



**HOUSING AUTHORITY  
of the County of Los Angeles**

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Commissioners

**Monique King-Viehland**  
Executive Director

December 11, 2018

The Honorable Board of Commissioners  
Housing Authority of the  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Commissioners:

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

3-H December 11, 2018

CELIA ZAVALA  
EXECUTIVE OFFICER

**ADOPT RESOLUTION AUTHORIZING ISSUANCE OF TAX-EXEMPT MULTIFAMILY HOUSING  
MORTGAGE REVENUE BONDS OR NOTES FOR MULTIFAMILY HOUSING IN  
UNINCORPORATED WILLOWBROOK  
(DISTRICT 2) (3 VOTES)**

**SUBJECT**

This letter requests that your Board authorize the issuance and delivery of tax-exempt Multifamily Housing Mortgage Revenue Bonds or Notes for the acquisition, construction and development of Willowbrook 2, a 100-unit multifamily affordable rental housing development located in unincorporated Willowbrook.

**IT IS RECOMMENDED THAT THE BOARD:**

1. Find that adoption of this Resolution is not subject to the provisions of the California Environmental Quality Act (CEQA) because the action will not have the potential of causing a significant effect on the environment.
2. Adopt and instruct the Chair to sign the attached Resolution, as required under Section 147(f) of the Internal Revenue Code of 1986, authorizing the issuance of tax-exempt Multifamily Housing Mortgage Revenue Bonds or Notes (Bonds) by the Housing Authority of the County of Los Angeles (Housing Authority), in an aggregate amount not exceeding \$29,000,000 to LINC Housing Corporation (Developer), or affiliate or assign thereof, to finance the site acquisition, construction and development of a 100-unit multifamily rental housing development to be located at 1854 East 118th Street in unincorporated Willowbrook (Project).
3. Authorize the Executive Director, or her designee, to negotiate, execute, and if necessary amend

or terminate all related documents and take all necessary actions for the issuance, sale, and delivery of the Bonds.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of this action is to authorize the issuance, sale and delivery of the tax-exempt Bonds, in an aggregate amount not to exceed \$29,000,000 to finance the acquisition, construction and development of Willowbrook 2 (Project). This action will also allow the Bonds to qualify for a tax exemption under Section 103 of the Internal Revenue Code of 1986.

### **FISCAL IMPACT/FINANCING**

There is no impact on the County General Fund. The Developer will repay the Bonds solely through rent revenues, and will pay all fees and related costs.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The Housing Authority issues tax-exempt Multifamily Housing Mortgage Revenue Bonds on an ongoing basis to provide financing to increase the supply of multifamily housing for very low and moderate-income households throughout Los Angeles County.

The Project, to be located at 1854 East 118th Street in unincorporated Willowbrook will consist of a six-story building comprised of 50 one-bedroom units and 24 two-bedroom units and 26 three-bedroom units, for a total of 100 units. Fifty of the units will be reserved for households with incomes that do not exceed 30% of the area median income (AMI), ten units will be reserved for households with incomes that do not exceed 50% of the AMI and 39 units will be reserved for households with incomes that do not exceed 60% of AMI, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD). The three-bedroom manager's unit will have no affordability requirements. Fifty units will be occupied by homeless individuals and the remaining 49 units will be occupied by families. The affordability requirements will remain in effect for 55 years. The developer for the project is LINC Housing Corporation.

On June 6, 2018, the Housing Authority conducted a public hearing regarding the issuance of the Bonds to finance the Project, at its office located at 700 West Main Street in Alhambra. No comments were received at the public hearing concerning the issuance of the Bonds or the nature and location of the Project.

On July 10, 2018, the Board of Supervisors adopted an Inducement Resolution declaring the intent of the Housing Authority to undertake the financing of a Multifamily Housing Mortgage Revenue Bond project in accordance with Treasury Department regulations. This action established a base date after which costs incurred by the Developer for the Development could be included in the acquisition, construction and permanent financing obtained pursuant to the issuance of tax-exempt Bonds. At the same meeting, the Board of Supervisors adopted a resolution approving issuance of the Bonds, as authorized by Section 147(f) of the Internal Revenue Code of 1986.

The attached Resolution was prepared by Kutak Rock, Housing Authority Bond Counsel, and approved as to form by County Counsel. All other related documents, in substantially final form, are on file with the Executive Office of the Board of Commissioners. They will be approved as to form by County Counsel prior to execution by the authorized parties. On November 28, 2018, the Housing Commission recommended approval of the proposed action.

**ENVIRONMENTAL DOCUMENTATION**

The proposed action is not a project pursuant to the California Environmental Quality Act (CEQA) because it is an activity that is excluded from the definition of a project by Section 15378 (b) of the State CEQA guidelines. The proposed action is an administrative activity of government which will not result in direct or indirect physical change to the environment.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The proposed action is a necessary step to facilitate Bond financing for the Project, which will expand the supply of affordable housing in the County with long-term affordability.

Respectfully submitted,



MONIQUE KING-VIEHLAND  
Executive Director

MKV:LN:jwr

Enclosures

RESOLUTION AUTHORIZING THE ISSUANCE AND DELIVERY OF ONE OR MORE SERIES OF MULTIFAMILY HOUSING REVENUE BONDS OR NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$27,829,048 FOR THE PURPOSE OF MAKING A LOAN TO PROVIDE FINANCING FOR A MULTIFAMILY RENTAL HOUSING PROJECT KNOWN AS WILLOWBROOK 2 APARTMENTS, DETERMINING AND PRESCRIBING CERTAIN MATTERS RELATING THERETO, AND APPROVING AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS.

WHEREAS, the Housing Authority of the County of Los Angeles (the “Authority”) is authorized and empowered by the provisions of Section 34312.3 of the Health and Safety Code of the State of California (the “Act”) to issue and sell revenue bonds or notes for the purpose of making loans or otherwise providing funds to finance the acquisition, construction, rehabilitation and development of multifamily residential rental housing projects, including units for households meeting the income limits set forth in the Act; and

WHEREAS, there has been prepared and presented to this Board for consideration at this meeting the documentation required for the issuance of one or more series of bonds or notes for the financing of the acquisition, development and construction of a multifamily rental housing development consisting of 100 total units located at 1854 East 118<sup>th</sup> Street in unincorporated Los Angeles County (the “Project”), to be known as Willowbrook 2 Apartments and to be owned by LINC-WB2 Apts LP, LINC Housing Corporation (or an affiliate or assign thereof); and

WHEREAS, pursuant to Section 5852.1 of the California Government Code, this Board has received the following information as a good faith estimate of the cost of the Project financing and the Authority has disclosed such information in accordance with Section 5852.1 of the California Government Code: (a) the true interest cost of the Note (as hereafter defined); (b) the finance charge of the Note, including all third party expenses; (c) the amount of proceeds received by the Authority for the sale 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; and

WHEREAS, it appears that each of the documents and instruments above referred to which are now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered for the purposes intended.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Housing Authority of the County of Los Angeles, as follows:

1. It is hereby found and determined that it is necessary and desirable for the Authority to provide financing for the Project through the issuance and delivery of the Note in order to assist in the acquisition, construction and development of the type of dwelling units provided by the Project.

2. For the purpose of raising moneys with which to effectuate financing for the Project, the Authority hereby determines to issue its bonds or note as Multifamily

Housing Revenue Bonds or Note (Willowbrook 2 Apartments), 2018 Series A (or such other name or series designation as may be designated by officers or agents of the Authority), in one or more series or subseries, each with an appropriate series designation (the "Note"), in an aggregate principal amount not to exceed \$27,829,048. The Note shall bear interest at the interest rates set forth in or determined in accordance with a funding loan agreement (the "Funding Loan Agreement"), maturing as provided in the Funding Loan Agreement, but not later than 35 years from the date of issue. The Note shall be in substantially the form set forth in the Funding Loan Agreement, with such appropriate variations, omissions, insertions and provisions as are permitted or required by the Funding Loan Agreement, which shall be appropriately completed when the Note is prepared.

The Note shall be a limited obligation of the Authority payable solely from the revenues, receipts and other moneys pledged therefor under the Funding Loan Agreement.

The Note shall be executed on behalf of the Authority by the manual or facsimile signature of the Chair of this Board or the Executive Director of the Authority.

3. The proposed form of Funding Loan Agreement, in the form presented to this meeting, is hereby approved. The Chair of this Board and the Executive Director of the Authority or his or her designee are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Funding Loan Agreement, in substantially said form, with such additions thereto or changes therein as such officer may approve or recommend upon consultation with counsel to the Authority and Bond Counsel to the Authority (provided that such additions or changes shall not authorize an aggregate principal amount of Note in excess of the amount stated above or result in an initial interest rate on the Note in excess of 9%), the approval of such additions or changes to be evidenced conclusively by the execution and delivery of the Funding Loan Agreement. The proposed form of the Note, as set forth in the Funding Loan Agreement, is hereby approved, and the Chair of the Board and Executive Director of the Authority or his or her designee are hereby authorized and directed to execute, by manual or facsimile signatures of such officers, and, if deemed necessary or desirable, a fiscal agent (the "Fiscal Agent") to be designated by the Authority in the Funding Loan Agreement 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, if applicable, the Note in substantially such form, and the Authority or the Fiscal Agent, as applicable, is hereby authorized and directed to deliver the Note to the purchaser, which shall be MUFJ Union Bank, N.A., or an affiliate thereof in accordance with the Funding Loan Agreement. 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. The date, maturity date, interest rate or rates, interest payment dates, denominations, form, registration privileges, manner of execution, place of payment, terms of redemption and other terms of the Note shall be as provided in the Funding Loan Agreement as finally executed.

