value Ratio exceeds eighty percent (80%), then Borrower shall have the option to pay down the outstanding principal balance under the Borrower Note by an amount that will reduce such ratio to no more than eighty percent (80%). Bank shall have the right to require an Appraisal of the Property. Any and all costs, fees and expenses incurred in connection with such Appraisal shall be paid by Borrower. | ☐ |
| (y) | Borrower shall have entered into the HAP Contract on terms and conditions acceptable to Bank and executed the Assignment of HAP Contract, and Contract Administrator shall have consented to the collateral assignment of the HAP Contract to Bank pursuant to the Assignment of HAP Contract. | ☐ |
| (z) | The undisbursed portion of the HCID HHH Loan and the CDA Loan shall have been fully funded, or shall fully fund concurrently with Conversion. | ☐ |
| (aa) | Borrower shall have all out-of-pocket expenses, including but not limited to recording and filing fees, title insurance premiums, survey invoices, escrow fees, legal fees, appraisal and inspection fees in connection with the Conversion. | ☐ |

**Attachment D**

*Regulatory Agreement for SagePointe next page.*

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

KUTAK ROCK LLP
1650 FARNAM STREET
OMAHA, NE 68102
ATTENTION: J. TOGER SWANSON, ESQ.

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**REGULATORY AGREEMENT**
**AND DECLARATION OF RESTRICTIVE COVENANTS**

by and among

**CITY OF LOS ANGELES**,
as City

and

**{FISCAL AGENT]**,
as Fiscal Agent

and

**LINC-WILMINGTON APTS LP**,
as Borrower

relating to

$16,525,000
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Series 2021T

Dated as of [DATED DATE]

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EXHIBIT A DESCRIPTION OF PROJECT SITE
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**REGULATORY AGREEMENT AND**
**DECLARATION OF RESTRICTIVE COVENANTS**

**THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS** (this "Agreement" or this "Regulatory Agreement") is made and entered into and dated as of [DATED DATE] by and among the **CITY OF LOS ANGELES**, a charter city and municipal corporation in the State of California (together with any successor to its rights, duties and obligations, the "City"), **[FISCAL AGENT]**, a national banking association in its capacity as Fiscal Agent (the "Fiscal Agent") under the Funding Loan Agreement dated as of [DATED DATE] (the "Funding Loan Agreement") by and among the City, MUFG Union Bank, N.A., as Funding Lender and the Fiscal Agent, with an office in Los Angeles, California, and **LINC-WILMINGTON APTS LP**, a California limited partnership (the "Borrower").

W I T N E S S E T H :

WHEREAS, pursuant to Section 248 of the City Charter of the City and Article 6.3 of Chapter 1 of Division 11 of the Los Angeles Administrative Code, as amended (collectively, the "Law"), and in accordance with Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California, as amended (the "Act"), the City is empowered to issue notes and other evidence of indebtedness to finance the acquisition, construction and equipping of multifamily rental housing; and

WHEREAS, on September 22, 2020, the City indicated its intent to provide for the issuance of a revenue bond or note to finance a portion of the acquisition, construction and equipping of Sage Pointe Apartments, a multifamily residential rental housing project which will be located in the City of Los Angeles at 1435 North Eubank Avenue on the site more particularly described in Exhibit A hereto (the "Project") and the City Council of the City subsequently adopted a resolution (the "Resolution") authorizing the issuance of a note for such purpose; and

WHEREAS, in furtherance of the purposes of the Law, the Act and the Resolution, and as a part of the City's program of financing housing, the City has issued $16,525,000 maximum aggregate principal amount of its Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Series 2021T (the "Note") the proceeds of which will be used to fund a loan (the "Loan") to the Borrower to finance a portion of the acquisition, construction and equipping of the Project; and

WHEREAS, in order for interest on the Note to be excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986 (the "Code"), and the below-defined Regulations and rulings with respect to the Code, and in order to comply with the Law, the Act and the policies with respect to the City's housing program, the use and operation of the Project must be restricted in certain respects; and

WHEREAS, the City, the Fiscal Agent and the Borrower have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, construction and equipping of the Project and in order to ensure that the Project will be used and operated in accordance with the Code, the Law, the Act and the additional requirements of the City and the California Debt Limit Allocation Committee ("CDLAC");

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the City, the Fiscal Agent and the Borrower hereby agree as follows:

**Section 1. Definitions and Interpretation**. Terms not otherwise defined herein shall have the meanings assigned thereto in the Funding Loan Agreement or the Loan Agreement, as applicable. The following terms shall have the respective meanings assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise:

"*Act*" means Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California, as the same may be amended from time to time (but only to the extent any such amendments, by their terms or by appropriate election of the City, apply to the Note outstanding as of the effective date of such amendments).

"*Adjusted Income*" means the adjusted income of a person (together with the adjusted income of all persons who intend to reside with such person in one residential unit) calculated pursuant to Section 142(d)(2)(B) of the Code.

"*Affiliated Party*" means a limited or general partner or member of the Borrower, a person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code or a person who, together with the Borrower, is a member of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

"*Agreement*" or "*Regulatory Agreement*" means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be amended from time to time.

"*Area*" means the Los Angeles Primary Metropolitan Statistical Area.

"*Authorized Borrower Representative*" means any person who, at any time and from time to time, may be designated as the Borrower's authorized representative by written certificate furnished to the City and the Fiscal Agent containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized general partner of the Borrower if the Borrower is a general or limited partnership, by any authorized managing member of the Borrower if the Borrower is a limited liability company, or by any authorized officer of the Borrower if the Borrower is a corporation, which certificate may designate an alternate or alternates, or in the event that such term shall refer to successors or assigns of the Borrower, any authorized general partner if the successor or the assignee is a general or limited partnership, any authorized managing member if the successor or assignee is a limited liability company or any authorized officer if the successor or the assignee is a corporation. The Fiscal Agent may conclusively presume that a person designated in a written certificate filed with it as an Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it (with a copy to the City) a written certificate identifying a different person or persons to act in such capacity.

"*Bond Counsel*" means an attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the validity of, and the Tax-exempt nature of interest on, obligations issued by states and their political subdivisions, selected by the City and duly admitted

to the practice of law before the highest court of any state of the United States of America or the District of Columbia but shall not include counsel for the Borrower or the Fiscal Agent.

"*Borrower*" means Linc-Wilmington Apts LP, a California limited partnership, and its successors and assigns.

"*CDLAC*" means the California Debt Limit Allocation Committee or its successors.

"*CDLAC Conditions*" has the meaning given such term in Section 33 hereof.

"*CDLAC Resolution*" means CDLAC Resolution No. 20-172, adopted on December 9, 2020, attached to this Regulatory Agreement as Exhibit G and relating to the Project as such resolution may be modified or amended from time to time.

"*Certificate of CDLAC Program Compliance*" means the Certification of Compliance II for Qualified Residential Rental Projects, or equivalent form, to be filed with the City at the times specified in Section 33(a) of this Regulatory Agreement, such report to contain the information set forth in and to be in substantially the form attached hereto as Exhibit E or such other form required or otherwise provided by CDLAC from time to time.

"*Certificate of Continuing Program Compliance*" means the Certificate of Continuing Program Compliance and Statistical Report to be filed by the Borrower with the City and the Fiscal Agent at the times specified in Sections 4(d) and (f) of this Regulatory Agreement, such report to contain the information set forth in and to be in substantially the form attached hereto as Exhibit B or such other form as may from time to time be prescribed by the City.

"*Certificate of Qualified Project Period*" means the certificate to be filed by the Borrower upon commencement of the Qualified Project Period in substantially the form attached hereto as Exhibit J.

"*City*" means the City of Los Angeles, a charter city and municipal corporation of the State of California.

"*Closing Date*" or "*Note Closing Date*" means the date upon which the Note is initially funded in an amount equal to at least $50,001.

"*Code*" means the Internal Revenue Code of 1986; 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.

"*Completion Date*" means the date of the completion of the acquisition, construction and equipping of the Project, as that date shall be certified as provided in Section 2(i) hereof as specified in the Construction Completion Certificate.

"*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 33 of this Regulatory Agreement.

"*Construction Completion Certificate*" means a written certification signed by an Authorized Borrower Representative certifying among other things to the substantial completion of the Project and delivered to the City, the Fiscal Agent and CDLAC not more than 30 months after the Closing Date, in substantially the form of Exhibit F hereto or such other form required or otherwise provided by CDLAC from time to time.

"*Costs of Issuance*" means costs of issuing the Note as set forth in the Funding Loan Agreement.

"*Determination of Taxability*" means either (a) refusal by the Borrower to consent to any amendment or supplement hereto or to the Funding Loan Agreement which, in the written opinion of Bond Counsel delivered to the City, the Fiscal Agent, the Funding Lender and the Borrower, is necessary or advisable to maintain the exclusion of interest on the Note from gross income for federal income tax purposes; or (b) any of (i) the enactment of applicable legislation of which the Fiscal Agent has actual knowledge, (ii) a final judgment or order of a court of original or appellate jurisdiction of which the Fiscal Agent has actual knowledge, (iii) a final ruling or decision of the Internal Revenue Service of which the Fiscal Agent has actual knowledge or (iv) the filing with the Fiscal Agent of an opinion of Bond Counsel, in each case to the effect that the interest on the Note (other than interest on the Note for any period during which such Note is held by a "substantial user" of any facility financed with the proceeds of the Note or a "related person," as such terms are used in Section 147(a) of the Code) is includable in the gross incomes of all recipients thereof for federal income tax purposes. With respect to the foregoing, a judgment or order of a court or a ruling or decision of the Internal Revenue Service shall be considered final only if no appeal or action for judicial review has been filed and the time for filing such appeal has expired.

"*Fiscal Agent*" means [FISCAL AGENT] in its capacity as fiscal agent under the Funding Loan Agreement, together with its successors and assigns.

"*Funding Loan Agreement*" means the Funding Loan Agreement dated as of [DATED DATE] by and among the City, the Funding Lender and the Fiscal Agent relating to the issuance of the Note, as amended, modified, supplemented or restated from time to time.

"*Hazardous Materials*" means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls ("PCBs") and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Project is prohibited by any federal, state or local authority; any substance that requires special handling and any other material or substance now or in the future that (i) is defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," "toxic pollutant," "contaminant," or "pollutant" by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law.

"*Hazardous Materials Laws*" means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, administrative

rulings and court judgments and decrees in effect now or in the future and including all amendments, that relate to Hazardous Materials or the protection of human health or the environment and apply to the Borrower or to the Project. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq., and their state analogs.

"*Housing Act*" means the United States Housing Act of 1937, as amended, or its successor.

"*HUD*" means the U.S. Department of Housing and Urban Development and any successor agency.

"*Income Certification*" means, initially, an Income Certification in the form attached hereto as Exhibit C or in such other form as may from time to time be provided by the City to the Borrower and, with respect to recertifications, the Annual Tenant Income Recertification attached hereto as Exhibit D or in the alternative, the California Tax Credit Allocation Committee Tenant Income Certification Form, HUD Form 50059 or such other form as may, from time to time, be provided by the City to the Borrower.

"*Inducement Date*" means September 22, 2020.

"*Loan*" means the loan of the sale proceeds of the Note by the City to the Borrower pursuant to the Loan Agreement for the purpose of providing funds for the acquisition, construction and equipping of the Project.

"*Loan Agreement*" means the Construction and Permanent Loan Agreement (Multifamily Housing Back to Back Loan Program) dated as of [DATED DATE] by and among the City, MUFG Union Bank, N.A. and the Borrower, as amended or supplemented from time to time.

"*Low Income Tenant*" means a tenant whose Adjusted Income does not exceed limits determined in a manner consistent with determinations of lower-income families under Section 8 of the Housing Act, except that the percentage of median gross income that qualifies as lower income shall be 60% or less of median gross income for the Area with adjustments for family size. Except as otherwise provided herein, the occupants of a unit in the Project shall not be considered to be Low Income Tenants if all the occupants of a unit are students (as defined in Section 152(f)(2) of the Code) and any one of those students is not (1) a single parent living with his/her children; (2) a student receiving assistance under Title IV of the Social Security Act (Temporary Assistance for Needy Families); (3) a student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar federal, state, or local laws; (4) a student who was previously under the care and placement responsibility of a foster care program (under part B or E of Title IV of the Social Security Act); or (5) a student who is married and files a joint return. Single parents described in (1) above may not be dependents of another individual and their children may not be dependents of another individual other than their parents. The determination of a tenant's status as a Low Income Tenant shall be made by the Borrower upon initial occupancy of a unit in the Project by such tenant and annually thereafter and at any time the

Borrower has knowledge that the number of occupants in that unit has increased, on the basis of an Income Certification executed by the tenant.

"*Low Income Units*" means the units in the Project required to be rented to, or held available for occupancy by, Low Income Tenants pursuant to Sections 4(a), 4(b) and 6(a) hereof.

"*Net Proceeds*" means the total proceeds derived from the issuance, sale and delivery of the Note, representing the total purchase price of the Note, including any premium paid as part of the purchase price of the Note, but excluding the accrued interest, if any, on the Note paid by the initial purchaser of the Note.

"*Note Documents*" means the Funding Loan Agreement, the Loan Agreement, this Regulatory Agreement, the Tax Certificate and any other document now or hereafter executed by the Borrower, City, Fiscal Agent or Noteholder in connection with the Note.

"*Noteholder*" or "*Owner*" or "*Holder*" means the party identified as the owner of the Note on the registration books maintained by the Fiscal Agent on behalf of the Governmental Lender.

"*Project*" means the Project Facilities and the Project Site.

"*Project Costs*" means, to the extent authorized by the Code, the Regulations, the Law and the Act, any and all costs incurred by the Borrower with respect to the acquisition, construction and equipping, the credit enhancement fees, if any, attributable to the period of the construction of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, costs for site preparation, the planning of housing, related facilities and improvements, the acquisition of property, the removal or demolition of existing structures, the construction or rehabilitation of housing and related facilities and improvements, and all other work in connection therewith, including Qualified Project Costs, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors' and developer's overhead and supervisors' fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or other entity or person for expenditures made, for the Project).

"*Project Facilities*" means the buildings, structures and other improvements on the Project Site to be acquired, constructed, equipped or improved by the Borrower, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Project. Project Facilities do not include retail sales facilities, leased office space, commercial facilities or recreational, fitness, parking or business facilities available to members of the general public.

"*Project Site*" means the parcel or parcels of real property, in which a fee estate is granted to the Borrower, having the street address of 1435 North Eubank Avenue in the City of Los Angeles, California and all rights and appurtenances thereunto appertaining, as more particularly described in Exhibit A hereto.

"*Qualified Project Costs*" means the Project Costs (excluding issuance costs) incurred not earlier than the date 60 days prior to the Inducement Date which either constitute land or property

of a character subject to the allowance for depreciation under Section 167 of the Code, or are chargeable to a capital account with respect to the Project for federal income tax and financial accounting purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts; provided, however, that only such portion of the interest accrued on the Note during the construction of the Project shall constitute Qualified Project Costs as bear the same ratio to all such interest or fees, as applicable, as the Qualified Project Costs bear to all Project Costs; and provided further that interest accruing on or after the Completion Date shall not be Qualified Project Costs; and provided finally that if any portion of the Project is being constructed by the Borrower or an Affiliated Party (whether as a general contractor or a subcontractor), "Qualified Project Costs" shall include only (a) the actual out-of-pocket costs incurred by the Borrower or such Affiliated Party in constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Borrower or such Affiliated Party (but excluding any profit component) and (c) any overhead expenses incurred by the Borrower or such Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof). Qualified Project Costs do not include Costs of Issuance. Notwithstanding anything herein to the contrary, no Project Costs relating to the acquisition of the Project or any assets relating thereto (including, without limitation, rights and interests with respect to development of the Project) shall constitute "Qualified Project Costs" unless, at the time Note proceeds are expended to pay such costs, the Borrower and the seller of such assets are not "related parties" as such term is defined in Section 1.150-1(b) of the Regulations.

"*Qualified Project Period*" means the period beginning on the first day on which 10% of the dwelling units in the Project are first occupied and ending on the latest of (a) the date which is 15 years after the date on which 50% of the dwelling units in the Project are first occupied, (b) the first date on which no Tax-exempt private activity bond (as that phrase is used in Section 142(d)(2) of the Code) issued with respect to the Project is outstanding or (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates. The CDLAC Conditions apply for a period which, in some cases, exceeds the Qualified Project Period.

"*Regulations*" means the Income Tax Regulations promulgated or proposed (if deemed appropriate in the opinion of Bond Counsel) by the Department of the Treasury pursuant to the Code from time to time.

"*Tax Certificate*" means the Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 dated the Closing Date, executed and delivered by the City and the Borrower, as amended, modified, supplemented or restated from time to time.

"*Tax-exempt*" means, with respect to interest on any obligations of a state or local government, including the Note, that such interest is excluded from gross income for federal income tax purposes (other than interest on the Note for any period during which the Note is held by a "substantial user" of any facility financed with the proceeds of the Note or a "related person," as such terms are used in Section 147(a) of the Code); 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.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender shall be construed to include each other gender and words of the singular number shall be construed to include the plural number, and vice versa. 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 defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms shall be determined by reference to this Section l, notwithstanding any contrary definition in the preamble or recitals 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.

In the event of any conflict between this Regulatory Agreement and the CDLAC Conditions, the most restrictive requirement shall govern.