4. The proposed form of Construction and Permanent Loan Agreement (the “Loan Agreement”), in the form presented to this meeting, is hereby approved. The Chair of this Board and the Executive Director of the Authority or his or her designee are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Loan Agreement, with such additions or changes in said document as such officer may recommend or approve upon consultation with counsel to the Authority and Bond Counsel to the Authority, the approval of such additions or changes to be evidenced conclusively by the execution and delivery of the Loan Agreement.

5. The proposed form of Regulatory Agreement and Declaration of Restrictive Covenants (the “Regulatory Agreement”) in the form presented to this meeting, is hereby approved. The Chair of this Board and the Executive Director of the Authority or his or her designee are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Regulatory Agreement, with such additions or changes in said document as such officer may recommend or approve upon consultation with counsel to the Authority and Bond Counsel to the Authority, the approval of such additions or changes to be evidenced conclusively by the execution and delivery of the Regulatory Agreement.

6. This Board hereby appoints the Executive Director of the Authority or her designee as administrator/manager with respect to the Project and other matters arising in connection with the Note (the “Administrator”).

7. All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this resolution, whether before or after the issuance of the Note, including without limitation any of the foregoing which may be necessary or desirable in connection with any default under or amendment of such documents, any transfer or other disposition of the Project or any redemption of the Note, may be given or taken by the Administrator without further authorization by this Board, and the Administrator is hereby authorized and directed to give any such consent, approval, notice, order or request and to take any such action which such officer may deem necessary or desirable to further the purposes of this resolution.

8. All actions heretofore taken by the officers and agents of the Authority with respect to the issuance and delivery of the Note are hereby approved, confirmed and ratified, and the proper officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority 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 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 to effectuate the purposes thereof and of the documents herein approved in accordance with this resolution and resolutions heretofore adopted by the Authority.

9. All resolutions or parts thereto in conflict herewith are, to the extent of such conflict, hereby repealed.

10. This resolution shall take effect upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of Los Angeles, State of California, this 11<sup>th</sup> day of December, 2018, by the following vote:

AYES: Supervisors Solis, Ridley-Thomas, Kuehl, Barger and Hahn

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

By: Jenice Hahn  
Chair of the Board of Commissioners

ATTEST:

CELIA ZAVALA  
Executive Officer - Clerk  
of the Board of Commissioners

By: Lachelle Smithman  
Deputy



APPROVED AS TO FORM:

MARY C. WICKHAM  
County Counsel

By: Bethany J. Wickham  
Deputy

**FUNDING LOAN AGREEMENT**

by and among

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

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

and

**HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES,**  
as Governmental Lender

dated as of December 1, 2018

relating to:

\$\_[\_\_\_\_\_]

Housing Authority of the County of Los Angeles  
Multifamily Mortgage Revenue Note  
(Willowbrook 2 Apartments)  
2018 Series A-1

\$\_[\_\_\_\_\_]

Housing Authority of the County of Los Angeles  
Multifamily Mortgage Revenue Note  
(Willowbrook 2 Apartments)  
2018 Series A-2



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## FUNDING LOAN AGREEMENT

(Back to Back Loan Program)

**THIS FUNDING LOAN AGREEMENT**, dated as of December 1, 2018 (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 **HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES**, a public body corporate and politic, organized and existing under the laws of the State of California (together with any successor to its rights, duties and obligations hereunder, the “**County**” or “**Governmental Lender**”), and **U.S. BANK NATIONAL ASSOCIATION**, 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 1 of Part 2 of Division 24 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 Authority, apply to the Note outstanding as of the effective date of such amendments).

“**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 December 1, 2018, executed by the Governmental Lender in favor of the Bank.

“**Authorized Representative**” shall mean: (i) as to the Governmental Lender, Chair of the Board of Commissioners and Executive Director of the Governmental Lender, or for purposes of the closing, in the Executive Director’s absence, Emilio Salas, Deputy Executive Director, or such

other person at the time designated to act 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 an Authorized Representative. 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, [\_\_\_\_\_]; (iii) as to the Funding Lender, Perica Bell, Director or Zennia Harris, Vice President of MUFU Union Bank, N.A.; and (iv) as to the Fiscal Agent, Bertha Mares. 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 MUFU Union Bank, N.A., and its successors and assigns in its capacity as the Funding Lender hereunder.

“**Borrower**” means LINC-WB2 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 aggregate principal amount of \$[27,829,048] 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 December 1, 2018, 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, collectively, those two Promissory Notes (Multifamily Housing Back to Back Loan Program) in the aggregate original principal amount of \$[27,829,048] 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 manager of the general partner] of the Borrower, or any other officer of the [manager of the general partner] of the Borrower designated by the [\_\_\_\_\_] of the [manager 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 and Permanent 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 100 units (including 1 manager unit) of multifamily rental housing located at 1854 East 118th Street in unincorporated Los Angeles County, California, on the site 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 U.S. Bank National Association 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 [December 1], commencing [December 1, 2019].

“**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 \$[27,829,048], 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, the Series A-1 Note and the Series A-2 Note, each in the form attached hereto as Exhibit A, as amended and supplemented from time to time.

“**Governmental Lender**” means the Housing Authority of the County of Los Angeles together with any assigns or successors thereto.

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

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

“**Note Register**” shall have the meaning set forth in Section 4.2 hereof.

“**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.

“**Project Fund**” shall mean the fund established under Section 9.3 hereof and as further described in Section 9.6 hereof.

“**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 the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2018, 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.

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

“**Series A-1 Note**” means the Multifamily Mortgage Revenue Note (Willowbrook 2 Apartments, 2018 Series A-1 in the principal amount of \$[\_\_\_\_\_]).

“**Series A-2 Note**” means the Multifamily Mortgage Revenue Note (Willowbrook 2 Apartments, 2018 Series A-2 in the principal amount of \$[\_\_\_\_\_]).

“**State**” means the State of California.

“**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 County 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.

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 public body, corporate and politic, organized and existing under the laws of the State of California, has the power and authority to (i) enter into the Funding Loan Documents to which it is a party and the transactions contemplated thereby, (ii) incur the limited obligation represented by the Funding Loan Note and the Funding Loan and apply the proceeds of such obligation or loan to finance the Development and (iii) carry out its other obligations under this Funding Loan Agreement and the Funding Loan Note, and by proper action has duly authorized the Governmental Lender's execution and delivery of, and its performance under, such Funding Loan Documents and all other agreements and instruments relating thereto. 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.

(b) The Governmental Lender is not in default under or in violation of, and the execution and delivery of the Funding Loan Documents to which it is a party and its compliance with the terms and conditions thereof will not conflict or constitute a default under or a violation of, (i) the Act, (ii) to its knowledge, any other existing laws, rules, regulations, judgments, decrees and orders applicable to it, or (iii) to its knowledge, the provisions of any agreements and instruments to which the Governmental Lender is a party, a default under or violation of which would prevent it from entering into the Funding Loan Agreement, executing and delivering the Funding Loan Note, financing the Development, executing and delivering the other Funding Loan Documents to which it is a party or consummating the transactions contemplated thereby, and, to its knowledge, no event has occurred and is continuing under the provisions of any such agreement or instrument or otherwise that with the lapse of time or the giving of notice, or both, would constitute such a default or violation (it being understood, however, that the Governmental Lender is making no representations as to the necessity of registering the Borrower Note pursuant to any securities laws or complying with any other requirements of securities laws).

(c) To the knowledge of the Governmental Lender, no litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to the knowledge of the Governmental Lender, threatened against the Governmental Lender with respect to (i) the organization and existence of the Governmental Lender, (ii) its authority to execute or deliver the Funding Loan Documents to which it is a party, (iii) the validity or enforceability of any such Funding Loan Documents or the transactions

contemplated thereby, (iv) the title of any officer of the Governmental Lender who executed such Funding Loan Documents or (v) any authority or proceedings relating to the execution and delivery of such Funding Loan Documents on behalf of the Governmental Lender, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

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

(e) 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.

(f) CDLAC has provided an allocation of the State of California's 2018 private activity bond volume cap under Section 146 of the Code to the Governmental Lender for the Funding Loan Note. 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 Internal Revenue Service 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.

THE GOVERNMENTAL LENDER MAKES NO REPRESENTATION, COVENANT OR AGREEMENT AS TO THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR THE PROJECT AND DOES NOT REPRESENT OR WARRANT AS TO ANY STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE FUNDING LOAN OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF.

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 thereon 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 \$[27,829,048] 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 Series A-1 Note and the Series A-2 Note in the amounts of \$[\_\_\_\_\_] and \$[\_\_\_\_\_], respectively, each on the Closing Date, 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 Series A-1 Note and the Series A-2 Note in the amounts of \$[\_\_\_\_\_] and \$[\_\_\_\_\_], respectively, shall be disbursed by the Bank, on behalf of the Governmental Lender, 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).

(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. The Funding Loan is a limited obligation of the Governmental Lender, payable solely from the Security and other funds or assets pledged and assigned under this Funding Loan Agreement. None of the Governmental Lender, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein, and none of the Funding Loan or the Funding Loan Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan, the Funding Loan Note, or hereunder, shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. Neither the faith, revenues, credit nor taxing power of the Governmental Lender, the State or any other political corporation or subdivision or agency thereof shall be pledged to the payment of the principal of, premium (if any), or interest on the Funding Loan Note or this Funding Loan Agreement. The Governmental Lender has no taxing power.