**Section 2. Acquisition, Construction and Equipping of the Project**. The Borrower hereby represents as of the date hereof, covenants and agrees with the City and the Fiscal Agent as follows:

(a) The Borrower has incurred, or will incur within six months after the Closing Date, a substantial binding obligation to commence the acquisition of a fee interest, construction and equipping of the Project, pursuant to which the Borrower is or will be obligated to expend at least 5% of the proceeds of the Loan financed from proceeds of the Note.

(b) The Borrower's reasonable expectations respecting the total cost of the acquisition, construction and equipping of the Project are accurately set forth in the Borrower Cost Certificate (the "Borrower Cost Certificate") submitted to the City on the Closing Date.

(c) The Borrower has acquired the Project Site and will, within six months following the Note Closing Date, commence the construction of the Project and will proceed with due diligence to complete the same. Notwithstanding anything herein to the contrary, no Project Costs relating to the acquisition of the Project or any assets relating thereto (including, without limitation, rights and interests with respect to development of the Project) shall constitute "Qualified Project Costs" unless, at the time Note proceeds are expended to pay such costs, the Borrower and the seller of such assets are not "related parties" as such term is defined in Section 1.150-1(b) of the Regulations. The Borrower reasonably expects to complete the acquisition, construction and equipping of the Project and to expend the full amount of the proceeds of the Loan for Project Costs prior to the date which is 30 months after the Closing Date.

(d) The Borrower agrees that the full amount of each disbursement of Note proceeds pursuant to the Funding Loan Agreement and the Loan Agreement will be applied to pay or to reimburse the Borrower for the payment of Project Costs as set forth in the Borrower Cost Certificate and that, after taking into account each such disbursement, (i) the aggregate disbursements of Note proceeds will have been applied to pay or to reimburse the Borrower for the payment of Qualified Project Costs in an aggregate amount equal to 97% or more of the aggregate disbursements of the Loan; provided, however, that if the Borrower provides the Fiscal Agent with an opinion of Bond Counsel to the effect that the Tax-exempt status of interest on the Note will not be adversely affected if less than the aforesaid percentage, but not less than 95%, is disbursed for such purpose, then the certificate may refer to such lesser percentage as may be specified by Bond Counsel; and (ii) less than 25% of the proceeds of the Note expended relative to the Project Site will be disbursed to pay or to reimburse the Borrower for the cost of acquiring land or rights with respect to land relative to the Project Site (exclusive of the cost of acquiring improvements on such land).

(e) Reserved.

(f) No proceeds of the Note will be used to pay or reimburse any cost (i) incurred more than 60 days prior to the Inducement Date, or (ii) incurred more than three years prior to such payment or reimbursement. Any allocation of Note proceeds to the reimbursement of previously incurred costs shall be made not later than 18 months after the later of (i) the date the original expenditure was paid or (ii) the date the Project is placed in service or abandoned. The acquisition, construction and equipping of the Project by the Borrower commenced less than 60 days prior to the Inducement Date, and as of 60 days prior to the Inducement Date (A) neither the Borrower nor any "related person" (as such phrase is used in Section 147(a)(2) of the Code) has made any expenditure in connection with the acquisition, construction or equipping of the Project, (B) no on-site work has been commenced by the Borrower or any related person in connection with the construction of the Project, and (C) no off-site fabrication of any portion of the Project has been commenced by the Borrower or any related person. The Project consists, and shall at all times consist, of property which is land or is subject to the allowance for depreciation provided in Section 167 of the Code.

(g) Reserved.

(h) The Borrower (and any Affiliated Party) will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds from the Loan to be applied in a manner contrary to the requirements of this Regulatory Agreement, nor will it take or omit to take any such action if the Borrower (or any Affiliated Party) knows that such action or omission may cause the proceeds from the sale of the Note to be applied in a manner contrary to the Funding Loan Agreement, the Loan Agreement, the Law, the Act or the Code.

(i) The Borrower shall, on the Completion Date, evidence the Completion Date by providing a Construction Completion Certificate to CDLAC, the Fiscal Agent and the City, signed by the Authorized Borrower Representative. Notwithstanding the foregoing,

such certificate may state that it is given without prejudice to any rights of the Borrower against third parties for the payment of any amount not then due and payable which exist at the date of such certificate or which may subsequently exist. The Construction Completion Certificate shall be delivered to the Fiscal Agent no later than the date 36 months from the Closing Date unless the Borrower delivers to the Fiscal Agent a certificate of the City consenting to an extension of such date, accompanied by an opinion of Bond Counsel to the effect that such extension will not result in interest on the Note being included in gross income for federal income tax purposes.

(j) The Borrower agrees to spend additional moneys for payment of any costs of the Project sufficient to reduce the portion of Note proceeds (A) spent on land by the Borrower relative to the Project Site to an amount that is less than 25% of the amount of Note proceeds spent by the Borrower relative to the Project Site for all purposes and (B) spent on costs of the Project paid or incurred by or on account of the Borrower or any "related person" (as such term is used in Section 147(a)(2) of the Code) on or after the date 60 days prior to the Inducement Date and chargeable to the capital account of the Project (or so chargeable either with a proper election by the Borrower to deduct such amounts, within the meaning of Treasury Regulation Section 1.103-8(a)(1)) so that the amount of Note proceeds expended on such Qualified Project Costs are at least 97% of the amount of Note proceeds spent for all purposes related to the Project, except that, upon receipt by the Borrower, the Fiscal Agent and the City of an approving opinion of Bond Counsel, the percentage of such amounts so used may be 95%.

(k) No Note proceeds shall be expended to acquire any structures other than buildings within the meaning of Section 147(d) of the Code.

**Section 3. Residential Rental Property**. The Borrower hereby acknowledges and agrees that the Project is to be owned, managed and operated as a "qualified residential rental project" (within the meaning of Section 142(d) of the Code) for a term equal to the Qualified Project Period. To that end, and for the Qualified Project Period, the Borrower hereby represents, covenants, warrants and agrees as follows:

(a) The Project Facilities will be developed for the purpose of providing multifamily residential rental property, and the Borrower will own, manage and operate the Project Facilities as a project to provide multifamily residential rental property comprising 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 and Section 1.103-8(b) of the Regulations, the Law and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time. For purposes of this Section 3(a), the term "functionally related and subordinate facilities" includes facilities for use by the tenants (for example, swimming pools, other recreational facilities and parking areas) and other facilities which are reasonably required for the Project, for example, heating and cooling equipment, trash disposal equipment and units for resident managers and maintenance personnel. Substantially all of the Project will contain such units and functionally related and subordinate facilities.

(b) All of the dwelling units in the Project will be similarly constructed units, and each Low Income 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 and oven, a sink and a refrigerator. Each of the Accessible Housing Units (as defined in Exhibit I hereto) shall also comply with the requirements of Exhibit I. Notwithstanding the foregoing, a unit shall not fail to be treated as a residential unit merely because such unit is a single-room occupancy unit within the meaning of Section 42(i)(3)(B)(iv) of the Code even though such housing may provide eating, cooking and sanitation facilities on a shared basis.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis 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. Notwithstanding the foregoing, single-room occupancy units provided under Section 42(i)(3)(B)(iv) of the Code shall not be considered to be utilized on a transient basis.

(d) No part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or uses. Other than filing a condominium map and a final subdivision map on the Project and obtaining a Final Subdivision Public Report from the California Department of Real Estate, the Borrower shall not take any steps in connection with a conversion of the Project to condominium ownership during the Qualified Project Period.

(e) All of the dwelling units (which shall not include any manager units) in the Project will be available for rental on a continuous basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent of the following: (1) any dwelling units that are required to be leased or rented to Low Income Tenants, (2) to the extent not otherwise inconsistent with the requirements of this Section 3(e), the requirements of any regulatory agreement executed between the Borrower and HUD or between the Borrower and a subordinate lender (including the City), (3) the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, (4) any preference Borrower gives to a class of persons permitted to be given preference pursuant to the Code, State law and other applicable federal law, and (5) Accessible Housing Units shall be made available to persons with disabilities as provided in Exhibit I .

(f) The Project Site consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the Project Facilities 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 Borrower; provided, however, that if the Project contains five or more dwelling units, this subsection shall not be construed to prohibit occupancy of not more than one dwelling unit by one or more resident managers or maintenance personnel any of whom may be the Borrower.

(h) The Project shall be maintained in conformity with the habitability and fire codes of the City of Los Angeles.

(i) The Project shall be managed in a manner consistent with prudent property management standards and in compliance with all state and local laws, ordinances and regulations relating thereto.

(j) Should involuntary noncompliance with the provisions of Regulations Section 1.103-8(b) be caused by fire, 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 City from enforcing the requirements of the Regulations, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the Regulations, and subject to the provisions of the Funding Loan Agreement and the Loan Agreement, it will either prepay the Loan or apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the Regulations.

**Section 4. Low Income Tenants; Records and Reports**. Pursuant to the requirements of the Code and the City, the Borrower hereby represents, warrants and covenants as follows:

(a) The Project will be developed for the purpose of providing multifamily residential rental property, and the Borrower will own, manage and operate the Project as a project to provide multifamily residential rental property comprising 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 the Law and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time. Within 30 days after the date on which 50% of the dwelling units in the Project are occupied by tenants providing an Income Certification, the Borrower shall execute and deliver to the City (with a copy to the Los Angeles Housing and Community Investment Department, Occupancy Monitoring Section, 1200 West 7th Street, 8th Floor, Los Angeles, CA 90017), and a copy to CDLAC and the Fiscal Agent a Certificate of Qualified Project Period.

(b) Commencing on the first day of the Qualified Project Period, Low Income Tenants shall occupy at least 40% of all completed and occupied units in the Project (excluding units occupied by property managers) before any additional units are occupied by persons who are not Low Income Tenants; and for the Qualified Project Period no less than 40% of the total number of completed units of the Project (excluding units occupied by property managers) shall at all times be rented to and occupied by Low Income Tenants. For the purposes of this subsection (b), a vacant unit which was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant 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. In determining whether the requirements of this subsection (b) have been met, fractions of units shall be treated as entire units.

(c) No tenant qualifying as a Low Income Tenant shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants; provided, however, that should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low Income Tenant of the same family size, the next available unit of comparable or smaller size must be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant; and provided further that, until such next available unit is rented to a tenant who is not a Low Income Tenant, the former Low Income Tenant who has ceased to qualify as such shall be deemed to continue to be a Low Income Tenant for purposes of the 40% requirement of subsection (b) of this Section 4 (if applicable). If the Project consists of more than one building, this requirement shall apply on a building-by-building basis.

(d) The Borrower will obtain, complete and maintain on file Income Certifications from each Low Income Tenant, including (i) an Income Certification dated no later than the day prior to the initial occupancy of such Low Income Tenant in the Project and (ii) thereafter, annual Income Certifications dated as of the anniversary date of each initial Income Certification. The Borrower will obtain such additional information as may be required in the future by the State of California, by the City and by Section 142(d) of the Code, 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 obligations which are Tax-exempt under Section 142(d) of the Code. A copy of the most recent Income Certification for Low Income Tenants commencing or continuing occupation of a Low Income Unit (and not previously filed with the City) shall be attached to the Certificate of Continuing Program Compliance which is to be filed with the City no later than the fifteenth day of each month until such report indicates compliance with Section 4(b) and thereafter on the fifteenth day of each [July] and [January] until the end of the Qualified Project Period. The Borrower shall make a good-faith effort to verify that the income information provided by an applicant in an Income Certification is accurate by obtaining the acceptable forms of verification enumerated in Chapter 3 of the most current, amended edition of HUD Handbook 4350.3, or such instruction by HUD that may supersede this handbook, and any additional documentation that the City shall deem relevant, such as the two most recent years' tax returns or other forms of independent verification satisfactory to the City.

(e) The Borrower will use its best efforts to maintain complete and accurate records pertaining to the Low Income Units, and will with reasonable notice permit any duly authorized representative of the City, the Fiscal Agent, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project during regular business hours, including those records pertaining to the occupancy of the Low Income Units.

(f) The Borrower will prepare and submit to the City and the Fiscal Agent, no later than the fifteenth day of each month following the receipt by the Fiscal Agent of the Construction Completion Certificate to and including the month in which such report

indicates that 40% of the occupied units (excluding units occupied by property managers) are occupied by Low Income Tenants, and thereafter no later than the fifteenth day of each [July] and [January] until the end of the Qualified Project Period, a Certificate of Continuing Program Compliance executed by the Borrower stating (i) the percentage of the dwelling units of the Project which were occupied or deemed occupied, pursuant to subsection (b) of this Section 4, by Low Income Tenants during such period; (ii) that either (A) no unremedied default has occurred under this Regulatory Agreement, or (B) a default has occurred, in which event the certificate shall describe the nature of the default in detail and set forth the measures being taken by the Borrower to remedy such default; and (iii) that, to the knowledge of the Borrower, no Determination of Taxability has occurred, or if a Determination of Taxability has occurred, setting forth all material facts relating thereto.

(g) On or before each February 15 during the Qualified Project Period, the Borrower will submit to the City a draft of the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Project continues to meet the requirements of Section 142(d) of the Code. On or before each March 31 during the Qualified Project Period, the Borrower will submit such completed form to the Secretary of the Treasury, regardless of whether or not the City has responded to such draft.

(h) Subject to the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, each lease or rental agreement pertaining to a Low Income Unit shall contain a provision to the effect that the Borrower has relied on the Income Certification and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of the 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. Each such lease or rental agreement shall also provide that the tenant's income is subject to annual certification in accordance with Section 4(c) hereof and to recertification if the number of occupants in the units changes for any reason (other than the birth of a child to an occupant of such unit) and that if upon any such certification such tenant's Adjusted Income exceeds 140% of the then applicable income limit for a Low Income Tenant of the same family size, such tenant may cease to qualify as a Low Income Tenant, and such tenant's rent is subject to increase. Notwithstanding anything in this Section 4(h) to the contrary, such tenant's rent may be increased only pursuant to Section 7(l) hereof.

(i) Pursuant to the CDLAC Conditions attached hereto and for the entire term of the Regulatory Agreement, the Project shall consist of 56 units, including one manager unit, of which at least 55 qualified residential units shall be rented or held vacant for rental for persons or families whose income is at or below 50% of the area median income as shown in the chart below:

| Unit Type | Units at/below 50% AMI | Market Rate (Manager's Unit) | Total Number of Units |
|---|---|---|---|
| One Bedroom | 55 | 0 | **55** |
| Two Bedroom | 0 | 1 | **1** |
| **Total** | **55** | **1** | **56** |

**Section 5. Tax-exempt Status of the Note**. The Borrower and the City make the following representations, warranties and agreements for the benefit of the holder of the Note from time to time:

(a) The Borrower and the City will not knowingly take or permit actions within their control, 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 Note and, if either 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, provided that the Borrower shall not have violated these covenants if the interest on the Note becomes taxable to a person solely because such person is a "substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the Code.

(b) The Borrower and the City will take such action or actions as may be necessary, in the written opinion of Bond Counsel filed with the City and the Fiscal Agent, with a copy to the Borrower and the Funding Lender, to comply fully with all applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service pertaining to obligations the interest on which is Tax-exempt under Section 142(d) of the Code.

(c) The Borrower and the City will file or record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the City and the Fiscal Agent, with a copy to the Borrower and the Funding Lender, 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 of Los Angeles.

(d) The Borrower will not knowingly enter into any agreements which would result in the payment of principal or interest on the Note being "federally guaranteed" within the meaning of Section 149(b) of the Code.

(e) Subject to Section 14 hereof, the Borrower hereby covenants to include the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Project prior to the expiration of the Qualified Project Period to another person to the end that such transferee has notice of, and is bound by, such restrictions, and to obtain the agreement from any transferee to abide by all requirements and restrictions of this Regulatory Agreement; provided, however, that so long as any former Borrower has no remaining interest in the Project, such former Borrower shall have

no obligation to monitor such transferee's compliance with such restrictions, and such former Borrower shall incur liability if such transferee fails to comply with such restrictions only in proportion to its then remaining interest.

(f) The Borrower and any related party (as defined in Section 1.150-1(b) of the Regulations) thereto shall not acquire the Note in an amount related to the amount of the Loan.

**Section 6. Additional Requirements of the Act**. In addition to the requirements set forth in Sections 2 through 5, and without limiting any additional requirements in Section 7, during the Qualified Project Period, the Borrower and the City hereby agree to comply with each of the requirements of the Act, and, without limiting the foregoing, the Borrower hereby specifically agrees to comply with each of the requirements set forth in this Section 6, as follows:

(a) As provided in Section 52097.5 of the Act, not less than 40% of the total number of units in the Project (excluding units occupied by property managers) shall be reserved for occupancy by tenants whose adjusted gross income does not exceed 60% of the median gross income for the Area, adjusted for family size, as determined pursuant to Section 8 of the Housing Act.

(b) The rents paid by the tenant for the units reserved pursuant to paragraph (a) of this Section (excluding any supplemental rental assistance from the State, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed the amount derived by multiplying 30% times 60% of the median gross income for the Area, adjusted for family size, as determined pursuant to Section 8 of the Housing Act.

(c) During the Qualified Project Period the Borrower shall file Certificates of Continuing Program Compliance in the form and at the time required by Sections 4(d) and (f) hereof that shall contain sufficient information to allow the City to file any annual report required by the Act or pursuant to California Government Code Section 8855.5, and the Borrower shall provide to the California Debt and Investment Advisory Commission any annual report information required by California Government Code Section 8855(k)(1) until the later of the date the Note is no longer outstanding or the proceeds of the Note have been fully spent.

(d) No portion of the Note shall be used to finance the acquisition, construction, rehabilitation, equipping, refinancing or development of commercial property for lease.

(e) The Borrower shall not apply selection criteria to certificate holders under Section 8 of the Housing Act, as amended, that are more burdensome than the criteria applied to all other prospective tenants.

(f) Following the expiration or termination of the Qualified Project Period with respect to the Project, except in the event of foreclosure and redemption of the Note, deed in lieu of foreclosure, eminent domain or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant hereto shall remain available to any eligible household occupying a reserved unit at the date of expiration or

termination, at a rent not greater than the amount set forth in (b) above, until the earliest of any of the following occur:

(i) The household's income exceeds 140% of the maximum eligible income specified herein;

(ii) The household voluntarily moves or is evicted for "good cause." "Good cause," for the purposes of this Section, means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the Project, or the purposes or special programs of the Project;

(iii) Thirty (30) years after the date of the commencement of the Qualified Project Period relative to the Project; and

(iv) The Borrower pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the California Government Code.

(g) During the three years prior to expiration of the Qualified Project Period, the Borrower shall continue to make available to Low Income Tenants reserved units that have been vacated to the same extent that nonreserved units are made available to tenants other than Low Income Tenants.

Notwithstanding Section 1461 of the California Civil Code, the provisions hereof shall run with the land and may be enforced either in law or in equity by any resident, local agency, entity or any other person adversely affected by the Borrower's failure to comply with this Regulatory Agreement.

**Section 7. Additional Requirements of the City**. In addition to, and not in derogation of, the requirements set forth in the preceding and following sections of this Regulatory Agreement, each of which is hereby incorporated in this Section as a specific requirement of the City, whether or not required by California or federal law, the Borrower represents, warrants, covenants and agrees as follows:

(a) The Borrower shall promptly provide to the City such information with respect to the Project or the Note as the City shall from time to time request. The Borrower shall provide written notice to the City of receipt of a certificate of occupancy or other official authorization to occupy the Project immediately upon receipt.

(b) The Low Income Units shall be of comparable quality to all other units in the Project, shall be dispersed throughout the Project, and shall offer a range of size and number of bedrooms comparable to those units which are available to other tenants; and Low Income Tenants shall have access to and enjoyment of all common areas and facilities of the Project on the same basis as tenants of other units.

(c) The Borrower agrees that it will not discriminate in the rental of units or in its employment practices against any employee or applicant for employment because of

the applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, gender identity/expression, transgender status, disability (except to give priority to persons with disabilities for the occupancy of Accessible Housing Units), marital status, domestic partner status or medical condition. All contracts entered into by the Borrower which relate to the Project shall contain a like provision. The Borrower shall comply with the provisions of Sections 10.8.2 and 10.8.4 of the Administrative Code of the City, the provisions of which are hereby incorporated by reference.

(d) Reserved.

(e) For the Qualified Project Period, the Borrower will comply with the provisions of the Unruh Civil Rights Act, including, without limitation, Sections 51.2 and as applicable, 51.3 of the California Civil Code, as amended, and Sections 45.50 et seq. of the Los Angeles Municipal Code, as amended.

(f) The lease to be utilized by the Borrower in renting any residential units in the Project to Low Income Tenants shall provide for termination of the lease and consent by such person to immediate eviction, subject to applicable provisions of California law, for any tenant who fails to qualify as a Low Income Tenant and who has made a material misrepresentation on the Income Certification as to such tenant's qualification as a Low Income Tenant. All such leases shall contain clauses, among others, wherein each individual lessee (i) certifies the accuracy of the statements made in the Income Certification and (ii) agrees that the family income, family composition and other eligibility requirements shall be deemed substantial and material obligations of the lessee's tenancy; that the lessee will comply promptly with all requests for information with respect thereto from the Borrower or the City; and that the lessee's 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 lessee's tenancy and shall be a default thereunder. Additionally, such lease shall contain provisions informing any tenant of the possibility of rental payment increases in accordance with the terms of this Regulatory Agreement.

(g) All Income Certifications will be maintained on file at the Project or, with the prior written consent of the City, at the principal place of business of the Borrower or the property manager of the Project, so long as this Regulatory Agreement is in effect and for five years thereafter with respect to each Low Income Tenant who occupied a residential unit in the Project during the Qualified Project Period.

(h) The Borrower will accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the Housing Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants.

(i) The Borrower shall submit to the City (i) at the times specified in Sections 4(d) and (f) herein, a Certificate of Continuing Program Compliance, which shall include the information called for therein, including occupancy records for all units in the

Project, and (ii) within 15 days after receipt of a written request, any other information or completed forms requested by the City, in each case in order to comply with reporting requirements of the Internal Revenue Service or the State of California, including, without limitation, information necessary for the City to file any periodic report, or any other information concerning the Project as the City may reasonably request.

(j) All workers performing construction or rehabilitation work for the Project employed by the Borrower or by any contractor or subcontractor shall be compensated in an amount no less than the greatest of (i) the general prevailing rate of per diem wages ("Prevailing Wages") as determined pursuant to Labor Code Sections 1770-1781 and implementing regulations of the Department of Industrial Relations, (ii) the general prevailing rate of per diem wages as determined by the U.S. Labor Department pursuant to the Davis-Bacon Act under 40 U.S.C.S. 3141-3148 and implementing regulations ("Davis-Bacon Wages"), if applicable; and (iii) the "Living Wage" as determined by the policies and procedures of the City of Los Angeles. The Borrower shall comply with all reporting and recordkeeping requirements of the City's prevailing wage policy. The Borrower shall, and shall cause the contractors and subcontractors to, submit data and documents related to Prevailing Wages or Davis-Bacon Wages, if applicable, using the LCP Tracker or comparable HCIDLA-approved program. The fee for the LCP Tracker, or comparable HCIDLA-approved program, will be in the amount equal to Three One Hundredths Percent 0.03% of the total construction cost, which fee shall be paid in full to the City within 30 days of execution of this Agreement.

(k) The City may, at its option and at its expense, at any time appoint an administrator to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. Following any such appointment, the Borrower shall comply with any request by the City to deliver to such administrator, in addition to or instead of the City, any reports, notices or other documents required to be delivered pursuant hereto, and upon reasonable notice to the Borrower to make the Project and the books and records with respect thereto available for inspection during regular business hours by such administrator as an agent of the City.

(l) If upon the annual certification or recertification required in Section 4(d) a tenant's Adjusted Income exceeds 140% of the then applicable income limit for a Low Income Tenant of the same family size, all rental limits herein previously applicable to the unit occupied for such tenant shall continue to apply until the next available unit is rented to a tenant who is a Low Income Tenant.

(m) The Borrower shall give written notice to Low Income Tenants at the following five points in time:

(i) Upon initial move-in/lease execution, the Borrower shall give written notice to all tenants of Low Income Units, of the duration of the rent restrictions under this Regulatory Agreement. The Borrower must maintain, in its files, a copy of each notice containing each tenant's signed acknowledgment of the notice required hereunder. The notice shall, at the least, contain language that the rent restrictions under this Regulatory Agreement shall be for a term equal to

the later of the expiration of: (A) the Qualified Project Period; or (B) the CDLAC Conditions. Upon termination of the rent restriction period under this Regulatory Agreement, rents may be set at market rates unless otherwise restricted by some other legal, regulatory, or contractual requirement.

(ii) Thirty-six months prior to the termination of the rent restriction period under this Regulatory Agreement, the Borrower must give written notice to its tenants of the termination of the restrictions on the Low Income Units before their rents may be raised to market-rent levels. The Borrower must also give written notice, pursuant to California Government Code Section 65863.10, to the Mayor of the City of Los Angeles, the Housing Authority of the City of Los Angeles, the California Department of Housing and Community Development, and the Los Angeles Housing and Community Investment Department. In addition, the Borrower, within 36 months of a scheduled expiration of rental restrictions, shall also provide notice of the scheduled expiration of rent restrictions to any prospective tenant at the time he or she is interviewed for eligibility.

(iii) Twelve months prior to the termination of the rent restriction period under this Regulatory Agreement, the Borrower must give written notice to its tenants of the termination of the restrictions on the Low Income Units before their rents may be raised to market rent levels. The Borrower must also give written notice, pursuant to California Government Code Section 65863.10, to the Mayor of the City of Los Angeles, the Housing Authority of the City of Los Angeles, the California Department of Housing and Community Development and the Los Angeles Housing and Community Investment Department.

(iv) Six months prior to the termination of the rent restriction period under this Regulatory Agreement, the Borrower must give written notice to its tenants of the termination of the restrictions on the Low Income Units before their rents may be raised to market rent levels. The Borrower must also give written notice, pursuant to California Government Code Section 65863.10, to the Mayor of the City of Los Angeles, the Housing Authority of the City of Los Angeles, the California Department of Housing and Community Development and the Los Angeles Housing and Community Investment Department.

(v) Ninety days prior to the termination of the rent restriction period under this Regulatory Agreement, the Borrower must again give written notice to its tenants of the termination of the restrictions on the Low Income Units before their rents may be raised to market rent levels.

Unless the Borrower meets the requirements of California Government Code Section 65863.13, pursuant to California Government Code Section 65863.11, prior to or concurrently with the 12-month notice referenced above in (iii), the Borrower must provide notice of the opportunity to offer to purchase the assisted housing development to all qualified entities on the list maintained by the California Department of Housing and Community Development as well as to those qualified entities that contact the Borrower

directly. The notice shall conform to the requirements of California Government Code Section 65863.11(h) and shall be sent to the entities by registered or certified mail, return receipt requested. The Borrower shall also post a copy of the notice in a conspicuous place in the common area of the Project.

(n) The Borrower shall, on the Note Closing Date, pay to the City its initial fee and thereafter pay to the City its ongoing fees with respect to the issuance of the Note as follows. The Borrower shall pay the City an initial fee immediately upon issuance of the Note equal to $[_____] (0.25% of the aggregate maximum principal amount of the Note and the City's Multifamily Mortgage Revenue Note (Sage Pointe Apartments) Taxable Series 2021T-2, issuable under the Funding Loan Agreement ($[_____]). In addition, the Borrower shall, as compensation for the City's monitoring of the provisions of this Regulatory Agreement, pay to the City, semiannually in arrears, prorated for the initial payment, on the first day of each [July] and [January 1] commencing [January 1, 2022] for the period from the date of issuance of the Note through the later of: (i) the end of the Qualified Project Period; or (ii) the termination of the CDLAC Conditions, prorated for the initial and any subsequent partial period, a semiannual amount equal to the greater of: (A) during the period from the Closing Date to the Conversion Date, $1,250 or one-half of 0.125% of the maximum principal amount of Note issuable under the Funding Loan Agreement ($[_____]); and (B) from and after the Conversion Date $1,250 or one half of 0.125% of the principal amount of the Note Outstanding under the Funding Loan Agreement immediately after the Conversion Date; or in either case, such lesser amount as shall be necessary in the opinion of Bond Counsel to preserve the exemption of interest on the Note from gross income for federal income tax purposes. Throughout the term of this Agreement, the Fiscal Agent, or the City, as applicable, shall provide an invoice to the Borrower at least 30 days prior to the due date of each such payment (and, if applicable, a copy of which shall be provided to the City) and shall collect such payments from the Borrower and immediately remit such funds to the City. In the event of any prepayment of the Note in whole, prior to the later of: (i) the end of the Qualified Project Period; or (ii) the termination date of the CDLAC Conditions, the Borrower, at its election, shall either: (A) pay to the City, on or before such payment, an amount equal to the present value of the remaining City fees payable hereunder, as calculated by the City, using a discount rate equal to the yield on the date of prepayment on the United States treasury security maturing on the date nearest the later of: (1) the end of the Qualified Project Period or (2) the termination date of the CDLAC Conditions, or such lesser amount as shall be necessary in the opinion of Bond Counsel to preserve the exemption of interest on the Note from gross income for federal income tax purposes; or (B) enter into a fiscal agent agreement with a corporate fiscal agent acceptable to the City requiring the fiscal agent appointed thereunder to bill and collect from the Borrower and to pay to the City on an annual basis, in arrears on or before each [July] 1, the annual fee described above. The Borrower shall bear the cost of such fiscal agent through the term of this Regulatory Agreement. The Borrower shall not be required to pay the fee described in the preceding sentences if the Note is prepaid in whole under circumstances which permit termination of this Regulatory Agreement pursuant to Section 14 hereof.

(o) The Borrower shall pay to the City a processing fee equal to: (i) prior to the Conversion Date the greater of $5,000 or 0.125% of the maximum principal amount of the Note issuable under the Funding Loan Agreement; and (ii) following the Conversion Date the greater of $5,000 or 0.125% of the principal amount of the Note outstanding under the Funding Loan Agreement immediately after the Conversion Date, plus any expenses incurred by the City, including, without limitation, Bond Counsel, City attorney and financial advisor fees, as a condition to the consideration and receipt of any consent, approval, amendment, transfer or waiver requested of the City with respect to the Project, the Project Site or the Note. The City shall provide an invoice directly to the Borrower for such amounts.

(p) The Borrower shall pay the City its then-current fees in connection with any consent, approval, transfer, amendment or waiver requested of the City, together with any expenses incurred by the City in connection therewith.

(q) The Fiscal Agent shall report to the City in writing semiannually, within 10 days of each June 30 and December 31, the principal amount of the Note outstanding as of such June 30 or December 31, as appropriate.

(r) Reserved.

(s) The Borrower shall include the City as an additional insured on all liability insurance policies relating to the Borrower or the Project.

(t) The Borrower shall not rent any Low Income Unit to: (i) any individual who (A) holds an ownership interest in the Borrower or any general partner or member (or owner of such general partner or member) of the Borrower, (B) is an officer, board member, employee or agent of, or consultant to, the Borrower or any general partner or member thereof or owner of such general partner or member or (C) is a developer of the Project (collectively, an "Owner/Developer"); (ii) any Immediate Family Member of an Owner/Developer ("Immediate Family Members" consists of: (A) spouses, (B) children, (C) parents and grandparents, (D) siblings, (E) in-laws, including brothers/sisters-in-law and mothers/fathers-in-law and sons/daughters-in-law or (F) significant others or domestic partners); or (iii) any elected official or his or her spouse/partner who participated in the deliberative process, vote or consideration of legislative action regarding the issuance of the Note or other loan in support of the Project.

(u) The Borrower shall include a certification in each tenant application that the applicant is not an Owner/Developer, an elected official who participated in the issuance of the Note or an Immediate Family Member thereof. The Borrower recognizes and agrees that the penalty for violation of the above covenant shall be a fine of $5,000 per violation/ per unit.

(v) Neither the Borrower nor any general partner thereof shall issue any publicity release or other communication to any print, broadcast or online media, post any sign or in any other way identify the City as the source of the financing provided

for the Project, without the prior written approval of the City (provided that nothing herein shall prevent the Borrower or any general partner thereof from identifying the City as the source of such financing to the extent that the Borrower or any general partner thereof is required to do so by disclosure requirements applicable to publicly held companies).

Any of the foregoing requirements of the City may be expressly waived by the City in writing in the City's sole discretion, but (i) no waiver by the City of any requirement of this Section 7 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement, including particularly but without limitation the provisions of Sections 2 through 6 hereof, except to the extent the City has received an opinion of Bond Counsel that any such provision is not required by the Act or the Law and may be waived without adversely affecting the exclusion from gross income of interest on the Note for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the City and the Borrower receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Note to become includable in gross income for federal income tax purposes, if such opinion is accompanied by a copy of a ruling from the Internal Revenue Service to the same effect or to the effect that compliance with such requirement would be in conflict with the Act or the Law.

**Section 8. Modification of Covenants**. The Borrower, the Fiscal Agent and the City hereby agree as follows:

(a) To the extent any amendments to the Law, the Act, the Regulations or the Code shall, in the written opinion of Bond Counsel filed with the City, the Fiscal Agent and the Borrower (with a copy to the Funding Lender), impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement in order to maintain the Tax-exempt status of interest on the Note, this Regulatory Agreement shall be deemed to be automatically amended, without the consent or approval of any other person, to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as shall be necessary to document such automatic amendment hereof.

(b) To the extent that the Law, the Act, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Bond Counsel filed with the City, the Fiscal Agent and the Borrower (with a copy to the Funding Lender), 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 City, the Fiscal Agent and the Borrower and approved by the written opinion of Bond Counsel to the effect that such amendment is permitted by the Law and the Act and will not affect the Tax-exempt status of interest on the Note. The City shall be under no obligation to agree to any such amendment, it being understood that each of the requirements of this Regulatory Agreement is a specific requirement of the City, whether or not required by California or federal law.

(c) The Borrower, the City and, if applicable, the Fiscal Agent shall execute, deliver and, if applicable, file or record any and all documents and instruments necessary to effectuate the intent of this Section 8, and the City hereby appoints the Fiscal Agent as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file or record on behalf of the City, as is applicable, any such document or instrument (in such form as may be approved in writing by Bond Counsel) if the City defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the City, the Fiscal Agent shall take no action under this subsection (c) without first notifying the City and without first providing the City an opportunity to comply with the requirements of this Section 8. Nothing in this Section 8(c) shall be construed to allow the Fiscal Agent to execute an amendment to this Regulatory Agreement on behalf of the City.