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 Governmental Lender or any of the officials, members, officers, agents or employees of the Governmental Lender (past, present or future), 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 Governmental Lender or of any such member, officer, agent or employee, 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 Borrower 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 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 recourse for the payment of any part of the principal of, premium, if any, or interest on the Funding Loan Note or for the satisfaction of any liability arising from, founded upon or existing by reason of the issuance, purchase or ownership of the Funding Loan Note shall be had against the Governmental Lender or any official, officer, member, agent or employee of the Governmental Lender, as such, all such liability being expressly released and waived as a condition of and as a part of the consideration for the execution of this Funding Loan Agreement and the issuance of the Funding Loan Note. 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 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. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future officer, director, employee or agent of the Governmental Lender in his individual capacity, and neither the officers, directors, employees or agents of the Governmental Lender executing the Funding Loan Note or this Funding Loan Agreement shall be liable personally on the Funding Loan Note or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Funding Loan Note or the execution of this Funding Loan Agreement.

It is recognized that, notwithstanding any other provision of this Funding Loan Agreement, neither the Borrower, the Fiscal Agent nor any owner of the Funding Loan Note shall look to the Governmental Lender for damages suffered by the Borrower, the Fiscal Agent or such owner 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, or 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.

Notwithstanding any other provision of this Funding Loan Agreement to the contrary:

**THE FUNDING LOAN NOTE IS ISSUED IN ACCORDANCE WITH THE ACT, AND IS A LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER. NEITHER THE GOVERNMENTAL LENDER NOR ANY OFFICIAL OR EMPLOYEE OF THE GOVERNMENTAL LENDER NOR ANY PERSON EXECUTING THE FUNDING LOAN NOTE SHALL BE LIABLE PERSONALLY ON THE FUNDING LOAN NOTE OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF ITS ISSUANCE. THE FUNDING LOAN NOTE AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE GOVERNMENTAL LENDER, PAYABLE SOLELY FROM THE SECURITY AND ANY OTHER REVENUES, FUNDS AND ASSETS PLEDGED UNDER THIS FUNDING LOAN AGREEMENT AND NOT FROM ANY OTHER REVENUES, FUNDS OR ASSETS OF THE GOVERNMENTAL LENDER. NEITHER THE GOVERNMENTAL LENDER, THE STATE NOR ANY OTHER POLITICAL CORPORATION OR SUBDIVISION OR AGENCY THEREOF SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF THE FUNDING LOAN NOTE OR THE INTEREST THEREON OR OTHER COSTS INCIDENT THERETO EXCEPT FROM THE MONEY PLEDGED THEREFOR. 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 THE FUNDING LOAN NOTE OR OTHER COSTS INCIDENT THERETO. THE FUNDING LOAN NOTE IS NOT A DEBT OF THE UNITED STATES OF AMERICA.**

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.

(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 Governmental Lender must approve all transfers of the Funding Loan Note. The transferor shall provide to the Governmental Lender written notice of such proposed transfer not less than 10 Business 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 Business 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) There may be only one holder over the Funding Loan Note initially at closing and not more than one subsequent to closing. The funding Lender shall comply with the Governmental Lender's Multi-Family Bond Policies and Procedures, as described herein and as otherwise set forth in Exhibit D hereto, unless waived in writing by the Governmental Lender.

## **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 \$182,402.

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 the foregoing, neither any past, present or future member of its members, its officers, attorneys, accountants, financial advisors, agents, employees or staff or the members, officers, attorneys, accountants, financial advisors, agents, employees 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 of otherwise shall be personally liable for the amounts owing under this Funding Loan Agreement, the Funding Loan Note or any of the other Funding Loan Documents, and the Bank's and the Fiscal Agent's remedies in the event of a default under the Funding Loan shall be limited to those remedies set forth in the Borrower Loan Documents and, if a default also exists under the Borrower Loan Agreement or the Borrower Note, to commence foreclosure under the Deed of Trust and the other Borrower Loan Documents and the exercise of the power of sale or other rights granted thereunder. In the event of a default hereunder or under the Funding Loan Note, the Fiscal Agent shall not have the right to proceed directly against the Governmental Lender or the right to obtain a deficiency judgment from the Governmental Lender after foreclosure. Nothing contained in the foregoing shall limit any rights or remedies the Governmental Lender or the Fiscal Agent may have against the Borrower.

## **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 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 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 Funding Loan Note will be excluded from the gross income of the owner of the 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 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.

## **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;
- (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 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 Project Fund, representing the proceeds of the 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 approved by the Funding Lender pursuant to the terms, conditions and provisions of the Borrower Loan Agreement. 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 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 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 of all Requisitions by the Funding 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 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, 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 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 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 \$[\_\_\_\_]; 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 U.S. Bank National Association 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.

## **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). Any portion of the Funding Loan remaining outstanding upon such acceleration of the Funding Loan 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 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.

In the event that the Fiscal Agent, the Funding Lender or their respective assignee or designee shall become the legal or beneficial owner of the Development by foreclosure or deed in lieu of foreclosure, such party shall have the right to be exercised in its sole discretion to succeed to the rights and the obligations of the Borrower under the Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement and any other Borrower Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

## **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: Housing Authority of the County of Los Angeles  
700 West Main Street  
Alhambra, CA 91801-3312  
Attention: Mark Trinidad and Jewel Warren-Reed  
Telephone: (626) 262-4511  
Facsimile: (626) 943-3818

with a copy to: Behnaz Tashakorian  
Los Angeles County Counsel  
7th Floor  
350 South Figueroa Street  
Los Angeles, CA 90071

If to the Borrower: LINC-WB2 Apts LP  
c/o LINC Housing Corporation  
3590 Elm Avenue  
Long Beach, CA 90807  
Attention: President

with a copy to: Carle, Mackie, Power & Ross LLP  
Suite 400  
100 B Street  
Santa Rosa, CA 95401  
Attention: Jason Vargelis

with a copy to: MUFG Union Bank, N.A.  
200 Pringle Avenue, Suite 355  
Walnut Creek, CA 94596  
Attention: CDF Division Head  
Facsimile: (925) 947-2455

with a copy to: Rutan & Tucker LLP  
611 Anton Boulevard, 14th Floor  
Costa Mesa, CA 92626  
Attention: Pat McCalla

with a copy to: Raymond James Tax Credit Funds, Inc.  
880 Carillon Parkway  
St. Petersburg, FL 33716  
Attention: Steven J. Kropf, President  
Facsimile: (727) 567-8790

If to the Funding Lender: MUFG Union Bank, N.A.,  
Loan Administration Department  
3151 East Imperial Highway, 1st Floor  
Brea, CA 92821



Attention: Manager  
Facsimile: (323) 720-2433

with a copy to:

MUFG Union Bank, N.A.,  
Community Development Finance Department  
1901 Avenue of the Stars, Suite 600  
Los Angeles, CA 90067  
Attention: Manager  
Facsimile: (310) 551-8980

If to the Fiscal Agent:

U.S. Bank National Association  
633 West 5th Street, 24th Floor  
Los Angeles, CA 90071  
Attention: Global Corporate Trust  
Ref: HACOLA MF (Willowbrook 2 Apartments)  
2018 Series A)  
Telephone: (213) 615-6032  
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. Waiver of Personal Liability. 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 commissioners, 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 owners of the Funding Loan Note, or otherwise, of any sum that may be due and unpaid by the Governmental Lender or its governing body 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 Governmental Lender's commissioners, officer, agent or employee, as such, past, present or future of the Governmental Lender by reason of any act or omission on his or her part or otherwise, for the payment for or to the owners 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 or any holder 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 recordkeeping 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 any holder of the Funding Loan Note 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 recourse for the payment of any part of the principal of, premium, if any, or interest on the Funding Loan Note or for the satisfaction of any liability arising from, founded upon or existing by reason of the issuance, purchase or ownership of any Funding Loan Note shall be had against any officer, member, agent or employee of the Governmental Lender, as such, all such liability being expressly released and waived as a condition of and as a part of the consideration for the execution of this Funding Loan Agreement and the issuance of the Funding Loan Note. 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 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.

12.11. Governmental Lender Requirements. Pursuant to its policies and procedures, if interest on the Funding Loan Note is determined to be taxable pursuant to a Determination of Taxability, as defined in the Regulatory Agreement, the Funding Loan Note shall be subject to mandatory prepayment at the sole direction of the Governmental Lender.

[Remainder of Page Intentionally Left Blank]

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

**HOUSING AUTHORITY OF THE COUNTY  
OF LOS ANGELES, as Governmental Lender**

By: \_\_\_\_\_  
Name: Monique King-Viehland  
Title: Executive Director

Approved as to form:

Mary C. Wickham  
County Counsel

By: \_\_\_\_\_  
Deputy

[Governmental Lender Signature Page to 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 Funding Loan Agreement]

U.S. BANK NATIONAL ASSOCIATION, as  
Fiscal Agent

By \_\_\_\_\_  
Authorized Signatory

[Fiscal Agent Signature Page to Funding Loan Agreement]

**EXHIBIT A**

**FORM OF FUNDING LOAN NOTE**

**THIS NOTE MAY BE OWNED ONLY BY AN APPROVED INSTITUTIONAL BUYER IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS FUNDING LOAN NOTE (A) REPRESENTS THAT IT IS AN APPROVED INSTITUTIONAL BUYER AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS FUNDING LOAN NOTE OR ANY INTEREST HEREIN TO ANOTHER APPROVED INSTITUTIONAL BUYER IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.**

**HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES  
MULTIFAMILY MORTGAGE REVENUE NOTE  
(WILLOWBROOK 2 APARTMENTS)  
[2018 SERIES A-1][2018 SERIES A-2]  
DATED DECEMBER [\_\_\_], 2018**

\$[\_\_\_\_\_]

FOR VALUE RECEIVED, the HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES (together with any assigns or successors thereto, 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 [\_\_\_\_\_] (\$[\_\_\_\_\_]), together with interest on the advanced and unpaid principal amount of this Housing Authority of the County of Los Angeles Multifamily Mortgage Revenue Note (Willowbrook 2 Apartments) [2018 Series A-1][2018 Series A-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 December 1, 2018 (the “**Funding Loan Agreement**”) among U.S. Bank National Association (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 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-WB2 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 December 1, 2018, 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 [\_\_\_\_\_].

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).

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 SHALL NOT BE A DEBT OR AN OBLIGATION, EITHER GENERAL OR SPECIAL, OF THE OBLIGOR, THE STATE OF CALIFORNIA (THE “STATE”) OR ANY POLITICAL SUBDIVISION THEREOF, AND NONE OF THE OBLIGOR, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON. NEITHER THE FAITH, REVENUES, CREDIT NOR TAXING POWER OF THE OBLIGOR, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF SHALL BE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY), OR INTEREST ON THIS FUNDING LOAN NOTE. THIS FUNDING LOAN NOTE AND THE INTEREST HEREON ARE LIMITED OBLIGATIONS OF THE OBLIGOR, PAYABLE SOLELY FROM THE SECURITY AND ANY OTHER REVENUES, FUNDS AND ASSETS PLEDGED UNDER THE FUNDING LOAN AGREEMENT AND NOT FROM ANY OTHER REVENUES, FUNDS OR ASSETS OF THE GOVERNMENTAL LENDER. NEITHER THE OBLIGOR NOR ANY**



**PERSONS EXECUTING THIS FUNDING LOAN NOTE SHALL BE LIABLE PERSONALLY ON THIS NOTE BY REASON OF THE ISSUANCE HEREOF.**

**THIS FUNDING LOAN NOTE HAS BEEN ISSUED IN ACCORDANCE WITH THE ACT.**

**NO OFFICIAL, MEMBER, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE GOVERNMENTAL LENDER, INCLUDING ANY INDIVIDUAL EXECUTING THE FUNDING LOAN AGREEMENT OR THIS FUNDING LOAN NOTE, SHALL BE LIABLE PERSONALLY ON THIS FUNDING LOAN NOTE OR FOR ANY REASON RELATING TO THE ISSUANCE OF THIS FUNDING LOAN NOTE. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THIS FUNDING LOAN NOTE, OR FOR ANY CLAIM BASED ON THIS FUNDING LOAN NOTE, OR OTHERWISE IN RESPECT OF THIS FUNDING LOAN NOTE, OR BASED ON OR IN RESPECT OF THE FUNDING LOAN AGREEMENT OR ANY SUPPLEMENT THERETO, AGAINST ANY MEMBER, OFFICIAL, OFFICER, EMPLOYEE, ATTORNEY OR AGENT, AS SUCH, OF THE GOVERNMENTAL LENDER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THIS FUNDING LOAN NOTE AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THIS FUNDING LOAN NOTE, EXPRESSLY WAIVED AND RELEASED.**

**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 \_\_\_\_\_, 2018.

HOUSING AUTHORITY OF THE COUNTY  
OF LOS ANGELES

By \_\_\_\_\_  
Chair of the Board of Commissioners

ATTEST:

CELIA ZAVALA  
Executive Officer-Clerk of the  
Board of Commissioners

\_\_\_\_\_  
Deputy

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 \_\_\_\_\_.

U.S. BANK NATIONAL ASSOCIATION, as  
Fiscal Agent

By \_\_\_\_\_

**EXHIBIT B**

**FORM OF REPRESENTATION LETTER**

Housing Authority of the County of Los Angeles  
Los Angeles, California

Kutak Rock LLP  
Los Angeles, California

U.S. Bank National Association  
Los Angeles, California

[\$27,829,048]

Housing Authority of the County of Los Angeles  
Multifamily Mortgage Revenue Note  
(Willowbrook 2 Apartments)  
2018 Series A

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 note (the “Funding Loan Note”) issued pursuant to that certain Funding Loan Agreement dated as of December 1, 2018 (the “Funding Loan Agreement”) by and among the Housing Authority of the County of Los Angeles, California (together with any assigns or successors thereto, the “Governmental Lender”), U.S. Bank National Association, 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 Willowbrook 2 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 # \_\_\_\_\_

U.S. Bank National Association  
633 West 5th Street, 24th Floor  
Los Angeles, CA 90071  
Attention: Global Corporate Trust Services

Re: Housing Authority of the County of Los Angeles Multifamily Mortgage Revenue Note (Willowbrook 2 Apartments), 2018 Series A

This requisition is being delivered to you in accordance with the Funding Loan Agreement dated as of December 1, 2018 (the "Funding Loan Agreement") among MUFG Union Bank, N.A. (the "Funding Lender"), the Housing Authority of the County of Los Angeles (together with any assigns or successors thereto, the "Governmental Lender") and U.S. Bank National Association, as fiscal agent (the "Fiscal Agent") pursuant to which the above-referenced note (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 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\_\_

WILLOWBROOK 2 APARTMENTS, LP,  
a California limited partnership

By: LINC-WB2 Apts LLC,  
a California limited liability company,  
its general partner

By: LINC Housing Corporation, a  
California nonprofit public benefit  
corporation, its manager

By: \_\_\_\_\_

Name: Suny Lay Chang

Its: Chief Operating Officer

MUFG UNION BANK, N.A.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SCHEDULE I TO PROJECT FUND REQUISITION**

## **EXHIBIT D**

### **MULTI-FAMILY BOND POLICIES AND PROCEDURES**

#### **BOND SECURITY, BOND RATING AND CREDIT ENHANCEMENT**

##### **A. Bond Security**

HACOLA issues bonds solely on a conduit basis. Repayment of principal and interest on bonds issued by HACOLA will not be secured by any assets of the County of Los Angeles or HACOLA but by the proceeds generated by the collateral or the collateral itself.

##### **B. Bond Rating and Credit Enhancement Requirements**

HACOLA requires that bonds for which it acts as issuer be both credit enhanced and have a minimum rating in the “A” category by Standard and Poor’s (equivalent Moody’s or other bona fide agency rating also acceptable), except as noted below. HACOLA reserves the right to impose these minimum requirements on bond issues for which HACOLA or the County holds a TEFRA hearing.

Credit enhancement may take any number of forms, including a letter of credit (LOC), mortgage backed security (MBS), collateral pledge, bond insurance, etc. The bond rating must be obtained by the closing of the bond issue.

For bond issues that do not meet these minimum requirements, the following requirements shall apply:

1. There may not be more than one bondholder initially and not more than one subsequently.
2. The bonds must be purchased by an entity meeting the definition of a “Qualified Institutional Buyer” as defined in section 144A(a) of the Securities Act of 1933.
3. The bondholder must provide an investor letter in a form acceptable to HACOLA wherein it acknowledges having sufficient knowledge and experience to evaluate the real estate investment.
4. HACOLA must approve all transfers of bond ownership.
5. Subsequent bondholders must be a “Qualified Institutional Investor” and sign an investor letter and certify that they have reviewed the financial feasibility of the project and understand the risks.
6. There must always be a trustee, selected by HACOLA.
7. The developer must indemnify HACOLA, County of Los Angeles, staff, directors, officials, officers, and employees against any lawsuit initiated by the bondholder or any party, regardless of whether or not the developer is negligent.

8. Unrated bonds will not be issued to finance any portion of a continuing care retirement facility.
9. The developer entity shall not be related to the bondholder.
10. The following redemption provisions would apply:
  - A default under the loan agreement would not be defined as a bond default, even though full payments were not being made on the bonds.
  - The bondholder would be free to work out a loan default situation with the current project owner or through foreclosure of the project and its sale to a new owner, while keeping the bonds and regulatory agreement outstanding.
  - In the event a workout cannot be achieved, the documents would allow the bondholder to cause a mandatory redemption of the bonds through a deemed redemption mechanism.
  - If the interest on the bonds ever were determined to be taxable, bonds would be subject to mandatory redemption at the sole direction of HACOLA.



**CONSTRUCTION AND PERMANENT LOAN AGREEMENT  
(Multifamily Housing Back to Back Loan Program)  
(Willowbrook 2 Apartments)**

**THIS AGREEMENT** is made as of the Contract Date by and among Borrower, Governmental Lender and 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, Bank and Fiscal Agent 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 for 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 Funding Loan Note. Governmental Lender has irrevocably pledged and assigned to Bank, as security for Governmental Lender's obligations to repay amounts due under the Funding Loan Note 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 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 AHAP Contract, the HAP Contract, the Density Bonus Restrictions and the Subordinate Documents.

**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.** \$\_\_\_\_\_. **[CHECK]**

**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 \_\_\_\_\_ **[CHECK]**, for a term of fifteen (15) years, and such other terms as are acceptable to the Bank.