**Section 9. Indemnification**. The Borrower shall defend, indemnify and hold harmless the City and the Fiscal Agent and the respective officers, members, supervisors, directors, officials and employees, counsel, attorneys and agents, past, present and future of each of them (collectively, the "Indemnified Parties"), against all loss, costs, damages, expenses, suits, judgments, actions and liabilities of whatever nature (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from or arising out of or related to (a) the design, construction, installation, operation, use, occupancy, maintenance, financing or ownership of the Project (including compliance with laws, ordinances and rules and regulations of public authorities relating thereto), (b) any written statements or representations with respect to the Borrower, the Project or the Note made or given to the City or the Fiscal Agent, or any underwriters or purchaser of the Note, or any tenants or applicants for tenancy in the Project or any other person, by the Borrower, or any Authorized Borrower Representative, including, but not limited to, statements or representations of facts, financial information or limited partnership affairs, (c) the Note or the Tax-exempt status of interest on the Note, (d) the failure or alleged failure of any person or entity (including the Borrower or its contractor or subcontractors) to pay the general prevailing rate of per diem wages as determined pursuant to Labor Code Sections 1770-1781 and implementing regulations of the Department of Industrial Relations in connection with the construction of the improvements or any other work undertaken or in connection with the Project, or (e) any actual or alleged violation of any Hazardous Materials Law or with respect to the presence of Hazardous Materials on or under the Project or in any of improvements or on or under any property of the Borrower that is adjacent to the Project (whether before or after the date of this Agreement and whether or not the Borrower knew of the same); provided, however, that this provision shall not require the Borrower to indemnify the Indemnified Parties from any claims, costs, fees, expenses or liabilities arising from its active negligence or willful misconduct or, in the case of the Fiscal Agent, its negligence, fraud or willful misconduct. The Borrower also shall pay and discharge and shall indemnify and hold harmless the City and the Fiscal Agent from (i) any lien or charge upon payments by the Borrower to the City and the Fiscal Agent hereunder or under the Note Documents and (ii) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges are sought to be imposed, the City or the Fiscal Agent shall give prompt notice to the Borrower and the Borrower shall, as provided in the following paragraph, have the right to assume the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion, provided that the City and the Fiscal Agent shall have the

right to review and approve or disapprove any such compromise or settlement. In addition thereto, the Borrower will pay upon demand all of the reasonable fees and expenses paid or incurred by the Fiscal Agent and/or the City in enforcing the provisions hereof against the Borrower. The Borrower shall also pay the City its standard fees and reimburse the City for its expenses in connection with any consent, approval, amendment, waiver or other action taken at the request or for the benefit of the Borrower in connection with this Regulatory Agreement, the Note or any other document or agreement relating thereto. In the event of any audit or inquiry regarding the Note or the Project from any governmental entity, the Borrower shall, at the election of the City, be responsible for responding to and resolving such audit or inquiry at the expense of the Borrower.

Promptly after receipt by any party entitled to indemnification under this Section 9 of notice of the commencement of any suit, action or proceeding, such Indemnified Party shall, if a claim in respect thereof is to be made against the indemnifying party under this Section 9, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve the indemnifying party from any liability which it may have to any Indemnified Party otherwise than under this Section 9 or from any liability under this Section 9 unless the failure to provide notice prejudices the defense of such suit, action or proceeding. In case any such action is brought against any Indemnified Party, and it notifies the indemnifying party, the indemnifying party shall be entitled to participate in, and to the extent that it may elect by written notice delivered to the Indemnified Party within five Business Days after receiving the aforesaid notice from such Indemnified Party (but shall not be required) to assume, the defense thereof, with counsel reasonably satisfactory to such Indemnified Party; provided, however, if the defendants in any such action include both the Indemnified Party and the indemnifying party and the Indemnified Party shall have reasonably concluded that there are legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the indemnifying party, the Indemnified Party or parties shall have the right to select separate counsel to assert such legal defenses and otherwise to participate in the defense of such action on behalf of such Indemnified Party or parties. Upon the indemnifying party's receipt of notice from the Indemnified Party of such Indemnified Party's election so to assume the defense of such action and selection by the Indemnified Party of counsel, the indemnifying party shall not be liable to such Indemnified Party under this Section 9 for any attorneys' fees or expenses subsequently incurred by such Indemnified Party for the engagement of separate counsel in connection with defense thereof unless (i) the Indemnified Party shall have employed separate counsel in connection with the assertion of legal defenses in accordance with the proviso to the next preceding sentence, (ii) the indemnifying party shall not have employed counsel reasonably satisfactory to the Indemnified Party to represent the Indemnified Party or shall not have employed such counsel within a reasonable time after notice of commencement of the action or (iii) the indemnifying party has authorized the employment of separate counsel to represent the Indemnified Party at the expense of the indemnifying party. Notwithstanding the foregoing, the Fiscal Agent shall not be indemnified for income tax, franchise tax or similar tax liability relating to the Fiscal Agent's own income and operations.

**Section 10. Consideration**. The City has issued the Note to provide funds to finance the acquisition, construction and equipping of the Project, all for the purpose, among others, of inducing the Borrower to acquire, construct and equip the Project. In consideration of the issuance of the Note by the City, the Borrower 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 City and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Note and in the exemption from federal income taxation and California personal income taxation of the interest on the Note. In performing their duties and obligations hereunder, the City and the Fiscal Agent may rely upon statements and certificates of the Low Income Tenants and upon audits of the books and records of the Borrower pertaining to the Project. In addition, the City and the Fiscal Agent may consult with counsel, and the written opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the City or the Fiscal Agent hereunder in good faith and in conformity with such opinion. In determining whether any default or lack of compliance by the Borrower exists under this Regulatory Agreement, the Fiscal Agent may, but shall not be required to, conduct any investigation into or review of the operations or records of the Borrower and may rely solely on any written notice or certificate delivered to the Fiscal Agent by the Borrower or the City with respect to the occurrence or absence of a default unless it knows that the notice or certificate is erroneous or misleading.

**Section 12. Project in the City**. The Borrower hereby represents and warrants that the Project will be located entirely within the City.

**Section 13. Sale or Transfer of the Project; Equity Interests**. The Borrower hereby covenants and agrees not to voluntarily (which term shall not be interpreted to include a foreclosure of any security for the Loan, the granting by the Borrower of a deed in lieu of foreclosure, or any other comparable conversion of the Loan) sell, transfer or otherwise dispose of the Project, or any portion thereof (other than for individual tenant use as contemplated hereunder), equity interests in the Borrower aggregating more than 50% of the equity interest in the Borrower, or any general partner interests in the Borrower, without obtaining the prior written consent of the City, which consent shall not be unreasonably withheld by the City and shall be given by the City if (a) the Borrower is not in default hereunder or under the Loan Agreement; (b) the purchaser or assignee is not in default under any obligations it may have to the City and is not the subject of any legal or enforcement actions by the City, and the purchaser or assignee certifies that the continued operation of the Project will comply with the provisions of this Regulatory Agreement; (c) evidence reasonably satisfactory to the City is presented to establish that the purchaser or assignee is willing to comply and capable of complying with the terms and conditions of this Regulatory Agreement; (d) either (i) evidence satisfactory to the City is presented to establish that the purchaser or assignee has at least three years' experience in the ownership, operation and management of rental housing projects, without any record of material violations of discrimination restrictions or other state or federal laws or regulations applicable to such projects, (ii) the purchaser or assignee agrees to retain a property management firm which the City determines has the experience and record described in subclause (i) above or (iii) the City determines that it has no reason to believe that the purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements binding on such purchaser or assignee and relating to the Project; (e) the City and the Fiscal Agent shall have received (i) with respect to any transfer of the Project, reasonable evidence satisfactory to the City that the Borrower's purchaser or transferee has assumed in writing and in full the Borrower's duties and obligations under this Regulatory Agreement and the Loan Agreement, (ii) with respect to any transfer of the Project to a new Borrower, an opinion of counsel to the transferee that the transferee has duly assumed the obligations of the Borrower under this Regulatory Agreement and that such

obligations and this Regulatory Agreement are binding on the transferee, (iii) unless waived by the City, an opinion of Bond Counsel that such transfer will not adversely affect the Tax-exempt nature of the interest on the Note, (iv) from the Borrower, a Certificate of Continuing Program Compliance (and a "bring-down" certificate, if necessary) current as of the date of transfer and (v) evidence satisfactory to the City that the purchaser or assignee does not have pending against it, nor does it have a history of, building or fire code violations as identified by the City, the State of California or federal regulatory agencies; (f) the purchaser or assignee complies with the provisions of the Los Angeles Administrative Code Section 10.8.4 Affirmative Action Program Provisions; (g) the Borrower or transferee pays all costs of the transfer of title, including, but not limited to, the cost of meeting the conditions specified in this Section 13; and (h) such other conditions are met as the City may reasonably impose to assure compliance by the Project with the requirements of this Regulatory Agreement. It is hereby expressly stipulated and agreed that, except for any such sale, transfer or disposition agreed to by the City in a separate writing, any sale, transfer or other disposition of the Project in violation of this Section 13 shall be null, void and without effect, shall cause a reversion of title to the Borrower, and shall be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Upon any sale or other transfer which complies with this Regulatory Agreement, the Borrower shall be fully released from its obligations hereunder, but only to the extent such obligations have been assumed by the transferee of the Project, without the necessity of further documentation. Any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 13.

Nothing contained in this Section 13 shall affect any provision of the Deed of Trust, or any of the other Loan Documents to which the Borrower is a party, which requires the Borrower to obtain the consent of the Funding Lender as a precondition to sale, transfer or other disposition of, or any direct or indirect interest in, the Project or of any direct or indirect interest in the Borrower or which otherwise gives the Funding Lender the right to accelerate the maturity of the Loan or any obligations of the Borrower under the Loan Documents, or to take some other similar action with respect to the Loan or any obligations of the Borrower under the Loan Documents, upon the sale, transfer or other disposition of the Project or any such other interest. Notwithstanding anything contained in this Section 13 to the contrary, neither the consent of the City nor the delivery of items (a) through (h) of the preceding paragraph shall be required in the case of, and nothing in this Section 13 shall otherwise affect the right of the Funding Lender, the Fiscal Agent or a designee or third-party purchaser to effect, a foreclosure or deed in lieu of foreclosure, whereby the Funding Lender, the Fiscal Agent or a designee or third-party purchaser forecloses on the Project or accepts a deed in lieu of a foreclosure or effects a comparable conversion of the Loan or the Loan Documents. Consent of the City and delivery of items (a) through (h) of the preceding paragraph shall be required for any transfer of the Project subsequent to the purchase at a foreclosure or transfer pursuant to deed in lieu of foreclosure as described in the preceding sentence.

Notwithstanding the foregoing, if the Fiscal Agent acquires title to the Project by foreclosure or deed in lieu of foreclosure, no consent of the City shall be required to such transfer under this Regulatory Agreement and no other conditions shall be required to be satisfied. However, if the Fiscal Agent acquires title to the Project by foreclosure or deed in lieu of foreclosure and this Regulatory Agreement has not been terminated pursuant to Section 14 below, consent of the City and delivery of items (a) through (h) above shall be required for any transfer

of the Project subsequent to the Fiscal Agent's acquisition of the Project by foreclosure or deed in lieu of foreclosure.

Notwithstanding anything to the contrary contained herein, the interest of the Borrower's limited partners shall, with prior written notice to the City, be transferable under this Regulatory Agreement to any affiliate of the limited partners of the Borrower or any affiliate of [RBC Entity]., without the consent of the City and/or Fiscal Agent but with prior written notice thereto.

The Borrower acknowledges and recognizes that in addition to the above requirements, the consent of CDLAC in the manner and to the extent as may at the time be required by CDLAC, among other parties, may be required in connection with any transfer of the Project.

**Section 14. Term**. This Regulatory Agreement and all and each of the provisions hereof shall become effective upon its execution and delivery and shall remain in full force and effect for the periods provided herein and, except as otherwise provided in this Section 14, shall terminate in its entirety at the end of the Qualified Project Period (or such later date provided in Section 33 hereof pursuant to the CDLAC Resolution, which imposes restrictions for a term of at least 55 years), it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Note, discharge of the Loan and termination of the Funding Loan Agreement and the Loan Agreement.

Notwithstanding the foregoing, the provisions of Section 9 hereof shall, in the case of the Fiscal Agent, survive the term of this Regulatory Agreement or the replacement of the Fiscal Agent, but only as to claims arising from events occurring during the term of this Regulatory Agreement or the Fiscal Agent's tenure as Fiscal Agent under the Funding Loan Agreement, and shall, in the case of the City, survive the term of this Regulatory Agreement, but only as to claims arising from events occurring during the term of this Regulatory Agreement.

The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement and all the requirements set forth herein (except Section 9 as aforesaid) shall terminate and be of no further force and effect in the event of (a) involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date which prevents the City or the Fiscal Agent from enforcing the provisions hereof, or (b) condemnation, foreclosure, delivery of a deed in lieu of foreclosure or a similar event, but only if, within a reasonable period thereafter, either the portion of the Note attributable to the affected portion of the Project is retired or amounts received as a consequence of such event are used to provide a project which meets the requirements of the Code set forth in Sections 2 through 6 of this Regulatory Agreement and provided that, in either case, an opinion of Bond Counsel (unless waived by the City) is delivered to the Fiscal Agent to the effect that the exclusion from gross income for federal income tax purposes of interest on the Note will not be adversely affected thereby. The provisions of the preceding sentence shall cease to apply and the requirements referred to therein shall be reinstated if, at any time during the Qualified Project Period after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any "related party" (within the meaning of Section 1.150-1(b) of the Regulations) or "related person" (defined in Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for tax purposes. The Borrower hereby agrees that, following any

foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any related party as described above will obtain an ownership interest in the Project for tax purposes.

Upon the termination of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; 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 15. Covenants To Run With the Land**. The Borrower hereby subjects its interest in the Project (including the Project Site) to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The City and the Borrower 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 Borrower's successors in title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. The City and, if necessary, the Fiscal Agent agree to execute a quitclaim deed or other documents required to remove this Regulatory Agreement from title after the covenants, agreements and restrictions herein have expired. 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.

No breach of any of the provisions of this Regulatory Agreement shall impair, defeat or render invalid the lien of any security instrument, deed of trust or like encumbrance made in good faith and for value encumbering the Project or any portion thereof.

**Section 16. Burden and Benefit**. The City and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Borrower's interest in the Project is rendered less valuable thereby. The City and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Note was issued. Notwithstanding the foregoing or any other provision of this Regulatory Agreement, no person, other than the parties hereto, shall have any rights of enforcement of this Regulatory Agreement.

**Section 17. 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, development and improvement of the Project Site.

**Section 18. Default; Enforcement**. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of 60 days after notice thereof shall have been given by the City to the Borrower, then the City shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default stated in the notice 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 Borrower institutes corrective action within said 60 days and diligently pursues such action 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 Note. The Fiscal Agent hereby consents to any correction of the default by the City on behalf of the Borrower. The City hereby consents to any correction of a default on the part of the Borrower hereunder made by the Borrower's limited partners on behalf of the Borrower within the time periods provided in this Section. Copies of any notices sent to the Borrower hereunder shall simultaneously be sent to the Borrower's limited partners at the address set forth in Section 23.

Following the declaration of an Event of Default hereunder, the Fiscal Agent, as directed by the City and subject to the provisions of the Funding Loan Agreement relative to the Fiscal Agent's duty to exercise remedies generally, or the City, may, at its option, take any one or more of the following steps:

(a) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the City or the Fiscal Agent hereunder;

(b) have access to and inspect, examine and make copies of all or any portion of the books and records of the Borrower pertaining to the Project; and

(c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder.

During the Qualified Project Period, the Borrower hereby grants to the City the option, upon either (a) the expiration of 60 days after the giving of the notice to the Borrower referred to in the first paragraph of this Section 18 of the Borrower's default under this Regulatory Agreement or (b) the vacancy of a Low Income Unit for more than six months and the submission by the City to the Borrower during such six-month or longer period of at least five proposed tenants which meet the qualifications of Low Income Tenants and the qualifications of a reasonable landlord, to lease up to 40% of the units in the Project for a rental of $1.00 per unit per year for the sole purpose of subleasing such units to Low Income Tenants for a period of not less than six months, but only to the extent necessary to comply with the provisions of Sections 2 through 7 of this Regulatory Agreement and to insure full occupancy of the Low Income Units. The option granted in the preceding sentence shall be effective only if the Borrower or the Fiscal Agent has not instituted corrective action before the end of such 60-day period referenced in (a) above, or the Borrower has not rented the unit during the six-month or longer period referenced in (b) above, to a qualified Low Income Tenant. The option and any leases to the City under this provision shall terminate with respect to each default upon the achievement, by the Borrower, the Fiscal Agent or the City, of compliance with the requirements of Sections 2 through 7 hereof, and any subleases entered into pursuant to the City's option shall be deemed to be leases from the Borrower. The City shall make diligent effort, but shall not be required, to rent Low Income Units to Low Income Tenants at the highest rents practicable, subject to the limits of Sections 5, 6 and 7 hereof. Any rental paid under any such sublease shall be paid to the Borrower after the City has been reimbursed for any reasonable expenses incurred in connection with such sublease, provided that if the Borrower is in

default under the Loan Agreement, such rental shall be paid to the Fiscal Agent for credit against payments due under the Loan Agreement. The Fiscal Agent shall have the right, as directed by the City, in accordance with this Section 18 and the provisions of the Funding Loan Agreement, to exercise any or all of the rights or remedies of the City hereunder, provided that prior to taking any such action the Fiscal Agent shall give the City written notice of its intended action. All reasonable fees, costs and expenses of the City and the Fiscal Agent incurred in taking any action pursuant to this Section 18 shall be the sole responsibility of the Borrower.