**1.8 AHSC Grant Agreement.** Collectively, that certain Standard Agreement entered into by HCD, Sponsor and CDC and that certain Disbursement Agreement entered into by and among HCD, Borrower, CDC and Sponsor pursuant to the terms of which HCD shall make available a grant to recipient, Sponsor, and CDC pursuant to the Affordable Housing and Sustainable Communities Grant Program (the "AHSC Grant") whereby HCD further authorized Sponsor to make the Sponsor AHSC (HRI) Loan to the Borrower. **[CHECK]**

**1.9 AHSC Grant Documents.** The AHSC Grant Restrictions (Junior), the AHSC Grant Restrictions (Senior), the AHSC Grant Agreement, the AHSC Grant Subordination Agreement, and any other documents and instruments evidencing or pertaining to the AHSC Grant. **[CHECK]**

**1.10 AHSC Grant Restrictions (Junior).** That certain Declaration of Restrictive Covenants for the Development and Operation of Affordable Housing executed by Borrower and Sponsor for the benefit of HCD in connection with the AHSC Grant, which lien shall be subordinate to the Deed of Trust. **[CHECK – CONFIRM WHETHER 1 or 2 AHSC RESTRICTIONS]**

**1.11 AHSC Grant Restrictions (Senior).** That certain Declaration of Restrictive Covenants for the Development and Operation of Affordable Housing executed by Borrower and Sponsor for the benefit of HCD in connection with the AHSC Grant, which lien shall be senior to the Deed of Trust. **[CHECK – CONFIRM WHETHER 1 or 2 AHSC RESTRICTIONS]**

**1.12 AHSC Grant Subordination Agreement.** A Subordination Agreement in form and substance satisfactory to Bank, executed by HCD and Borrower, pursuant to which HCD shall unconditionally subordinate the lien and effect of the AHSC Grant Restrictions (Junior) to the lien and effect of the Deed of Trust.

**1.13 AHSC Performance Milestones.** As defined in Section 6.31.

**1.14 AHSC Permanent Loan Deed of Trust.** The deed of trust to be executed by Borrower for the benefit of HCD, encumbering the Project and securing repayment of amounts owing under the AHSC Permanent Loan, the lien of which is to be subject and subordinate to the lien of the Deed of Trust.

**1.15 AHSC Permanent Loan.** The \$5,592,418 loan to be made by HCD to Borrower in accordance with the terms of the AHSC Permanent Loan Standard Agreement.

**1.16 AHSC Permanent Loan Documents.** The AHSC Permanent Loan Standard Agreement, AHSC Permanent Loan Note, the AHSC Permanent Loan Deed of Trust, the AHSC Permanent Loan Restrictions (Junior), the AHSC Permanent Loan Restrictions (Senior), the AHSC Permanent Loan

Subordination Agreement and all other documents and instruments evidencing, securing or pertaining to the AHSC Permanent Loan.

**1.17 AHSC Permanent Loan Note.** The \$5,592,418 promissory note to be executed by Borrower in favor of HCD evidencing the AHSC Permanent Loan.

**1.18 AHSC Permanent Loan Restrictions (Junior).** That certain Declaration of Restrictive Covenants for the Development and Operation of Affordable Housing to be executed by Borrower for the benefit of HCD in connection with the AHSC Permanent Loan, which lien shall be subordinate to the Deed of Trust. **[CHECK – CONFIRM WHETHER 1 or 2 AHSC RESTRICTIONS]**

**1.19 AHSC Permanent Loan Restrictions (Senior).** That certain Declaration of Restrictive Covenants for the Development and Operation of Affordable Housing to be executed by Borrower for the benefit of HCD in connection with the AHSC Permanent Loan, which lien shall be senior to the Deed of Trust. **[CHECK – CONFIRM WHETHER 1 or 2 AHSC RESTRICTIONS]**

**1.20 AHSC Permanent Loan Standard Agreement.** That certain Standard Agreement entered into by HCD and Sponsor pursuant to the terms of which HCD shall make available the AHSC Permanent Loan to Borrower. **[CHECK]**

**1.21 AHSC Permanent Loan Subordination Agreement.** A subordination agreement in the form and substance satisfactory to Bank, to be executed by HCD and Bank and acknowledged by Borrower pursuant to which HCD shall unconditionally subordinate the lien and effect of the AHSC Permanent Loan Deed of Trust and AHSC Permanent Loan Restrictions (Junior) to the lien and effect of the Deed of Trust.

**1.22 AHP Lender.** Pacific Western Bank, a California state-chartered bank.

**1.23 AHP Deed of Trust.** The deed of trust to be executed by Borrower for the benefit of Sponsor and collaterally assigned to AHP Lender, encumbering the Property and securing repayment of amounts owing under the AHP Note, the lien of which shall be subject and subordinate to the lien of the Deed of Trust.

**1.24 AHP Loan.** That certain affordable housing program loan in an amount of not more than \$990,000 from AHP Lender to Sponsor and subsequently loaned by Sponsor to Borrower.

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

**1.26 AHP Note.** The promissory note, in form and content acceptable to Bank, made by Borrower to the order of the Sponsor and collaterally assigned to AHP Lender, evidencing all amounts to be disbursed under the AHP Loan.

**1.27 AHP Subordination Agreement.** A subordination agreement, in form and substance satisfactory to Bank, executed by Sponsor, AHP Lender and Borrower, pursuant to which the Sponsor and AHP Lender shall unconditionally subordinate the lien and effect of the AHP Deed of Trust to the lien and effect of the Deed of Trust.

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

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

**1.30 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.



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

**1.32 Architect.** \_\_\_\_\_ **[CHECK]**, or such other architect as may be approved by Bank.

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

**1.34 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 Loan Documents, 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.

**1.35 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.

**1.36 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 in favor of Bank as additional collateral security for the performance of Borrower's obligations under the Loan Documents, assigning to Bank all of Borrower's rights under the HAP Contract together with that certain Consent to Assignment of HAP Contract attached thereto to and executed by Contract Administrator.

**1.37 Assignment of Hedge.** As defined in Section 7.48.

**1.38 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.

**1.39 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.

**1.40 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.

**1.41 Bank.** MUFU Union Bank, N.A. (i) acting in its capacity as owner of the Funding Loan Note and as assignee of and agent under this Agreement for the Governmental Lender pursuant to the Funding Loan Agreement, and (ii) its successors and assigns.

**1.42 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.

**1.43 Borrower.** LINC-WB2 Apts LP, a California limited partnership.

**1.44 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.

**1.45 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.

**1.46 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.

**1.47 Borrower Loan.** The loan in the aggregate maximum principal amount of \$27,829,048.00 made by the Governmental Lender to Borrower pursuant to this Agreement.

**1.48 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.

**1.49 Borrower Note.** Collectively, Borrower Note A-1 and Borrower Note A-2.

**1.50 Borrower Note A-1.** The Promissory Note (Multifamily Housing Back to Back Loan Program) (Borrower Note A-1) dated as of the Contract Date from Borrower, as maker, in favor of Governmental Lender in the original principal amount of \$24,079,048 [CHECK].

**1.51 Borrower Note A-2.** The Promissory Note (Multifamily Housing Back to Back Loan Program) (Borrower Note A-2) dated as of the Contract Date from Borrower, as maker, in favor of Governmental Lender in the original principal amount of \$3,750,000 [CHECK].

**1.52 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.

**1.53 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.

**1.54 CDC.** Community Development Commission of the County of Los Angeles, a public body corporate and politic.

**1.55 CDC Documents.** The CDC Loan Agreement, CDC Restrictions, CDC/Seller Carryback Note, the CDC/SEller Carryback Deed of Trust, CDC/CGF Note, CDC/CGF Deed of Trust, CDC/MHHP Note, CDC/MHHP Deed of Trust, and the CDC Subordination Agreement and all other documents and instruments evidencing, securing or pertaining to the CDC/CGF Loan, CDC/MHHP Loan and the CDC/Seller Carryback Loan.

**1.56 CDC Loan.** Collectively, the CDC/CGF Loan, the CDC/MHHP Loan, and the CDC/Seller Carryback Loan.

**1.57 CDC Loan Agreement.** The Loan Agreement dated December 20, 2018 between Borrower and CDC pursuant to the terms of which CDC shall make available to Borrower the CDC/CGF Loan, CDC/MHHP Loan, and CDC/Seller Carryback Loan.

**1.58 CDC Restrictions.** The covenants, conditions, and restrictions executed by Borrower for the benefit of CDC in connection with the CDC's making the CDC/CGF Loan, the CDC/MHHP Loan, and the CDC/Seller Carryback Loan.

**1.59 CDC Subordination Agreement.** A Subordination Agreement in form and substance satisfactory to Bank, executed by CDC and Borrower, pursuant to which CDC shall unconditionally subordinate the lien and effect of the CDF Restrictions, the CDC/MHHP Deed of Trust, the CDC/CGF Deed of Trust, and the CDC/Seller Carryback Deed of Trust to the lien and effect of the Deed of Trust.

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

**1.61 CDC/CGF Loan.** The \$3,500,000 loan to be made by CDC to Borrower pursuant to the terms of the CDC Loan Agreement.

**1.62 CDC/CGF Note.** The promissory note made by Borrower to the order of the CDC, evidencing all amounts disbursed and to be disbursed under the CDC/CGF Loan.

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

**1.64 CDC/MHHP Loan.** The \$6,750,000 loan to be made by CDC to Borrower pursuant to the terms of the CDC Loan Agreement.

**1.65 CDC/MHHP Note.** The promissory note made by Borrower to the order of the CDC, evidencing all amounts disbursed and to be disbursed under the CDC/MHHP Loan.

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

**1.67 CDC/Seller Carryback Loan.** The \$2,242,000 loan to be made by CDC to Borrower pursuant to the terms of the CDC Loan Agreement.