After the Funding Loan Agreement has been discharged, the City may act on its own behalf to declare an "Event of Default" to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the Fiscal Agent.

The obligations of the Borrower hereunder are not secured by a lien on the Project and the Loan shall not be accelerated as a result of any default hereunder. The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the City may obtain the benefits of such agreements made by the Borrower herein and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any default by the Borrower hereunder.

The occurrence of a Determination of Taxability shall not, in and of itself, constitute a default hereunder.

**Section 19. The Fiscal Agent**. The Fiscal Agent shall act as specifically provided herein and in the Funding Loan Agreement. The Fiscal Agent is entering into this Regulatory Agreement solely in its capacity as fiscal agent under the Funding Loan Agreement, and the duties, powers, rights and liabilities of the Fiscal Agent in acting hereunder shall be subject to the provisions of the Funding Loan Agreement.

The City shall be responsible for monitoring and verifying compliance by the Borrower with the terms of this Regulatory Agreement. The Fiscal Agent may at all times assume compliance with this Regulatory Agreement unless otherwise notified in writing by the City or unless it has actual knowledge of noncompliance.

After the date on which no principal of the Note remains outstanding as provided in the Funding Loan Agreement, the Fiscal Agent shall no longer have any duties or responsibilities under this Regulatory Agreement and all references to the Fiscal Agent in this Regulatory Agreement shall be deemed references to the City.

**Section 20. Recording and Filing**. The Borrower 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 of Los Angeles and in such other places as the City or the Fiscal Agent may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording. This Regulatory Agreement shall be recorded in the grantor-grantee index to the name of the Borrower as grantor and the City as grantee.

**Section 21. Governing Law**. This Regulatory Agreement shall be governed by the laws of the State of California. The Fiscal Agent's rights, duties and obligations hereunder are governed in their entirety by the terms and provisions of the Funding Loan Agreement.

**Section 22. Amendments**. Except as provided in Section 33(e), this Regulatory Agreement shall 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 of Los Angeles, California, and only upon receipt by the City of an opinion from Bond Counsel that such amendment will not adversely affect the Tax-exempt status of interest on the Note and is not contrary to the provisions of the Law or the Act and with the written consent of the Fiscal Agent.

The City, the Fiscal Agent and the Borrower hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Bond Counsel (subject to the approval of the City Attorney of the City), in order that interest on the Note remains Tax-exempt. The party or parties requesting such amendment shall notify the other parties to this Regulatory Agreement of the proposed amendment, with a copy of such requested amendment to Bond Counsel and the City Attorney of the City and a request that such Bond Counsel render to the City an opinion as to the effect of such proposed amendment upon the Tax-exempt status of interest on the Note.

**Section 23. Notices**. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

If to the City:
City of Los Angeles
c/o Los Angeles Housing and Community Investment Department
8th Floor
1200 West 7th Street
Los Angeles, CA 90017
Attention: Supervisor, Affordable Housing Bond Program
HIMS# [_____]
Facsimile: (213) 808-8918

with a copy to:
Los Angeles Housing and Community Investment Department
P.O. Box 532729
Los Angeles, CA 90053-2729
Attention: Supervisor, Portfolio Management Unit
HIMS# [_____]
Facsimile: (213) 808-8606

If to the Borrower:
Linc-Wilmington Apts LP
[c/o Linc Community Development Corporation]
3590 Elm Avenue
Long Beach, CA 90807
Attention:
Telephone:
Email:

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| with a copy to: | Carle, Mackie, Power & Ross LLP<br>100 B Street, Suite 400<br>Santa Rosa, CA 95401<br>Attention: Henry Loh II<br>Facsimile: 707-526-4707<br>Email: hloh@cmprlaw.com |
| with a copy to: | [EQUITY INVESTOR] |

| | |
|---|---|
| If to the Funding Lender: | MUFG Union Bank, N.A.<br>Community Development Finance<br>1901 Avenue of the Stars, Suite 600<br>Los Angeles, CA 90007<br>Attention: CDF Division Head<br>Facsimile: (310) 551-8980 |
| With a copy to: | MUFG Union Bank, N.A.<br>Loan Admission Dept.<br>145 S. State College Blvd., Suite 600<br>Brea, CA 92821<br>Attention: Manager<br>Facsimile: 949.752.8361 |
| If to the Fiscal Agent: | [FISCAL AGENT]<br>633 W. 5th Street, 24th Floor<br>Los Angeles, CA 90071<br>Attention: Global Corporate Trust<br>Ref: LA MF (Sage Pointe)<br>Telephone: (213) 615-6024<br>Facsimile: (213) 615-6199 |
| If to CDLAC: | California Debt Limit Allocation Committee<br>Room 311<br>915 Capitol Mall<br>Sacramento, CA 95814<br>Attention: Executive Director |

Notice shall be deemed given three Business Days after the date of mailing.

A duplicate copy of each notice, certificate or other communication given hereunder by any party hereto to another party hereto shall also be given to all of the parties specified above. Failure to provide any such duplicate notice pursuant to the foregoing sentence, or any defect in any such duplicate notice so provided, shall not constitute a default hereunder. All other documents required to be submitted to any of the foregoing parties shall also be submitted to such party at its address set forth above. Any of the foregoing parties may, by notice given hereunder,

designate any further or different addresses to which subsequent notices, certificates, documents or other communications shall be sent.

**Section 24. Severability**. If any provision of this Regulatory Agreement or if the applicability of any such provision shall be invalid, illegal or unenforceable, the validity, legality, enforceability or applicability with respect to the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

**Section 25. Multiple Counterparts**. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

**Section 26. Nondiscrimination and Affirmative Action**. The Fiscal Agent and the Borrower shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the City of Los Angeles. The Fiscal Agent and the Borrower shall not discriminate in their employment practices against any employee or applicant for employment; denial of family and medical care leave; denial of pregnancy disability leave or reasonable accommodations against any employee or applicant for employment because of such person's race, ancestry, color, citizenship, national origin, religion, sex, sexual orientation, gender identity/expression, transgender status, age, marital status, familial status, domestic partner status, physical handicap, mental disability, medical condition, political affiliation or belief. The Fiscal Agent and the Borrower shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 C.F.R. Part 60). The Fiscal Agent and the Borrower shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. The affirmative action program of the Fiscal Agent and the Borrower shall include the mandatory contract provisions set forth in the Los Angeles Administrative Code Section 10.8.4, and said provisions are incorporated herein by this reference. The Borrower and the Fiscal Agent shall also comply with all rules, regulations, and policies of the City of Los Angeles' Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by the City. Any subcontract entered into by the Borrower or Fiscal Agent relating to this Regulatory Agreement, to the extent allowed hereunder, shall be subject to the provisions of this Section. No person shall on the grounds of race, ancestry, color, citizenship, national origin, religion, sex, sexual orientation, gender identity/expression, transgender status, age, marital status, familial status, domestic partner status, physical handicap, mental disability, medical condition, political affiliation or belief be excluded from participation in, be denied the benefit of, or be subjected to discrimination under, this Regulatory Agreement. For purposes of this Section, Title 24 Code of Federal Regulations Part 107 and Section 570.601(b) define specific discriminatory actions that are prohibited and corrective action that shall be taken in a situation as defined therein.

**Section 27. Business Tax Registration Certificate**. Subject to any exemption available to it, the Fiscal Agent and the Borrower each represent that it will obtain and hold the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, Section 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Regulatory Agreement, each of the Fiscal Agent and the Borrower shall maintain, or obtain as necessary, all such Business Tax Registration Certificates required of it under said

Ordinance and shall not allow any such Business Tax Registration Certificate to be revoked or suspended.

**Section 28. Financial Obligations Personal to Borrower**. The City acknowledges that the Project shall be encumbered by the Borrower Loan Documents. Notwithstanding any provisions of this Regulatory Agreement to the contrary, all obligations of the Borrower under this Regulatory Agreement for the payment of money and all claims for damages against the Borrower occasioned by breach or alleged breach by the Borrower of its obligations under this Regulatory Agreement, including indemnification obligations, shall not be a lien on the Project and no Person shall have the right to enforce such obligations other than directly against the Borrower as provided in Section 18 of this Regulatory Agreement, except that the City shall have the right at all times to enforce the rights contained in the third paragraph of Section 18 hereof. No subsequent owner of the Project shall be liable or obligated for the breach or default of any obligations of the Borrower under this Regulatory Agreement on the part of any prior Borrower, including, but not limited to, any payment or indemnification obligation. Such obligations are personal to the Person who was the Borrower at the time the default or breach was alleged to have occurred and such Person shall remain liable for any and all damages occasioned thereby even after such Person ceases to be the Borrower. Each Borrower shall comply with and be fully liable for all obligations of an "owner" hereunder during its period of ownership.

**Section 29. Reserved**.

**Section 30. Child Support Assignment Orders**. This Regulatory Agreement is subject to Section 10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, each of the Borrower and the Fiscal Agent certifies that (a) it will fully comply with all State and federal employment reporting requirements applicable to Child Support Assignment Orders; (b) the principal owner(s) of the Borrower are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (c) it will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230 et seq.; and (d) it will maintain such compliance throughout the term of this Regulatory Agreement. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of the Borrower or the Fiscal Agent to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of the Borrower or the Fiscal Agent to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Borrower or the Fiscal Agent, as appropriate, under the terms of this Regulatory Agreement, subjecting (i) the Borrower to the remedies provided herein and (ii) the Fiscal Agent to termination under the Funding Loan Agreement where, in either case, such failure shall continue for more than 90 days after notice of such failure to the Borrower or the Fiscal Agent by the City. Any subcontract entered into by the Borrower or the Fiscal Agent relating to this Regulatory Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of the Borrower or the Fiscal Agent to obtain compliance of its subcontractors shall constitute a default by the Borrower or the Fiscal Agent, as appropriate, under the terms of this Regulatory Agreement, subjecting (A) the Borrower to the remedies provided herein and (B) the Fiscal Agent

to termination under the Funding Loan Agreement where such failure shall continue for more than 90 days after notice of such failure to the Borrower or the Fiscal Agent by the City.

The Borrower and the Fiscal Agent shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. The Borrower and the Fiscal Agent each assures that to the best of its knowledge it is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (b) of Section 7110 of the Public Contract Code.

**Section 31. Americans with Disabilities Act**. Each of the Borrower and the Fiscal Agent hereby certifies that it and any contractor and subcontractor will comply with the Accessibility Laws (as defined in Exhibit I). The Borrower and any contractor and subcontractor will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services, and activities in accordance with the applicable provisions of the ADA, the ADAAG, Section 504, the UFAS, the FHA (each as defined in Exhibit I) and all subsequent amendments. The Borrower, the Fiscal Agent and each and any contractor and subcontractor will not discriminate against persons with disabilities or against persons due to their relationship to or association with a person with a disability. Any contract and subcontract entered into by the Borrower or the Fiscal Agent, relating to this Regulatory Agreement and the Project, to the extent allowed hereunder, shall be subject to the provisions of this paragraph. The Borrower hereby agrees to observe all of the covenants contained in Exhibit I to this Regulatory Agreement as if contained herein.

**Section 32. Slavery Disclosure Ordinance**. This Regulatory Agreement is subject to the Slavery Disclosure Ordinance, Section 10.41 et seq. of the Los Angeles Administrative Code, as amended from time to time. Any subcontract entered into by the Borrower for work to be performed under this Regulatory Agreement must include an identical provision. The Borrower acknowledges and agrees that failure to fully and accurately complete the required affidavit and disclosures may result in a default under this Regulatory Agreement.

**Section 33. Requirements of CDLAC**. In addition to other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 2 through 6 hereof, the Borrower hereby agrees to comply with each of the requirements of CDLAC set forth in this Section 33, as follows:

(a) The Borrower shall comply with the conditions set forth in Exhibit A to the CDLAC Resolution (the "CDLAC Conditions"), as they may be modified or amended from time to time, which conditions are incorporated herein by reference and made a part hereof and is attached hereto as Exhibit G. Notwithstanding anything to the contrary herein, the provisions of this Section 33 shall remain effective for the period specified in the CDLAC Conditions, unless this Regulatory Agreement shall terminate as otherwise provided in Section 14 hereof.

(b) The Borrower acknowledges that the City shall monitor the Borrower's compliance with the terms of the CDLAC Conditions. The Borrower will cooperate fully with the City in connection with such monitoring and reporting requirements as provided

herein. Compliance with the terms of the CDLAC Conditions not contained within this Regulatory Agreement, but referred to in the CDLAC Conditions, is the responsibility of the Borrower to report to the City.

(i) The Borrower shall prepare and deliver a Certificate of CDLAC Program Compliance pursuant to the terms of the CDLAC Conditions. The Borrower acknowledges that the Borrower will prepare and submit to the City, not later than January 15 of each year, and the City will submit to CDLAC, not later than March 1 of each year, until the Borrower has submitted to the City and CDLAC a Construction Completion Certificate, and on March 1 every three years thereafter (such that the next succeeding year shall be the beginning of each such three-year period) until the end of the term of the CDLAC Conditions, a Certificate of CDLAC Program Compliance, executed by an Authorized Borrower Representative.

(ii) The Borrower shall prepare and deliver a Self-Certification Certificate pursuant to the terms of the CDLAC Conditions. The Borrower acknowledges that the Borrower will prepare and submit to the City, not later than January 15 of each year, and the City will submit to CDLAC, not later than March 1 of each year, until the Borrower has submitted to the City and CDLAC a Construction Completion Certificate, and on March 1 every three years thereafter (such that the next succeeding year shall be the beginning of each such three-year period) until the end of the term of the CDLAC Conditions, a Self-Certification Certificate in the form provided by CDLAC.

(iii) Within 30 days following the completion of the Project, the Borrower will prepare and submit to the City, the Fiscal Agent and CDLAC a Construction Completion Certificate. Following the submission of the Construction Completion Certificate, the Borrower will prepare and submit to the City, not later than January 15 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.

(c) Except as otherwise provided in Section 14 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 such later date as the Qualified Project Period shall begin, as required by the CDLAC Conditions.

(d) The Borrower shall notify CDLAC in writing of: (i) any change in ownership of the Project, (ii) any change in the issuer of the Note, (iii) any change in the name of the Project or the Project manager; (iv) any default under the Funding Loan Agreement, the Loan Agreement or this Regulatory Agreement; or (v) termination of this Regulatory Agreement.

(e) Any of the foregoing requirements of CDLAC contained in this Section 33 may be expressly waived by CDLAC, in its sole discretion, in writing, but (i) no waiver by

CDLAC of any requirement of this Section 33 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the City has received an opinion of Bond Counsel that any such provision is not required by the Code, the Act and the Law and may be waived without adversely affecting the exclusion from gross income of interest on the Note for federal income tax purposes; and (ii) any requirement of this Section 33 shall be void and of no force and effect if the City and the Borrower receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Note to cease to be Tax-exempt or to the effect that compliance with such requirement would be in conflict with the Code, the Act, the Law or any other state or federal law.

(f) CDLAC is intended to be and is a third-party beneficiary of this Regulatory Agreement, and CDLAC shall have the right (but not the obligation) to enforce, separately or jointly with the City and/or the Fiscal Agent or to cause the City or the Fiscal Agent to enforce, the provisions of Section 33 of this Regulatory Agreement and to pursue an action for specific performance of such provisions or other available remedy at law or in equity in accordance with Section 18 hereof, provided that any such action or remedy shall not materially adversely affect the interests and rights of the Noteholder and shall otherwise be subject to the terms, conditions and limitations applicable to the enforcement of remedies under this Regulatory Agreement.

(g) CDLAC shall have the right, but not the obligation, to deliver revised CDLAC Conditions to the Borrower 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 Funding 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 Los Angeles County, California, of a regulatory agreement between the Borrower 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 Borrower 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 or 37 of Exhibit A to the CDLAC Conditions to any change in terms and conditions requested by the Borrower and approved by CDLAC. The City may, in its sole and absolute discretion, require the Borrower to 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 of Los Angeles. The Borrower shall pay any costs and expenses in connection therewith and provide CDLAC with a copy of that recorded amendment reflecting the revised CDLAC Conditions.

**Section 34. Pet Ownership In Publicly-Financed Housing Developments**. Borrower shall comply with the Pet Ownership in Publicly-Financed Housing Developments Ordinance, Los Angles Municipal Code Sections 51.20., et seq., as amended from time to time.

**Section 35. Disclosure of Border Wall Contracting Ordinance.** Borrower and Fiscal Agent shall comply with Los Angeles Administrative Code Section 10.50 et seq., "Disclosure of Border Wall Contracting". City may declare a default under this Regulatory Agreement if the City determines that Fiscal Agent or Borrower failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in Los Angeles Administrative Code Section 10.50.1.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City, the Fiscal Agent and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

CITY OF LOS ANGELES, as City

By: Housing and Community Investment Department

By _____
Daniel Huynh
Assistant General Manager

Approved as to form:

CITY OF LOS ANGELES
MICHAEL N. FEUER, City Attorney

_____
Deputy/Assistant City Attorney

[Signature Page to ***Sage Pointe Apartments*** Regulatory Agreement]

[**FISCAL AGENT]**, as Fiscal Agent

By _____
Name: Julia Hommel
Title: Vice President

[Signature Page to ***Sage Pointe Apartments*** Regulatory Agreement]

**LINC-WILMINGTON APTS LP,**
a California limited partnership

[BORROWER SIGNATURE BLOCK]

[Signature Page to ***Sage Pointe Apartments*** Regulatory Agreement

## NOTARY ACKNOWLEDGMENT STATEMENT

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 _____)

On _____, before me, _____, a Notary Public, personally appeared _____, 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 _____ [SEAL]

## NOTARY ACKNOWLEDGMENT STATEMENT

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 _____)

On _____, before me, _____, a Notary Public, personally appeared _____, 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 _____ [SEAL]

## NOTARY ACKNOWLEDGMENT STATEMENT

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 _____)

On _____, before me, _____, a Notary Public, personally appeared _____, 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 _____ [SEAL]

## NOTARY ACKNOWLEDGMENT STATEMENT

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 _____)

On _____, before me, _____, a Notary Public, personally appeared _____, 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 _____ [SEAL]

# EXHIBIT A

# [DESCRIPTION OF PROJECT SITE]

**EXHIBIT B**

**FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE**

FOR THE [MONTH/QUARTER] ENDING _____

$16,525,000
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Series 2021T

The undersigned, being the Authorized Borrower Representative of Linc-Wilmington Apts LP, a California limited partnership (the "Borrower"), has read and is thoroughly familiar with the provisions of the various loan documents associated with the Borrower's participation in the multifamily housing program of the City of Los Angeles (the "City"), including, without limitation, the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [DATED DATE] (the "Regulatory Agreement"), among the Borrower, the City and [FISCAL AGENT], as Fiscal Agent relative to the property located at 1435 North Eubanks Avenue, Los Angeles, California.

As of the date of this Certificate, the following percentages of completed residential units in the Project (as such term is defined in the Regulatory Agreement) (i) are occupied by Low Income Tenants (as such term is defined in the Regulatory Agreement) or (ii) are currently vacant and being held available for such occupancy and have been so held continuously since the date a Low Income Tenant vacated such unit, as indicated:

| | |
|---|---|
| Occupied by Low Income Tenants: | _____%<br>Unit Nos. _____ and size |
| Held vacant for occupancy continuously since last occupied by Low Income Tenant: | _____%<br>Unit Nos. _____ and size |
| Vacant Units: | _____% |
| Low Income Tenants who commenced Occupancy of units during the Preceding [month/quarter]: | Unit Nos. ___ |

Attached is a separate sheet (the "Occupancy Summary") listing, among other items, the following information for each unit in the Project: the number of each unit, the occupants of each unit and the size, in square feet, of each unit. It also indicates which units are occupied by Low Income Tenants and which units became Low Income Units during the preceding [month/quarter]. The information contained thereon is true and accurate.

The undersigned hereby certifies that (1) a review of the activities of the Borrower during such [month/quarter] and of the Borrower's performance under the Loan Agreement has been made under the supervision of the undersigned; (2) to the best of the knowledge of the undersigned, based on the review described in clause (1) hereof, the Borrower is not in default under any of the terms and provisions of the above documents [OR DESCRIBE THE NATURE OF ANY DEFAULT IN DETAIL AND SET FORTH THE MEASURES BEING TAKEN TO REMEDY SUCH DEFAULT]; and (3) to the knowledge of the Borrower, no Determination of Taxability (as such term is defined in the Regulatory Agreement) has occurred [OR, IF A DETERMINATION OF TAXABILITY HAS OCCURRED, SET FORTH ALL MATERIAL FACTS RELATING THERETO].

**LINC-WILMINGTON APTS LP,**
a California limited partnership

[BORROWER SIGNATURE BLOCK]

[Signature Page to ***Sage Pointe Apartments*** Certificate of Program Compliance]

**EXHIBIT C**

**FORM OF INCOME CERTIFICATION**

*NOTE TO APARTMENT OWNER: This form is designed to assist you in computing Annual Income in accordance with the method set forth in the Department of Housing and Urban Development ("HUD") Regulations (24 C.F.R. Part 5 Subpart F). You should make certain that this form is at all times up to date with the HUD Regulations.*

Re: Sage Pointe Apartments, 1435 North Eubanks Avenue, Los Angeles, California

The undersigned hereby (certify) (certifies) that:

1. This Income Certification is being delivered in connection with the undersigned's application for occupancy of Apartment #_____ in the Sage Pointe Apartments located at 1435 North Eubanks Avenue, in Los Angeles, California.

2. List all the occupants of the apartment, the relationship (if any) of the various occupants, their ages, and indicate whether they are students (for this purpose, a student is any individual who has been, or will be, a full-time student at an educational institution during five months (whether consecutive or not) of the year in which this application is submitted, other than a correspondence school, with regular facilities and students).

| | **Occupant** | **Relationship** | **Age** | **Student (Yes or No)** | **Social Security Number** |
|---|---|---|---|---|---|
| (a) | | | | | |
| (b) | | | | | |
| (c) | | | | | |
| (d) | | | | | |
| (e) | | | | | |
| (f) | | | | | |

3. If all of the occupants are students, answer the following questions for each occupant

(a) Is any student listed in paragraph 2 above married and files a joint return for federal income tax purposes? List any such students.

Yes Name(s) No Not Applicable

(b) Is any student listed in paragraph 2 above (i) a single parent living with his/her children, (ii) not a dependent of another individual and (iii) whose children are not dependents of an individual other than their parents? List any such students.

Yes Name(s) No Not Applicable

(c) Is any student listed in paragraph 2 above a student receiving assistance under Title IV of the Social Security Act (Temporary Assistance for Needy Families)? List any such students.

Yes Name(s) No Not Applicable

(d) Is any student listed in paragraph 2 above a student enrolled in a job-training program receiving assistance under the Job Training Partnership Act or under other similar federal, State or local laws? List any such students.

Yes Name(s) No Not Applicable

(e) Is any student listed in paragraph 2 a student who was previously under the care and placement responsibility of a foster care program (under Part B or E of Title IV of the Social Security Act)? List any such students.

Yes Name(s) No Not Applicable

4. The total anticipated income for each person listed in paragraph 2 above during the 12-month period commencing with the date occupancy will begin, including:

> full amount, before any payroll deductions, of wages, salaries, overtime, commissions, fees, tips, and bonuses; net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness or any allowance for depreciation of capital assets); interest and dividends (including income from assets excluded below); the full amount of periodic payments from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic payments, including any lump-sum payment for the delayed start of a periodic payment; payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay; all public assistance income; periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling; all regular and special pay and allowances of members of the Armed Forces (whether or not living in the dwelling) who are the head of the family or spouse; and any earned income tax credit to the extent that it exceeds income tax liability;

but excluding:

> income from employment of children (including foster children) under the age of 18 years; payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone); lump-sum additions to family assets, such as inheritances, insurance payments (including payments

under health and accident insurance and workers' compensation), capital gains and settlement for personal or property losses; amounts which are specifically for reimbursement of medical expenses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; amounts received under training programs funded by HUD; amounts received under Plan to Attain Self-Sufficiency; amounts for out-of-pocket expenditures incurred in connection with other public assistance programs; resident service stipend (not in excess of $200 per month); amounts from state or local employment training programs; temporary, nonrecurring or sporadic income (including gifts); reparation payments paid by a foreign government to persons who were persecuted during the Nazi era; earnings in excess of $480 for each full-time student 18 years old or older (excluding head of family and spouse); adoption assistance payments in excess of $480 per adopted child; deferred periodic payments of supplemental social security income and benefits received in a lump sum; refunds or rebates of property taxes paid on the unit; payments from state agency to allow developmentally disabled family member to stay home; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments to volunteers under the Domestic Volunteer Service Act of 1973; is as follows:

| | **Occupant** | **Anticipated Annual Income** | **Source of Income or Employer** |
|---|---|---|---|
| (a) | _____ | $_____ | _____ |
| (b) | _____ | $_____ | _____ |
| (c) | _____ | $_____ | _____ |
| (d) | _____ | $_____ | _____ |
| (e) | _____ | $_____ | _____ |
| (f) | _____ | $_____ | _____ |
| | TOTAL | $_____ | |

5.(a) Do the persons whose income or contributions are included in Item 4 above have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles and interest in Indian trust land)?

_____ Yes _____ No

(b) Have the persons whose income or contributions are included in Item 4 above disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value?

_____ Yes _____ No

(c) If the answer to (a) or (b) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than $5,000?

_____ Yes _____ No

(d) If the answer to (c) above is yes,

(i) insert the total value of all such assets owned or disposed of $_____; and

(ii) state:

(A) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy in the unit that you propose to rent:

$_____

(B) the amount of such income, if any, that was included in Item 4 above:

$_____

6. Neither myself nor any other occupant of the unit I/we propose to rent is the owner of the rental housing project in which the unit is located (hereinafter, the "Borrower"), has any family relationship to the Borrower or owns directly or indirectly any interest in the Borrower. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member, ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trust held by the individual or a family member and ownership, direct or indirect, by a partner of the individual.

7. This Income Certification is made with the knowledge that it will be relied upon by the Borrower to determine maximum income for eligibility to occupy the unit, and I/we declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable and that the statement of total anticipated income contained in paragraph 4 is reasonable and based upon such investigation as the undersigned deemed necessary.

8. I/we will assist the Borrower in obtaining any information or documents required to verify the statements made therein, including either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding calendar year.

9. I/we acknowledge that I/we have been advised that the making of any misrepresentation or misstatement (whether or not intentional) in this Income Certification will constitute a material breach of my/our agreement with the Borrower to lease the unit and will entitle the Borrower to prevent my/our occupancy of the unit and will be cause for immediate termination of such lease.

10. The undersigned hereby acknowledge and agree that on or before January 1 (or upon Lease renewal) of each year the undersigned and any other current residents of such apartment will complete and deliver a new Income Certification, in the form then in use, to the Borrower and that the undersigned's rent is subject to increase 30 days after written notice is given to the undersigned stating that the undersigned no longer qualifies as a Lower Income Tenant under the Tax Regulatory Agreement.

11. RESIDENT(S) STATEMENT: I/We certify that the statements are true and complete to the best of my/our knowledge and belief and are given under penalty of perjury. In the event this Income Certification is executed more than five days prior to the date I/we intend to occupy the unit, I/we hereby agree to update and recertify the accuracy of the information herein provided as of the date I/we first occupy the unit:

(a) _____ Date: _____

(b) _____ Date: _____

(c) _____ Date: _____

(d) _____ Date: _____

(e) _____ Date: _____

(f) _____ Date: _____

[*The signatures of all persons over the age of 18 years listed in Item 2 above are required*]

12. Calculation of Eligible Income:

(a) Enter the amount entered for entire household in 4 above: $_____

(b) Enter income derived from assets (line 5(d)(2)(A)): $_____

(c) Subtract (b) from (a) $_____

(d) Multiply the amount entered in 5(d)(1) by the current passbook savings rate to determine the total annual earnings on assets [5(d)(1)] if invested in passbook savings.

Passbook rate _____% X _____ = $_____

(e) Enter the greater of (b) or (d) $_____

(f) TOTAL ELIGIBLE INCOME (Line (e) + (c)) $_____

13. The amount entered in 12(f):

(a) _____ Qualifies the applicant(s) as a Lower Income Tenant(s).

(b) _____ Does not qualify the applicant(s) as Lower Income Tenant(s).

14. Number of apartment unit assigned: _____

Bedroom size: _____ Rent: $_____

Tenant-paid Utilities:

Water _____ Gas _____ Electric _____

Trash _____ Other (list type) _____

15. Was this apartment unit last occupied for a period of 31 consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit qualified them as Lower Income Tenants?

_____ Yes _____ No

16. Method used to verify applicant(s) income:

_____ Employer income verification

_____ Social Security Administration verification

_____ Department of Social Services verification

_____ Copies of tax returns

_____ Other (_____)

17. Method used to verify responses, if any, in paragraph 3 of this Income Certification:

_____ Copies of tax returns

_____ Evidence of participation in an enumerated program

18. BORROWER'S STATEMENT: Based on the representations herein and upon the proofs and documentation submitted pursuant to paragraph 8 hereof, the family or individual(s) named in paragraph 2 of this Income Certification is/are eligible under the provisions of the Regulatory Agreement and Declaration of Restrictive Covenants to live in a unit in the Project.

Date _____ Signature of Authorized Borrower Representative:

By _____
Name _____
Title _____

EXECUTION OF ITEMS 19 AND 20

_____ IS _____ NOT NECESSARY.

Initials: _____.

19. If this Income Certification was executed by me/us more than five days prior to my/our occupancy of the unit, I/we hereby update and recertify the accuracy of the information herein provided as of _____, 20_____ and state:

_____ (a) No additional information is required to be provided to make this Income Certification true and correct on the date of this certification.

_____ (b) The following information is provided to update the information previously provided in the Income Certification:

_____

_____

_____

[Remainder of page intentionally left blank]

(a) _____ Date: _____

(b) _____ Date: _____

(c) _____ Date: _____

(d) _____ Date: _____

(e) _____ Date: _____

(f) _____ Date: _____

20. BORROWER'S STATEMENT: The family or individual(s) named in paragraph 2 of this Income Certification have, pursuant to paragraph 19 hereof, updated and recertified the information heretofore provided as specifically set forth in paragraph 19 hereof.

Date _____ Signature of Authorized Borrower Representative

By _____
Name _____
Title _____

[Remainder of page intentionally left blank]

**INCOME VERIFICATION**
(for employed persons)

The undersigned employee has applied for a rental unit located in a project financed by the issuance of a note by the City of Los Angeles for persons of low or moderate income. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual Wages _____

Overtime _____

Bonuses _____

Commissions _____

Total Current Income _____

I hereby certify that the statements above are true and complete to the best of my knowledge.

_____
Date

By _____
Name _____
Title _____

I hereby grant you permission to disclose my income to _____, in order that they may determine my income eligibility for rental of an apartment located in their project which has been financed by an issuance of a note by the City of Los Angeles.

Date _____

Signature _____

Please send form to:_____

[Income verification signature page]

**INCOME VERIFICATION**
(for self-employed persons)

I hereby attach copies of my individual federal and state (if applicable) income tax returns for the immediately preceding calendar year and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

Date _____

Signature _____

# EXHIBIT D

## FORM OF ANNUAL TENANT INCOME RECERTIFICATION

**CITY OF LOS ANGELES**
**ANNUAL TENANT INCOME RECERTIFICATION**

Project name_____

Apartment #____ Date of Original Certification_____

Resident name_____

*TO THE RESIDENT:*
*This form is a continuation of the City of Los Angeles (the "City") Affordable Housing Program (the "Program") which was previously discussed with you. In order to keep you on the qualifying list, you will need to update the following information each year when you renew your lease. The Borrower is required by the Internal Revenue Code of 1986 and the City to maintain this information in order to maintain the Program.*

Household Composition:
1) Please list all of those individuals residing in your apartment.
2) Please list the anticipated annual income of all occupants of your household who are 18 years of age or older (if housemaker, or unemployed, etc.—please list as such).
3) If college or technical school student, please list if full-time or part-time student.

| | NAME | SS# | AGE | ANTICIPATED ANNUAL INCOME* | OCCUPATION/STUDENT |
|---|---|---|---|---|---|
| 1) | | | | | |
| 2) | | | | | |
| 3) | | | | | |
| 4) | | | | | |
| 5) | | | | | |
| 6) | | | | | |
| 7) | | | | | |

*SEE INCOME DEFINITION ATTACHED TO THIS FORM.

DO YOU OWN OR HAVE YOU ACQUIRED OR HAVE YOU DISPOSED OF ANY ASSETS OVER $5,000.00 IN THE PAST YEAR?_____

If so, please describe and list amount and annual income expected to be derived from such assets._____

_____

If all persons residing in your apartment are full-time students, please indicate for each such person whether they are: (1) a single parent living with his/her children; (2) a student receiving assistance under Title IV of the Social Security Act (Temporary Assistance for Needy Families); (3) a student enrolled in a job-training program receiving assistance under the Job Training Partnership Act or under other similar federal, state or local laws; (4) a student who was previously under the care and placement responsibility of a foster care program (under Part B or E of Title IV of the Social Security Act); or (5) a student who is married and files a joint return. Single parents described in (1) above may not be dependents of another individual and their children may not be dependents of another individual other than their parents.

**Please have all occupants over the age of 18 sign this certification**.

I/we acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Borrower to lease the unit and will entitle the Borrower to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

I/we declare under penalty of perjury that the foregoing is true and correct.

SIGNATURES: DATE:

1) _____ _____

2) _____ _____

3) _____ _____

4) _____ _____

MANAGER'S SIGNATURE:

_____ _____

## DEFINITION OF INCOME

The full amount, before any payroll deductions, of wages, salaries, overtime, commissions, fees, tips, and bonuses; net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness or any allowance for depreciation of capital assets); interest and dividends (including income from assets excluded below); the full amount of periodic payments from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic payments, including any lump-sum payment for the delayed start of a periodic payment; payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay; all public assistance income; periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling; all regular and special pay and allowances of members of the Armed Forces (whether or not living in the dwelling) who are the head of the family or spouse; and any earned income tax credit to the extent that it exceeds income tax liability;

but excluding:

income from employment of children (including foster children) under the age of 18 years; payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone); lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers' compensation), capital gains and settlement for personal or property losses; amounts which are specifically for reimbursement of medical expenses;

amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; amounts received under training programs funded by HUD; amounts received under Plan to Attain Self-Sufficiency; amounts for out-of-pocket expenditures incurred in connection with other public assistance programs; resident service stipend (not in excess of $200 per month); amounts from state or local employment training programs; temporary, nonrecurring or sporadic income (including gifts); reparation payments paid by a foreign government to persons who were persecuted during the Nazi era; earnings in excess of $480 for each full-time student 18 years old or older (excluding head of family and spouse); adoption assistance payments in excess of $480 per adopted child; deferred periodic payments of supplemental social security income and benefits received in a lump sum; refunds or rebates of property taxes paid on the unit; payments from state agency to allow developmentally disabled family member to stay home; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments to volunteers under the Domestic Volunteer Service Act of 1973.