**1.68 CDC/Seller Carryback Note.** The promissory note made by Borrower to the order of the CDC, evidencing all amounts disbursed and to be disbursed under the CDC/Seller Carryback Loan.

**1.69 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.

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

**1.71 Closing Date.** Either (i) the date on which the Deed of Trust is recorded and the Initial Advance is made, or (ii) the date the Title Insurer has irrevocably committed to issue the Title Policy and the Bank has authorized closing of the Borrower Loan and the Funding Loan to occur.

**1.72 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.

**1.73 Completion Date.** The date of Project Completion, which date shall not be later than June 1, 2020 **[CHECK]**.

**1.74 Conditions to Conversion.** The conditions precedent to Conversion as listed in Section 3.2.2 below.

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

**1.76 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.

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

**1.78 Contract Administrator.** \_\_\_\_\_ **[CHECK]**.

**1.79 Contract Date.** December 1, 2018.

**1.80 Contractor.** Walton Construction **[CHECK]**, or such other contractor as may be approved by Bank, or Borrower acting in the capacity of general contractor.

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

**1.82 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.

**1.83 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.

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

**1.85 Debt Coverage Ratio.** The ratio of (i) the annual stabilized Net Operating Income for the Property during a particular period of time, to (ii) the assumed combined interest and principal payment for the Permanent Phase that would be required based upon the projected outstanding principal balance for each of Borrower Note A-1 and Borrower Note A-2, respectively, as of the Conversion Date, a fixed interest rate on the Borrower Note A-1 and Borrower Note A-2, respectively, equal to the fixed rate of the Hedge applicable to Borrower Note A-1 and Borrower Note A-2, respectively (inclusive of the Margin), monthly amortization payments on the Borrower Note A-1 based upon a four hundred twenty (420) month amortization period and monthly amortization payments on the Borrower Note A-2 based upon a one hundred eighty (180) month amortization period.

**1.86 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.

**1.87 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.

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

**1.89 Density Bonus Restrictions.** That certain Density Bonus Housing Agreement between Borrower and the CDC recorded against the Property concurrently with the Deed of Trust in a non-subordinated senior lien priority, in the form approved by Bank.

**1.90 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.

**1.91 Developer.** LINC Housing Corporation, a California nonprofit public benefit corporation.

**1.92 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.

**1.93 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.

**1.94 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.

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

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

**1.97 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.

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

**1.99 First Payment Date.** January 1, 2019.

**1.100 Fiscal Agent.** The Fiscal Agent from time to time under the Funding Loan Agreement. Initially the Fiscal Agent shall be U.S. Bank National Association.

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

**1.102 Funding Loan.** The loan in the aggregate maximum amount of \$27,829,048 made by Bank to Governmental Lender pursuant to the Funding Loan Agreement.

**1.103 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.

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

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

**1.106 General Partner.** LINC-WB2 Apts LLC, a California limited liability company.

**1.107 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.

**1.108 Governmental Lender.** Housing Authority of the County of Los Angeles, a public body corporate and politic, organized and existing under the laws of the State of California, and its successors and assigns.

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

**1.110 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), 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.

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

**1.112 Guaranty.** Bank's standard form Loan and Completion Guaranty, Loan Guaranty, Completion Guaranty or Interest and Maintenance Guaranty, as the case may be entered into in connection with the Borrower Loan.

**1.113 HAP Contract.** The Housing Assistance Payments Contract to be entered into between Borrower and Contract Administrator at the Improvements, in the form attached to the AHAP Contract and consistent with the terms of the final proposal attached to the AHAP Contract.

**1.114 HCD.** The Department of Housing and Community Development, a public agency of the State of California.

**1.115 Hedge.** As defined in Section 7.48.

**1.116 Hedge Documents.** As defined in Section 7.48.

**1.117 Improvements.** A one hundred (100) unit multifamily special needs apartment project comprised of ninety-nine (99) low-income units including one (1) manager's unit and related appurtenances.

**1.118 Infill Agreement.** Collectively, that certain Standard Agreement ("Standard Agreement") entered into by HCD and Sponsor and that certain Disbursement Agreement entered into by and among HCD, Borrower and Sponsor pursuant to the terms of which HCD shall make available a grant to recipient, Sponsor, pursuant to the Infill Infrastructure Grant Program (the "Infill Grant") whereby HCD further authorized Sponsor to make the Sponsor Infill Loan to the Borrower.

**1.119 Infill Documents.** The Infill Restrictions (Junior), the Infill Restrictions (Senior), the Infill Agreement, the Infill Subordination Agreement, and any other documents and instruments evidencing or pertaining to the grant made by HCD to Sponsor pursuant to the Infill Agreement.

**1.120 Infill Restrictions (Junior).** That certain Declaration of Restrictive Covenants for the Development and Operation of Affordable Housing executed by Borrower and Sponsor for the benefit of HCD in connection with the Infill Grant, which lien shall be subordinate to the Deed of Trust.

**1.121 Infill Restrictions (Senior).** That certain Declaration of Restrictive Covenants for the Development and Operation of Affordable Housing executed by Borrower and Sponsor for the benefit of HCD in connection with the Infill Grant, which lien shall be senior to the Deed of Trust.

**1.122 Infill Subordination Agreement.** Collectively, a Subordination Agreement in form and substance satisfactory to Bank, executed by HCD and Bank, pursuant to which HCD shall unconditionally subordinate the lien and effect of the Infill Restrictions to the lien and effect of the Deed of Trust, and a Subordination Agreement in form and substance satisfactory to Bank, executed by Sponsor and Bank, pursuant to which Sponsor shall unconditionally subordinate the lien and effect of the Infill Restrictions (Junior) to the lien and effect of the Deed of Trust.

**1.123 Indemnified Parties.** Collectively Governmental Lender, Fiscal Agent and Bank and each of their respective officers, members governing members or partners, directors, staff, officials, employees, attorneys and agents, past, present and future.

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

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

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

**1.127 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.

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

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

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

**1.131 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 LIBOR01 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.

**1.132 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.

**1.133 Loan Fee.** \$153,060.

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

**1.135 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.

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

**1.137 Margin.** 1.55% during the Construction Phase and 1.99% during the Permanent Phase.

**1.138 Maturity Date.** With respect to the Borrower Note A-1, April 1, 2038, and with respect to the Borrower Note A-2, April 1, 2036.

**1.139 Maximum Lawful Rate.** As defined in the Funding Loan Agreement.

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

**1.141 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.

**1.142 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.

**1.143 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.

**1.144 Operating Deficits.** The amount by which Gross Operating Income (including amounts received from tenant-based vouchers or other rent subsidies) for a particular period of time is exceeded by actual Operating Expenses plus required debt service payments on the Borrower Loan or any other approved secondary financing during the same period of time.

**1.145 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.

**1.146 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.

**1.147 Outside Conversion Date.** April 1, 2021, unless extended pursuant to Section 2.5 below.

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



**1.149 Paydown Amount.** The amount by which (a) the current outstanding principal amount of the 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 Exhibit D, Section (o) as of the Conversion Date, which Paydown Amount shall be applied first to pay amounts owing the Borrower Loan Documents other than principal and interest, then to any unpaid interest, then to pay down the principal under Borrower Note A-1 and finally to pay down the principal under Borrower Note A-2.

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

**1.151 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.

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

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

**1.154 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.

**1.155 Preliminary Reservation.** That certain Tax Exempt Reservation Letter dated October 17, 2018, issued by the Allocation Committee.

**1.156 Project.** As defined in the Tax-Exempt Regulatory Agreement.

**1.157 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.

**1.158 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.

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

**1.160 Projected Permanent Phase Loan Amount.** \$7,250,000.

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

**1.162 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.

**1.163 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.

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

**1.165 Recorded Documents.** The Regulatory Agreements, the Deed of Trust, the Deed of Trust Assignment, the Subordination Agreements and the Subordinate Deeds of Trust.

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

**1.167 Rent Restrictions.** The occupancy and rent restrictions contained in the Regulatory Agreements.

**1.168 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.

**1.169 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 and rehabilitation of Bonded Work.

**1.170 Single Change Order Limit.** \$75,000. [CHECK]

**1.171 Sponsor.** LINC Housing Corporation, a California nonprofit public benefit corporation.

**1.172 Sponsor AHSC (HRI) Deed of Trust.** The deed of trust executed by Borrower for the benefit of Sponsor, encumbering the Project and securing repayment of amounts owing under the Sponsor AHSC (HRI) Loan, the lien of which is to be subject and subordinate to the lien of the Deed of Trust.

**1.173 Sponsor AHSC (HRI) Loan.** The \$2,938,566 loan of a portion of the AHSC Grant by Sponsor to Borrower, pursuant to the terms of the Sponsor AHSC (HRI) Note, to cover, among other things, certain costs of the Project.

**1.174 Sponsor AHSC (HRI) Loan Documents.** The Sponsor AHSC (HRI) Note, the Sponsor AHSC (HRI) Deed of Trust, the Sponsor Subordination Agreement and all other documents and instruments evidencing, securing or pertaining to the Sponsor AHSC (HRI) Loan.

**1.175 Sponsor AHSC (HRI) Note.** The \$2,938,566 promissory note executed by Borrower in favor of Sponsor evidencing the Sponsor AHSC Loan.

**1.176 Sponsor Documents.** The Sponsor AHSC (HRI) Loan Documents and the Sponsor Infill Documents.

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

**1.178 Sponsor Infill Loan.** The \$3,250,000 loan of the Infill Grant by Sponsor to Borrower, pursuant to the terms of the Sponsor Infill Note, to cover, among other things, costs of the Project.

**1.179 Sponsor Infill Loan Documents.** The Sponsor Infill Note, the Sponsor Infill Deed of Trust, the Sponsor Subordination Agreement and all other documents and instruments evidencing, securing or pertaining to the Sponsor Infill Loan.

**1.180 Sponsor Infill Note.** The \$3,250,000 promissory note executed by Borrower in favor of Sponsor evidencing the Sponsor Infill Loan.

**1.181 Sponsor Subordination Agreement.** A subordination agreement in the form and substance satisfactory to Bank, executed by Sponsor and Bank and acknowledged by Borrower pursuant to which Sponsor shall unconditionally subordinate the lien and effect of the Sponsor Infill Deed of Trust, and the Sponsor AHSC (HRI) Deed of Trust to the lien and effect of the Deed of Trust.

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

**1.183 Subordinate Documents.** Collectively, the CDC Documents, the AHSC Grant Documents, the AHSC Permanent Loan Documents, the Infill Documents, the Sponsor AHSC (HRI) Loan Documents, the Sponsor Infill Loan Documents, and the AHP Documents.

**1.184 Subordinate Lender.** Collectively, the CDC, HCD, Sponsor and AHP Lender.

**1.185 Subordinate Loans.** Collectively, the CDC/CGF Loan, the CDC/MHHP Loan, the CDC/Seller Carryback Loan, the Sponsor AHSC Grant Loan, the AHSC Permanent Loan, the Infill Loan, the Sponsor AHSC (HRI) Loan, the Sponsor Infill Loan, and the AHP Loan.

**1.186 Subordinate Deeds of Trust.** Collectively, the AHSC Grant Deed of Trust, the AHSC Permanent Loan Deed of Trust, the CDC/CGF Loan, the CDC/MHHP Deed of Trust, the CDC/Seller Carryback Deed of Trust, the Infill Deed of Trust, the Sponsor AHSC (HRI) Deed of Trust, the Sponsor Infill Deed of Trust, and the AHP Deed of Trust.

**1.187 Subordinate Restrictions.** Collectively, the CDC Restrictions, the AHSC Grant Restrictions, the AHSC Permanent Loan Restrictions [**CHECK**], and the Infill Restrictions.

**1.188 Subordination Agreements.** Collectively, the CDC Subordination Agreement, the AHSC Grant Subordination Agreement, the AHSC Permanent Loan Subordination Agreement, the Infill Subordination Agreement, the Sponsor Subordination Agreement, and the AHP Subordination Agreement.

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

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

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

**1.192 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.

**1.193 Tax Credit Application.** The 2018 Low-Income Housing Tax Credit Application submitted to the Allocation Committee to apply for Tax Credits with respect to the Project.

**1.194 Tax Credit Investor.** Raymond James Tax Credit Funds, Inc. [**CHECK**]

**1.195 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.

**1.196 Tax-Exempt Regulatory Agreement.** The “Regulatory Agreement”, as defined in the Funding Loan Agreement.

**1.197 Title Insurer.** Commonwealth Land Title Company.

**1.198 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.

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

**1.200 Unit(s).** The ninety-nine (99) low income apartment units and one (1) manager's unit constituting the Improvements.

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

**1.202 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 **[CHECK]** 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(e) 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 (for purposes of this Section, "Initial Outside Conversion Date") for an additional three (3) months ("Extension Term"), to and including July 1, 2021 ("Extended Outside Conversion Date"), upon satisfaction of all of the following conditions, as determined by Bank:

**2.5.1** 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.

**2.5.2** 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.

**2.5.3** There shall have been no substantial deterioration in the financial condition of Borrower or any Loan Party, as determined by Bank in Bank's reasonable discretion.

**2.5.4** 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.

**2.5.5** 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.

**2.5.6** Borrower shall have provided Bank with evidence that the construction of the Improvements shall be substantially completed in accordance with the Plans, as determined by Bank in its sole discretion.

**2.5.7** Bank shall have the option, in its reasonable 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.

**2.5.8** Borrower shall provide Bank with written evidence of HCD's consent to any such extension, including an amendment to the AHSC Permanent Loan Standard Agreement evidencing the extension of the date by which funds are to be disbursed thereunder to not earlier than the Extended Outside Conversion Date.

**2.5.9** Borrower shall pay all costs and expenses incurred by Bank in connection with extending the Initial Outside Conversion Date, including without limitation, 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 (applicable during the Construction Phase) 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 (applicable during the Permanent Phase) 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 Note A-1 and the Borrower Note A-2, 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.

### **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 A-1 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 A-1 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 A-1 owing on the Conversion Date, assuming equal monthly payments of principal and interest, an amortization period of four hundred twenty (420) 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 with respect to the Borrower Note A-1 shall be immediately due and payable.

(c) 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 A-2 as set forth on Schedule 2 to be attached hereto and incorporated herein by this reference, plus interest accrued for the applicable Interest Period on the principal balance outstanding from time to time on the Borrower Note A-2 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 2 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 A-2 owing on the Conversion Date, assuming equal monthly payments of principal and interest, an amortization period of one hundred eighty (180) 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 2 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 with respect to the Borrower Note A-2 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, 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 A-1, and a copy of Schedule "2" to be attached hereto setting forth the monthly installments of principal required to be paid by Borrower under the Borrower Note A-2, as more particularly set forth in Sections 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 General Partner) 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 ECA, 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 sixty (60) 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 on the Borrower Note A-2 and Borrower Note A-1; and fourth, to the payment of principal on Borrower Note A-2 and Borrower Note A-1. 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.** 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** 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 relevant Interest Period and such securities were held by Bank until 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:

<b>BORROWER INITIALS HERE:</b> _____
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**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 Regulatory Agreement in accordance with the terms of the Funding Loan Agreement and the 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 (including, without limitation, the tax credit certifications attached to the Carryover Allocation as Exhibit A) as Bank may reasonably require to confirm the accuracy of the representations and warranties set forth in Section 6.28 of this Agreement.

**4.1.13** Fully executed copies of the Density Bonus Restrictions and the Subordinate Documents, each in a form acceptable to Bank.

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

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

**4.1.16** Borrower shall have entered into one or more Hedges, in form and content and from a counterparty complying with the provisions contained in Section 7.48, with respect to (i) the Borrower Note A-1 in an amount not less than 3,500,000, which provides for a fixed rate of interest on the Borrower

Note A-1 not to exceed (or otherwise protects against the interest rate on the Borrower Note A-1 exceeding) \_\_\_\_\_ % **[CHECK]** (including the Margin applicable during the Permanent Phase) for the period commencing on the Initial Outside Conversion Date through the applicable Maturity Date, and (ii) the Borrower Note A-2 in an amount not less than 3,750,000, which provides for a fixed rate of interest on the Borrower Note A-2 not to exceed (or otherwise protects against the interest rate on the Borrower Note A-2 exceeding) \_\_\_\_\_ % **[CHECK]** (including the Margin applicable during the Permanent Phase) for the period commencing on the Initial Outside Conversion Date through the applicable Maturity Date.

**4.1.17** Borrower shall have delivered to Bank a fully executed copy of the AHSC Permanent Loan Standard Agreement and an estoppel certificate executed by HCD with respect thereto, each in form and content acceptable to Bank.

**4.1.18** Borrower shall have provided to Bank a soil management plan for the proposed development of the Real Property acceptable to Bank in its sole discretion.

**4.1.19** All costs, charges and expenses incurred or to be incurred (as estimated by Bank) in connection with the Borrower Loan or payable pursuant to this Agreement or the other Borrower Loan Documents, including without limitation, the Loan Fee, service charges, title charges, tax and lien service charges, recording fees, escrow fees, appraisal fees, legal fees, real property taxes and assessments, insurance premiums any amounts required to pay existing encumbrances affecting the Property, and any amounts required to complete purchase of the Real Property shall have been paid in full.

**4.1.20** Such other documentation, certifications, opinions and information as may be reasonably required by Governmental Lender or 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 released by the Bank for recording in the Official Records of the county in which the Real Property is located.

**4.2.4** The Financing Statements have been released by the Bank for filing 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 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 \$1,451,401 **[CHECK]** in the aggregate.

(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 estimated settlement 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 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 AHSC Grant designated for payment of housing and transportation-related infrastructure costs, the undisbursed amount of the Infill Grant designated for payment of infrastructure costs, and the undisbursed amount of the other Subordinate Loans (excluding the AHSC Permanent Loan, \$3,750,000 of the CDC/MHHP Loan and the AHP Loan **[CHECK]**) 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 required by Bank, Bank shall approve the subdivision map in final form as it was filed or recorded.

(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, and the entire amount of the CDC Loan (except for \$3,750,000), the Sponsor AHSC (HRI) Loan designated for payment of housing and transportation-related infrastructure costs, the Sponsor Infill Loan designated for payment of infrastructure costs, and AHP Loan shall have been fully disbursed by the applicable Subordinate Lender to or for the account of Borrower and applied towards Project costs. **[CHECK]**

(k) Each of the Recorded Documents shall have been recorded in the Official Records of the county in which the Real Property is located.

(l) 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.