## EXHIBIT E

## FORM OF CERTIFICATE OF CDLAC PROGRAM COMPLIANCE

1. Project Name Change: No____ Yes____
*(If project name has changed since the award of allocation, please note the new project name as well as the original project name.)*
New: _____ Original: _____

2. CDLAC Application No.: 20-728

3. Bond Issuer Change: No____ Yes____
*(If Bond Issuer has changed since the award as a result of refinancing or refunding of an allocation, please note the new Issuer as well as the original Issuer.)*

New: _____ Original: _____
Address: _____
Phone #: _____
Email: _____

4. Has a termination of the Regulatory Agreement occurred or is a termination planned in the next year? Has proper noticing occurred?
No____ Yes____ *If yes, please describe and explain.*
If your answer is Yes, there is no need to complete the rest of the form. Please submit the form completed through question #4.

5. Change in Borrower: No____ Yes____
*(If Borrower has changed since the award affecting the CDLAC resolution, please note the new Borrower as well as the original Borrower.)*

New: _____ Original: _____
Address: _____
Phone #: _____
Email: _____

6. Change in Management Company: No____ Yes____ *(If yes, please provide the following information for the New Management Company.)*

New: _____
Address: _____
Phone #: _____
Email: _____

7. Has the Qualified Project Period commenced? No____ Yes____
*(If yes, please submit the Certificate of Completion (one time only.))*
☐Already Submitted Certification

8. Has the project been completed and placed in service? No____ Yes____
*(If yes, please submit the Certificate of Completion (one time only.))*
☐Already Submitted Certification

9. Has any of the following events occurred associated with the bond allocation:
notices of defaults associated with rents and income requirements, Bond Default or a Qualified Bond Default.
No____ Yes____ *If yes, please describe and explain.*

10.

| Federally Bond Restricted Units (Reflected in PSR) | Other Restrictions (Reflected in PSR) | Total (Reported in CDLAC Resolution) |
|---|---|---|
| _____ at 50% AMI | _____ at 50% AMI | _____ at 50% AMI |
| _____ at 60% AMI | _____ at 60% AMI | _____ at 60% AMI |

**Please attach a copy of the project's TCAC Project Status Report (PSR) or equivalent documentation.**

11. Please indicate the distribution of the CDLAC restricted 10% of the 50% AMI units.

| Bedroom Type | # of Units in PSR | # of Units in CDLAC Resolution |
|---|---|---|
| 1 Bedroom | _____ | _____ |
| 2 Bedroom | _____ | _____ |
| 3 Bedroom | _____ | _____ |

12. If the Project has committed to and is currently providing the service amenities for a term as specified in the CDLAC resolution, please verify the services are being provided: on a regular and ongoing basis, which are provided free of charge and all hour requirements are being met:

____ After-school Programs
____ Educational, Health and Wellness or skill development classes
____ Health and Wellness services and programs (not group classes)
____ Licensed Childcare provided for a minimum of 20 hours per week (Monday-Friday)
____ Bona-Fide Service Coordinator/Social Worker

Is the service being offered on an ongoing basis and provided free of charge (childcare excluded)?
No____ Yes____

Are all hour requirements being met? No____ Yes____

**Attach evidence demonstrating that the above listed services are being provided and have met the requirements in the CDLAC Resolution. Including but not limited to MOUs and/or contracts associated with the services rendered, a 12-month schedule (current reporting year) of the services offered, flyers, sign-up sheets, etc.**

Pursuant to Section 13 of Resolution No. 20-172 (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on December 9, 2020, I, _____, an Officer of the Borrower, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with the terms and conditions set forth in the Resolution as outlined above. I further certify that I have read and understand the Resolution, which specifies that once the Note is issued, the terms and conditions set forth in the Resolution Exhibit A, shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy.

| | |
|---|---|
| _____ | _____ |
| Signature of Officer | Date |
| _____ | _____ |
| Printed Name of Officer | Phone Number |
| _____ | |
| Title of Officer | |

**EXHIBIT F**

**FORM OF CONSTRUCTION COMPLETION CERTIFICATE**

$16,525,000
City of Los Angeles
Multifamily Mortgage Revenue Note
(Sage Pointe Apartments)
Series 2021T

1) Project Name: Sage Pointe Apartments
*(If project name has changed since the award of allocation please note the original project name as well as the new project name and request a change in the CDLAC resolution.)*
Original: _____

2) CDLAC Application No.: 20-728

3) Name of Bond Issuer: City of Los Angeles

4) Name of Borrower: Linc-Wilmington Apts LP
*(If Borrower has changed name since the award please note the original Borrower as well as the new Borrower and request a change in the CDLAC resolution.)*
Original: _____

5) The undersigned hereby certifies that all work on the Project was substantially completed as of _____, 20___.

The undersigned hereby further certifies that:

(a) the aggregate amount disbursed on the Loan to date is $_____;

(b) all amounts disbursed from proceeds of the Note have been applied to pay or reimburse the undersigned for the payment of Project Costs (as that term is used in the Regulatory Agreement) and none of the amounts disbursed from the proceeds of the Note have been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs; and

(c) at least 95% of the amounts disbursed from the proceeds of the Note have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs (as that term is used in the Regulatory Agreement) and less than 25% of the amounts disbursed from the proceeds of the Note, exclusive of amounts applied to pay the costs of issuing the Note, have been applied to pay or reimburse the Borrower for the cost of acquiring land.

6) The undersigned hereby certifies the Project meets the general federal rule for a Qualified Project Period.

No _____ Yes _____

(a) 10% of the dwelling units in the Project financed in part from the proceeds of the Note were first occupied on _____ __, 20___ and

(b) 50% of the dwelling units in the Project financed in part from the proceeds of the Note were first occupied on _____ __, 20___.

7) If no to (6), the undersigned hereby certifies the Project meets the special federal rule for a Qualified Project Period.

No _____ Yes _____

(*Project qualifies if it is an acquisition/rehabilitation where no more than 90% of the units were not available for occupancy within 60 days of the earlier of the Project acquisition or the Note issuance date.*)

(a) Note was issued on _____ __, 20___

(b) Property was acquired on _____ __, 20___

(c) The date 10% of the units were available to occupy (within 60 days of the earlier of the acquisition or bond issuance) is _____ __, 20___

_____ _____
Signature of Officer Date

_____
Printed Name of Officer

_____
Title of Officer

_____
Phone Number

# EXHIBIT G

# CDLAC RESOLUTION

# EXHIBIT H

# RESERVED

## EXHIBIT I

## ACCESSIBILITY COVENANTS

The Accessibility Covenants (the "Covenants") herein are attached to the Regulatory Agreement as an exhibit and the Borrower hereby agrees to comply with each of the requirements of the City set forth as follows:

**Section 1. Definitions**. Terms not otherwise defined herein shall have the meanings assigned thereto in the Regulatory Agreement as applicable, provided they do not conflict with the terms defined or referenced herein. The definitions contained in the implementing regulations for Section 504 of the Fair Housing Act ("Section 504") and the ADA are incorporated by reference. *See* 24 C.F.R. §§ 8.3, 100.20; 28 C.F.R. § 35.104. The following terms shall have the respective meanings assigned to them in this Section unless the context in which they are used clearly requires otherwise:

"Accessible," when used with respect to a Housing Unit or a Housing Development, means and refers to full compliance with the requirements of the Accessibility Standards.

"Accessible Housing Development" means a Housing Development that is Accessible, including Accessible public and common use areas, as well as the number and type of Accessible Housing Units that are required to be Accessible by the Covenants.

"Accessible Housing Units" or "Accessible Unit" refers collectively to Housing Units with Mobility Features and Housing Units with Hearing/Vision Features that are Accessible, on an Accessible Route, and in an Accessible Housing Development.

"Accessibility Laws" means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq.; the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131, et seq.; California Government Code Section 11135 et seq.; the federal Fair Housing Act of 1968, as amended ("FHA"), 42 U.S.C. §§ 3601-3620; implementing regulations and design standards for each of the preceding statutes; and the California Building Code. In all instances, the requirements of the Federal Accessibility Laws shall supersede any state or local requirements, unless the state or local requirements are stricter than the Federal requirements.

"Accessibility Standards" means the following compliance standards:

For purposes of Section 504 and the ADA:

a. For Housing Developments constructed or substantially altered before March 15, 2012:

   i. The new construction requirements of 24 C.F.R. pt. 8, including 24 C.F.R. §§ 8.4(d), 8.22, 8.26, and 8.32 as well as the new construction requirements of UFAS, or their successor standards.

b. For Housing Developments constructed or substantially altered on or after March 15, 2012:

i. The Alternative Accessibility Standard; or

ii. Any future accessibility standard and other regulatory requirements applicable to newly constructed facilities in federally-assisted programs that may be adopted in a final rule issued by the U.S. Department of Housing and Urban Development ("HUD") pursuant to notice and comment rulemaking under Section 504 so long as such accessibility standard and regulatory requirements do not provide for less accessibility for persons with disabilities than either a or b;

For purposes of the FHA:

a. Compliance with the standards set forth in 24 C.F.R. § 100.205, including: the requirements in ANSI A117.1-1998, the Fair Housing Accessibility Guidelines, March 6, 1991, in conjunction with the Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines, June 28, 1994, and the Fair Housing Accessibility Act Design Manual, Revised April 1998.

For purposes of state law:

a. The accessibility provisions of the California Building Code Chapters 11A and 11B, or any future accessibility standard and other regulatory requirements applicable to newly constructed facilities adopted as part of the California Building Code; and

b. All applicable building codes in effect for the City of Los Angeles Building and Safety Department.

"Accessible Route" means and refers to a continuous, unobstructed UFAS-compliant path as prescribed in 24 C.F.R. §§ 8.3 and 8.32 and UFAS § 4.3. As used for purposes of the ADA, an Accessible Route is as described in Chapter 4 of the 2010 Standards for Accessible Design, 28 C.F.R. §§ 35.104, as applied to public entities, except that elevator exceptions do not apply.

"Alternative Accessibility Standard" means and refers to the alternative accessibility standard for new construction set out in HUD's notice at 79 Fed. Reg. 29,671 (May 23, 2014), when used in conjunction with the new construction requirements of HUD's regulations at 24 C.F.R. pt. 8, 24 C.F.R. § 8.22, and the new construction requirements of 28 C.F.R. pt. 35, including the 2010 Standards for Accessible Design as defined in 28 C.F.R. § 35.104 and as applied to public entities (excluding any elevator exceptions).

"Assistance Animals" means and refers to animals that work, provide assistance, or perform tasks for the benefit of a person with a disability as well as animals that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance Animals are not pets and are not subject to a housing provider's pet policies. Service animals are one type of Assistance Animal. Assistance Animals include animals that are trained and untrained and include dogs and other animals.

"Borrower" means and refers to an owner of a Housing Development and such owner's successors and assigns who (1) has received, receives, or will receive any federal financial assistance from or through the City since July 11, 1988, and/or (2) was, is or will be the owner of a Housing Development designed constructed, altered, operated, administered, or financed, in whole or in part, in connection with a program administered in whole or in part by the City since January 26, 1992. A Borrower may also be a Subrecipient.

"Covered Housing Development" includes all Housing Developments, including those listed on the City's Covered Housing list, which can be found at accesshousingla.org.

"Fair Housing Policy Related to Disability" means the documents containing the policies of the City, as amended periodically, that ensure all Housing Developments be constructed and operated in accordance with all applicable Accessibility Laws, including federal accessibility requirements. The current policies can be accessed on the City's Accessible Housing Program Website. HUD may require modifications to these policies post-closing.

"HCIDLA" means the Housing and Community Investment Department of the City of Los Angeles.

"Housing Development" or "Development" means the whole of one or more residential structures and appurtenant structures, equipment, roads, walks, and parking lots that (1) received or will receive any Federal financial assistance from or through the City and/or (2) were, are, or will be designed, constructed, altered, operated, administered, or financed in connection with a program administered by the City or by its Subrecipients.

"Housing Unit" means a single unit of residence in the Housing Development that provides spaces for living, bathing, and sleeping, provided such definition shall not be construed to exclude Single Room Occupancy Units. A Housing Unit includes a dwelling unit as that term is used in 24 C.F.R. § 8.22.

"Housing Unit with Hearing/Vision Features" means a Housing Unit that complies with 24 C.F.R. §§ 8.22 and 8.23 and all applicable provisions of UFAS, or the comparable provisions of the Alternative Accessibility Standard including but not limited to § 809 and specifically subsection § 809.5 of the 2010 ADA Standards for Accessible Design, and with the California Building Code Chapters 11A & 11B. Hearing/Vision Features include but are not limited to visual alarms (UFAS §§ 4.34.10, 4.28.3), auxiliary alarms (UFAS §§ 4.34.10, 4.28.4), telephone volume controls and hearing aid compatibility (UFAS § 4.31.5), protections against protruding objects (UFAS § 4.4), stairway requirements (UFAS §§ 4.9, 4.26.4), protections against exposed pipes and surfaces (UFAS §§ 4.19.4, 4.24.6, 4.34.6.5(8)), audible alarms (UFAS § 4.28.2), signage (UFAS § 4.30), push button controls for telephones (UFAS § 4.31.6), consumer information (UFAS § 4.34.4), and range, cooktop, and oven controls (UFAS §§ 4.34.6.6, 4.34.6.7).

"Housing Unit with Mobility Features" means a Housing Unit that is located on an Accessible Route and complies with 24 C.F.R. §§ 8.22 and 8.23 and all applicable provisions of UFAS, or the comparable provisions of the Alternative Accessibility Standard including but not limited to § 809 and specifically subsections §§ 809.2 through 809.4 of the 2010 ADA Standards, and with the California Building Code Chapter 11 B. A Housing Unit with Mobility Features can

be approached, entered and used by persons with mobility disabilities, including people who use wheelchairs.

"Property Management Agent" means and refers to a person or entity that manages one or more of the Housing Developments subject to these Covenants on behalf of a Borrower.

"Reasonable Accommodation" means changes, modifications, exceptions, alterations, or adaptations in rules, policies, practices, programs, activities that may be necessary to (1) provide a person with a disability an equal opportunity to use and enjoy a dwelling, including public and common use areas of a development, (2) participate in, or benefit from, a program (housing or non-housing), service or activity; or (3) avoid discrimination against a person with a disability. Such an accommodation must be granted unless it would (i) pose an undue financial and administrative burden, or (ii) fundamentally alter the essential nature of the program, service, or activity. For purposes of these Covenants, a Reasonable Accommodation includes any physical or structural change to a Housing Unit or a public or common use area that would be considered a reasonable modification for purposes of the FHA.

"Subrecipient" means and refers to any public or private agency, institution, organization, or other entity or person to which federal financial assistance or financial assistance from or through the City is extended. A Subrecipient also means and refers to a non-federal entity that receives a sub-award from a pass-through entity to carry out part of a federal program, but does not include an individual who is a beneficiary of such program. A Subrecipient may also be a recipient of other federal awards from a federal awarding agency. 2 C.F.R. § 200.93. A Subrecipient may also be the Borrower.

"UFAS" means the Uniform Federal Accessibility Standards and refers to a set of scoping requirements and standards for the design and construction of buildings and facilities to ensure that they are readily accessible to and usable by persons with disabilities. See Appendix A to 24 C.F.R. subpart 40 for residential structures and Appendix A to 41 C.F.R. subpart 101-19.6 for general-type buildings (UFAS is also available on-line at http://www.access-board.gov).

**Section 2. Borrower Obligations**. The Borrower represents, warrants, covenants and agrees as follows:

a. A State of California Certified Access Specialist ("CASp") who is a licensed architect or engineer must be identified as part of the development team. A list of CASps can be found at the following link: https://www.apps2.dgs.ca.gov/DSA/casp/casp_certified_list.aspx. The CASp cannot be the architect of record for the Project. The cost of CASp activities and certifications should be included in the application's project budget.

b. The Housing Development shall be constructed in accordance with the Accessibility Standards in Section 1 above to ensure accessibility for persons with disabilities. The Borrower must work with their CASp to ensure that the Housing Development complies with those Accessibility Standards.

c. An accessibility report by a CASp inspector certifying that the Housing Development is in compliance with all applicable Accessibility Standards, as defined in Section 1, above, must be submitted to and approved by HCIDLA at the following phases of the Project development:

1. Accessibility Design Review Report and a pdf copy of the plans are due for review by HCIDLA when construction documents have been developed, and prior to the submission of plans to Los Angeles Building and Safety Department;

2. The Accessibility Design Review Report must be approved by HCIDLA before building permits can be issued;

3. Accessibility Progress Inspection Reports conducted after all rough inspections have been signed off by the Los Angeles Building and Safety Department and prior to closing of walls; and

4. The Final Accessibility Report at completion of construction must be approved by HCIDLA before: (a) final retention payment; (b) certificate of occupancy; and (c) final building permit can be signed off by the Los Angeles Building and Safety Department.

d. Applicants/developers/Borrowers must list all applicable accessibility standards on title page of plans, including the designated FHA Safe Harbor for the Project, and include the following note: *"This is a publicly funded housing project and must comply with federal accessibility standards and California Building Code Chapters 11A & 11B."*

e. If the Development is to be rehabilitated, accessibility retrofits of the Housing Development shall take place concurrently with any project rehabilitation in compliance with the Accessibility Standards, including federal accessibility standards.

f. The Accessible Units shall be prioritized for persons with disabilities who have a disability-related need for the accessibility features of the Accessible Unit. If an Accessible Unit is occupied by residents without disabilities, the Borrower shall require use of a lease addendum to require such residents to relocate to a vacant, non-accessible unit of comparable size, finishes, and amenities, at the same Development at the Development's expense, within thirty (30) days of notice by the Borrower or Property Management Agent, or the minimum amount of notice required by state law, that there is an eligible applicant or existing resident with a disability who requires the accessibility features of the unit.

g. Eleven percent (11%) of the total Housing Units in the Housing Development shall be constructed and maintained by the Borrower as Housing Units with Mobility Features.

h. An additional four percent (4%) of the total Housing Units in the Housing Development shall be constructed and maintained by the Borrower as Housing Units with Hearing/Vision Features.

i. The 4% and 11% calculations shall each be based on the total number of Housing Units in the Housing Development. In determining the number of Accessible Units required, any fractions of units shall be rounded up to the next whole number. Required Accessible Units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout projects and sites, and shall be available in a sufficient range of sizes and amenities so that a qualified individual with a disability has a choice of living arrangements that is, as a whole, comparable to that of other persons eligible for housing assistance under the same program.

j. While additional Accessible Housing Units may be provided, *i.e.*, up to twenty percent (20%), no more than fifteen percent (15%) of the Housing Units in any Housing Development may be counted toward the target number of Accessible Housing Units that the City must provide pursuant to the Voluntary Compliance Agreement (VCA) with HUD (specifically, no more than eleven percent (11%) of the Housing Units in any Housing Development with Mobility Features and no more than four percent (4%) Housing Units in any Housing Development with Hearing/Vision Features) unless HUD provides specific written authorization.

k. The Accessible Units shall be affordable for households pursuant to the terms of the Note Documents and Regulatory Agreement, including any and all amendments, revisions, or modifications.

l. The Project shall comply with the City's Accessibility Regulations Matrix & Overview, Accessible Design/Construction Compliance Requirements, and the Accessibility Report Requirements, which may be amended from time-to-time.

m. The Borrower shall adopt and comply with the City's Fair Housing Policy Related to Disability, as amended.

n. The Borrower and property managers (including resident managers and on-site managers) of the Housing Development shall attend the City's Fair Housing for People with Disabilities workshops.

o. The Borrower shall register the Housing Development on the City's Online Affordable and Accessible Housing Registry ("AAHR"), located at http://lahousing.lacity.org, and utilize the AAHR to provide and update required information about the Housing Development and the Accessible Units, allow people with disabilities to apply for the Accessible Units when

they become available and to place themselves on the waiting list for the Accessible Units, and comply with all other requirements of the AAHR.

p. Following reasonable notice to the Borrower, Borrower shall allow the City to conduct periodic on-site inspections of the Housing Development in order to verify compliance with the Accessibility Standards and the City's Fair Housing Policy Related to Disability.

q. The Housing Development as a whole and all Housing Units shall meet the requirements of the Accessibility Standards as defined in Section 1, above, and any requirements of the City, provided such requirements minimally meet and do not diminish the requirements of the Accessibility Standards.

r. The Borrower shall provide a list to the City of all Accessible Units with unit number, bedroom size and type of Accessible Unit ("Housing Unit with Hearing/Vision Features" or "Housing Unit with Mobility Features").

**Section 3. Occupancy of Accessible Housing Units**. The Borrower shall follow the requirements of Section 504 and its implementing regulations at 24 C.F.R. Part 8, as well as the City's Fair Housing Policy Related to Disability to assure that information regarding the availability of Accessible Units reaches eligible individuals with disabilities. The Borrower will take reasonable, nondiscriminatory steps to maximize the utilization of such units by eligible individuals who require the accessibility features of the particular unit. To this end, the Borrower will take the following steps when an Accessible Unit becomes vacant:

a. First, the Borrower will offer the Accessible Unit to a current occupant of the Housing Development who needs the features of an Accessible Unit;

b. Second, the Borrower will offer the Accessible Unit to a current occupant of a Housing Development under common control who needs the features of an Accessible Unit;

c. Third, the Borrower will offer the Accessible Unit to an eligible, qualified applicant on the waiting list for Accessible Housing Units who needs the features of an Accessible Unit;

d. Fourth, the Borrower will offer the Accessible Unit to a current tenant of a Covered Housing Development who needs the accessible features of the Accessible Unit and are registered with the AAHR; and

e. Fifth, Borrower will offer the unit to qualified applicants who need the accessible features of the Accessible Unit and are registered with the AAHR.

f. If there are no eligible current tenants or applicants in need of accessible features, then the Borrower must conduct targeted outreach and marketing to advertise the unit to qualified individuals who need the accessible features, including listing it as available to individuals who need the

accessible features at http://lahousing.lacity, distributing the information about the accessible vacancy in accord with the Borrower's City approved Property Management Plan, distributing it to the most recent list from the City of organizations that serve people with disabilities, and sending an e-blast to parties on the http://lahousing.lacity website Outreach List. All such communications shall take appropriate steps to ensure effective communication with individuals with disabilities by utilizing appropriate auxiliary aids and services, such as the use of accessible websites and emails. Outreach efforts to the disability community shall include, but not be limited to, notices and other communications describing the availability of such Accessible Units, specific information regarding the features of Accessible Units, eligibility criteria, and application procedures. These, and additional procedures, are incorporated into the City's Fair Housing Policy Related to Disability, as amended.

In the event more than one household has requested an Accessible Unit, the Borrower shall offer the Accessible Unit to households in order on the appropriate waiting list within each category.

If, after using the process identified above, there are no households who need the features of that Accessible Unit, then the Borrower may offer the Accessible Unit to the next household on the conventional waiting list. Should that household choose not to occupy the Accessible Unit, they will remain at the same position on the conventional waiting list. If the household chooses to occupy the Accessible Unit, the tenant must sign a lease addendum in the form approved by the City. The lease addendum requires the household to move to the next available, comparable, conventional unit, when given appropriate notice by the Housing Development that there is an eligible applicant or existing resident with a disability who requires the accessibility features of that Accessible Unit.

For individuals who are required to vacate an Accessible Unit because it is needed by an individual with a disability, the Borrower will pay the costs of the transfer to a comparable conventional unit, including new utility deposit(s), if required, and reasonable moving expenses.

**Section 4. Rental Policies**. The Borrower shall adopt the City's rental policies that meet the requirements of Section 504, the ADA, the FHA, FEHA, and other federal and state laws and regulations as applicable, and of the Fair Housing Policy Related to Disability of the City, as amended. The Borrower shall develop and utilize a Property Management Plan ("PMP"), approved by the City, which describes affirmative marketing, tenanting, and other procedures to ensure that the Housing Development meets all of the civil rights requirements for individuals with disabilities.

Rental applications will include a section to be filled out by applicants to identify whether they are requesting an Accessible Unit or a Reasonable Accommodation. Applicants will not be required to disclose a disability under any circumstances, and the Borrower shall seek information to be disclosed limited to only what is necessary to establish the disability-related need for the requested accommodation. If both the disability and disability-related need for the requested

accommodation are obvious or already known, no additional information may be sought by the Borrower. Applicants and residents may request a Reasonable Accommodation at any time.

**Section 5. Residential Rental Property**. The Borrower hereby represents, covenants, warrants and agrees as follows:

a. All of the Housing Units in the Housing Development will be similarly constructed units, and each income restricted 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 and oven, a sink and a refrigerator. Each of the Accessible Units shall also comply with these requirements. Notwithstanding the foregoing, a unit shall not fail to be treated as a residential unit merely because such unit is a single room occupancy unit within the meaning of Section 42(i)(3)(B)(iv) of the Code even though such housing may provide eating, cooking and sanitation facilities on a shared basis.

b. All of the Housing Units (which shall not include any manager units) will be available for rental on a continuous basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the housing units in the Project, except to the extent that: (1) Accessible Housing Units shall be made available on a priority basis to persons who need the accessible features, as described in Section 3 above; (2) any Housing Units are required to be leased or rented to low income tenants or persons 62 years of age and older, (3) the requirements of any regulatory agreement executed between the Borrower and HUD or between the Borrower and a subordinate lender (including the City), (4) the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, and (5) any preference the Borrower may legally provide pursuant to applicable federal and state law.

**Section 6. Monitoring Requirements**. The City will monitor the initial production and ongoing occupancy of the Accessible Units and the Housing Development to ensure full compliance with the Accessibility Standards, the Fair Housing Policy Related to Disability and the policies in Sections 1 - 4, above. In order to determine compliance with the Accessibility Standards, the Borrower shall submit and the City shall review and approve a CASp Inspection Report of the Housing Development that identifies the necessary and required design elements to make the Housing Units and site accessible for individuals with disabilities. The City shall inspect the construction and/or rehabilitation to verify that the legally required number of Accessible Units have been produced and that the necessary and required design elements have been constructed to make the Housing Units and site accessible for individuals with disabilities and supported by an independent CASp consultant's report.

The City will utilize the Housing Development's City approved PMP and Fair Housing Policy Related to Disability to monitor ongoing occupancy compliance of the Accessible Units and nondiscrimination of individuals with disabilities. Compliance with the policies shall include,

but not be limited to, target marketing, establishing and monitoring a waiting list specific to the Accessible Units, appropriately responding to Reasonable Accommodation requests, implementation of the assistance animal policies, implementation of the policies for re-leasing vacant Accessible Units, and all elements contained in the Fair Housing Policy Related to Disability, as amended.

**Section 7. Maintenance of Records**. With respect to the Covenants, the Borrower agrees to keep and maintain books, accounts, reports, files, records, and other documents pursuant to the terms of the Note Documents and Regulatory Agreement, including any and all amendments, revisions, or modifications.

**Section 8. Notices, Demands, Payments and Communication**. Formal notices, demands, payments and communications between the City and the Borrower shall be sufficiently given and shall not be given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally pursuant to the Notice provisions in the Funding Loan Agreement.

**Section 9. Term of the Covenants**. The Covenants shall be recorded with the Regulatory Agreement upon its execution and shall terminate in accordance with the most restrictive provisions of the Note Documents and Regulatory Agreement, including any and all amendments, revisions, or modifications, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Note.

**Section 10. Covenant to Run with the Land**. The Borrower hereby subjects the Project to the covenants, reservations, and restrictions set forth in the Covenants. The City and the Borrower 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 Borrower's successors in title to the Project. 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. In particular, this Covenant is subject to the requirements of HUD's Section 504 regulation at 24 C.F.R. § 8.50(c).

**Section 11. Default; Enforcement**. As part of ensuring compliance with the Accessibility Covenants, the Accessibility Standards, and the Fair Housing Policy Related to Disability, the City or its agent, will conduct periodic on-site visits inspecting the Housing Development, which inspections may include inspecting the Housing Units and common areas, tenant files, logs and other records. Should the Borrower fail to comply, the City will first issue an Order to Comply ("Order") stating the element of the Housing Development that is out of compliance, and providing a date by which the Borrower must comply. The Order shall give the Borrower not more than 30 days to correct the violation, or such additional time as the City may grant if the Borrower is taking steps to correct the violation ("Compliance Date"), and diligently pursues such action until the default is corrected, which extension is in the City's sole discretion. The City shall re-inspect the Housing Development within 10 days of the Compliance Date specified in the Order or any extension, however failure to inspect or re-inspect within the time frame does not remove the obligation of the Borrower to comply with the Order.

If the Order is issued and the violation continues to exist after the Compliance Date, then the City shall declare an "Event of Default" and may take any one or more of the following steps:

a. Inspection Fee for Non-Compliance. In the event the Borrower fails to comply with the Order within the Compliance Date, the Borrower shall be liable for subsequent inspection fees in the amount approved by Council until compliance has been achieved. Failure to pay the assessed inspection fee within 30 days of the date of invoice, will result in a late charge equal to or two times the fees and a collection fee equal to 50 percent of the original fee shall be imposed if any fee imposed is not paid within 30 days of service of notice of the imposition of the fee.

   The late fee may be imposed without a hearing but may be appealed to the General Manager of HCIDLA. The appeal shall be made in writing, and shall specify the grounds for the appeal. The appeal shall be filed with HCIDLA within ten calendar days of the issuance of the imposition of the late fees and costs. The General Manager or his designee shall issue a decision within ten calendar days of the filing of the appeal. A copy of the decision shall be served on the person or entity subject to the Order or fee by first class United States mail, postage prepaid, or in person. The City shall have the right to bring legal action in any court to enforce the Order and collect the amount of outstanding fees and penalties. City may waive the penalty imposed pursuant to this section if City determines that good causes exist for the Borrower's failure to pay in a timely manner.

b. By mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the City hereunder;

c. Filing of a complaint or referral to HUD or other appropriate agencies for further enforcement actions;

d. Have access to and inspect, examine and make copies of all or a portion of the books and records of the Borrower pertaining to the Project, in order to ensure compliance with all provisions of the Covenants, including records relating to the accessibility of the Accessible Units; and

e. Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder.

**Section 12. Compliance with Accessibility Requirements**. The Borrower hereby certifies that it and its property manager and any agent, contractor and subcontractor will comply with the Accessibility Standards as defined, and the policies described in Sections 2-5. The Borrower and any contractor and subcontractor will provide Reasonable Accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services,

and activities in accordance with each of the applicable and stricter of the requirements of the ADA, the 2010 ADA Standards for Accessible Design, the ADAAG, Section 504, UFAS, the FHA, the Fair Housing Act Design and Construction Requirements, federal regulations implementing the ADA, Section 504, and the FHA, California Government Code 11135 *et seq.,* the California Building Code Chapters 11A and 11B, and all subsequent amendments to those laws. The Borrower and any contractor and subcontractor will not discriminate against persons with disabilities or against persons due to their relationship or association with a person with a disability. Any contract and subcontract entered into by the Borrower, relating to the Covenants and the Project, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

**Section 13. Governing Law**. The Covenants shall be governed by the laws of the State of California.

**Section 14. Parties Bound**. The provisions of the Covenants shall be binding upon and inure to the benefit of the City and the Borrower and their respective successors and assigns.

**Section 15. Severability**. Every provision of the Covenants is intended to be severable. If any provision of the Covenants shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

**Section 16. Waiver**. Any waiver by the City of any obligation in the Covenants shall be in writing; however, the City cannot waive the requirement to comply with federal and state law. No waiver will be implied from any delay or failure by the City to take action on any breach or default of the Borrower or to pursue any remedy allowed under the Covenants or applicable law. Any extension of time granted to the Borrower to perform any obligation under the Covenants shall not operate as a waiver or release from any of its obligations under the Covenants. Consent by the City to any act or omission by the Borrower shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

**Section 17. Modifications**. There shall be no amendment or modification of the Covenants without the prior written approval of the City. Any amendment or modification of the Covenants shall be by a written instrument executed by the City and the parties to the Covenants and the Regulatory Agreement or their successors in title, and duly recorded in the real property records of the County of Los Angeles, California. Modifications or amendments to the Covenants may occur by operation of law or other agreements binding the City and the parties to the Covenants and the Regulatory Agreement.

**Section 18. Conflicts**. If the provisions of the Covenants are inconsistent with the provisions of the Regulatory Agreement, the Note Documents, or any other documents which affect the Project, the more restrictive covenants or restrictions shall control.

**Section 19. Recording and Filing**. The Borrower shall cause the Covenants to be recorded and filed in the real property records of the County of Los Angeles and in such other places as the City may reasonably request. However, failure to record the Covenants by the Borrower shall not relieve Borrower of any of the obligations specified herein.

**EXHIBIT J**

**FORM OF CERTIFICATE OF QUALIFIED PROJECT PERIOD**

Project Name: Sage Pointe Apartments
*(If project name has changed since the award of allocation please note the original project name as well as the new project name and request a change in the CDLAC resolution.)*

CDLAC Application No.: 20-728

Name of Note Issuer: City of Los Angeles

Name of Borrower: Linc-Wilmington Apts LP
*(If Borrower has changed since the award please note the original Borrower as well as the new Borrower and request a change in the CDLAC resolution.)*

Project meets the general federal rule for a Qualified Project Period.
Yes _____ No _____

(a) 10% of the dwelling units in the project financed in part from the proceeds of the captioned Note were first occupied on _____, 20__; and

(b) 50% of the dwelling units in the project financed in part from the proceeds of the captioned Note were first occupied on _____, 20__.

Project meets the special federal rule for a Qualified Project Period.
Yes _____ No _____

*(Project qualifies if it is an acquisition/rehabilitation where more than 90% of the units were not available for occupancy within 60 days of the earlier of the project acquisition or the Note Issuance Date.)*

(a) Note was issued on _____, 20___
(b) Date 12 months after the Note Issuance date _____, 20___

Signature of Officer

_____
Printed Name of Officer

_____
Title of Officer

_____
Phone Number

_____