(m) 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 shall disburse to Fiscal Agent for further disbursement 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, 5.2 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 the AHSC Permanent Loan and \$3,750,000 of the CDC/MHHP Loan. **[CHECK]**

**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.

**5.4.10** Borrower hereby agrees that Borrower shall not request any disbursements of the Loan to pay for transportation-related infrastructure costs in connection with the Project designated to be paid for by the portion of the AHSC Grant allocated to Developer in accordance with the terms of the AHSC Grant Documents or any disbursements of the Loan to pay for infrastructure costs in connection with the Project designated to be paid for by the portion of the Infill Grant allocated to Developer in accordance with the terms of the Infill Documents.

## **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** Except for amounts required to pay costs of issuance at the Initial Disbursement, all Advances shall be first made from Borrower Note A-2 until fully disbursed, and then from Borrower Note A-1 until fully disbursed.

**5.5.6** 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.

**5.5.7** Borrower hereby agrees that it shall not request any disbursements of the Borrower Loan to pay for costs designated to be paid from the proceeds of the IIG Loan or the Sponsor AHSC (HRI) Loan.

**5.6 Disbursement into Project Fund.** 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, 2021 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 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.** All Leases are 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 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 therefore 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 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.

**6.29 Satisfaction of Conditions under Tax Credit Allocation Documents, Subordinate Documents, Density Bonus Restrictions, AHAP Contract and HAP Contract.** Each and every covenant, condition and obligation contained in the Tax Credit Allocation Documents, the Subordinate Documents, the Density Bonus 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.

**6.30 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.

**6.31 AHSC Performance Milestones.** All performance milestones required to be completed under the AHSC Grant Documents and/or the AHSC Permanent Loan Standard Agreement prior to the Closing Date or the disbursement of each Advance (as applicable), including, without limitation, each of the performance milestones set forth on Exhibit E attached hereto (collectively, the "AHSC Performance Milestones") have been satisfied, completed and approved by HCD as of such date.

**6.32 AHSC Permanent Loan Standard Agreement.** The AHSC Permanent Loan Standard Agreement is unmodified, in full force and effect, and all conditions to the effectiveness or continuing effectiveness of the AHSC Permanent Loan Standard Agreement required to be satisfied by the date hereof have been satisfied.

**6.33 AHSC Grant Standard Agreement.** The AHSC Grant Standard Agreement is unmodified, in full force and effect, and all conditions to the effectiveness or continuing effectiveness of the AHSC Grant Standard Agreement required to be satisfied by the date hereof have been satisfied.

**6.34 Borrower Not Related to Bank.** Borrower is not related to Bank or any other holder of the Funding Loan Note.

**6.35 Additional Representations and Warranties.** Borrower also makes the representations and warranties set forth in Section 5.5.4 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, together with the undisbursed proceeds of the portion of the AHSC Grant allocated to Developer and designated for payment of housing and transportation-related infrastructure costs in connection with the Project and the undisbursed proceeds of the portion of the Infill Grant allocated to Developer and designated for payment of infrastructure costs, 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 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 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), together with the undisbursed proceeds of the AHSC Grant allocated to Developer and designated for payment of housing and transportation-related infrastructure costs in connection with the Project and the undisbursed proceeds of the Infill Grant allocated to Developer and designated for payment of infrastructure costs in connection with the Project, 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 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 120 days of the close of each fiscal year-end, the annual Financial Statements for Borrower and each Loan Party,

**7.15.3** within 30 days after written request by Bank, a copy of the most recent filed Federal income tax returns for Borrower and each Loan Party, together with all supporting schedules,

**7.15.4** within 30 days after written request by Bank, the Financial Statements of all affiliates and subsidiaries of Borrower and each Loan Party,

**7.15.5** within 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 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, to inspect, audit and examine and copy the books and records of Borrower and each Loan Party. 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, 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 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.** 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. 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 Density Bonus Restrictions, the AHAP Contract or the HAP Contract.

**7.24 Indemnity.**

**7.24.1** Borrower shall indemnify, defend and hold each of the Indemnified Parties harmless from and against any and all liabilities, claims, actions, proceedings, damages, costs and expenses (including all attorney's fees, including, but not limited to, the fees and costs of any of such party's

in-house counsel and legal staff), regardless of whether the Borrower is negligent, arising out of or resulting from or related to:

**(a)** The Borrower Loan, the Borrower Loan Documents, the Funding Loan Documents, the Regulatory Agreements, the Subordinate Documents, the Density Bonus 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.

**(b)** Any finder's fee, brokerage commission, loan commission or other sum in connection with the consummation of the transactions contemplated hereby.

**(c)** The development of the Property, construction of the Improvements or the design, installation, occupancy, maintenance, financing, ownership, operation or use of the Property

**(d)** 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.

**(e)** The issuance of 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 approved by Indemnified Party, unless Indemnified Party elects to conduct its own defense at the expense of Borrower.

**(f)** Any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or any part thereof.

**(g)** 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.

**(h)** 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.

**(i)** The defeasance and/or redemption, in whole or in part, of the Funding Loan Note.

**(j)** 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.

**(k)** 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 an 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 hereunder, Borrower, upon written notice from such Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by such Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that such Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and Borrower shall pay the reasonable fees and expenses of such separate counsel.

**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** 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; 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, any Loan Party or any general partner, member or shareholder of any Loan Party, 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 Raymond James Tax Credit Funds, Inc., or an affiliate of Raymond James Tax Credit Funds, Inc.; provided that following such transfer, Tax Credit Investor shall remain jointly and severally liable for all contributions to be made by Tax Credit Investor under the Partnership Agreement, (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.

**7.30.4** Amend or modify in any material respect any organizational documents pertaining to Borrower or any Loan Party.

**7.30.5** 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.

**7.30.6** Enter into any new Funding Loan Documents or Subordinate Documents, or amend, modify, supplement, cancel or terminate any Funding Loan Documents, Subordinate Documents,

the Density Bonus Restrictions, the AHAP Contract (including the form of HAP Contract attached as an exhibit to the AHAP Contract) or the HAP Contract.

**7.30.7** 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.

**7.30.8** 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.

**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 Subordinate Documents, the HAP Contract, the Density Bonus Restrictions, and all 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 with 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 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.

**7.36 AHSC Permanent Loan Standard Agreement.** Prior to or concurrently with the Conversion Date, Borrower shall comply with all conditions of the AHSC Permanent Loan Standard Agreement, and shall execute all documents necessary to close the AHSC Permanent Loan.

**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 day of the month in which Borrower is required to make its first 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 \$4,167 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, Regulatory Agreements, Density Bonus Restrictions, AHAP Contract and HAP Contract.** Borrower shall observe and comply with all of the terms and conditions set forth in the Subordinate Documents, all Regulatory Agreements, the Density Bonus Restrictions, the AHAP Contract and the HAP Contract.

**7.42 Payment of Development Fee.** Borrower shall not pay Developer more than (i) \$460,799 of its development fee in the aggregate on or prior to the Closing Date, (ii) \$1,151,999 of its development fee in the aggregate on or prior to the date Bank determines fifty percent (50%) of the Project has been completed, (iii) \$2,153,999 of the development fee in the aggregate on or prior to the Conversion Date, and (iv) \$2,303,999 of its development fee in the aggregate 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 to maintain its status as an "eligible limited liability company" (as such term is used in Section 214(g) of the R&T Code) and Developer to maintain its status as an "eligible non-profit corporation"

(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 Loan and Disbursement of Borrower's Funds.** Borrower shall request and receive disbursements of the entire amount of the Subordinate Loans (except for the AHSC Permanent Loan and \$3,750,000 of the CDC/MHHP Loan) prior to requesting disbursements of Borrower's Funds. **[CHECK]**

**7.46 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 Lender Loan, if any. Borrower shall deliver, or cause to be delivered, to Bank (concurrently with the delivery of the same to Subordinate Lender) copies of all draw requests (and accompanying back-up documentation), if any, submitted to the Subordinate Lender with respect to disbursements made under the Subordinate Lender Loan from time to time.

**7.47 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 Carryover Allocation.

**7.48 Hedge.**

**7.48.1** 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 A-1 and the Borrower Note A-2, commencing no later than the Initial Outside Conversion Date and expiring no earlier than the applicable 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 for Borrower Note A-1 must be the outstanding principal amount of the Borrower Note A-1 as of the Initial Outside Conversion Date, and the notional amount of the Hedge for Borrower Note A-2 must be the outstanding principal amount of the Borrower Note A-2 as of the Initial Outside Conversion Date, or, if later, the effective date of the Hedge. The Hedge for Borrower Note A-1 shall provide for a fixed rate of interest not to exceed (or otherwise protect against the interest rate on the Borrower Note A-1 exceeding) \_\_\_% **[CHECK]** (inclusive of the Margin applicable during the Permanent Phase) thereafter, and the Hedge for Borrower Note A-2 shall provide for a fixed rate of interest not to exceed (or otherwise protect against the interest rate on the Borrower Note A-2 exceeding) \_\_\_% **[CHECK]** (inclusive of the Margin applicable during the Permanent Phase) 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.

**7.48.2** On the Closing Date, the Borrower shall acquire Hedges complying with the requirements of this Section 7.48 and Section 4.1.15. As a condition to the Conversion, the Hedge shall comply with the requirements of this Section 7.48 and subsection (t) of Exhibit D.

**7.48.3** 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.

**7.48.4** 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 7.48; 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 Initial 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 7.48; 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.

**7.48.5** 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.

**7.49 IIG Loan and Sponsor AHSC (HRI) Loan.** Borrower shall request disbursements of the Infill Loan and the Sponsor AHSC (HRI) Loan to pay costs for construction of improvements to be constructed pursuant to the Infill Documents, the AHSC Grant Documents and the Sponsor Documents, as applicable.

**7.50 Funding of AHSC Grant.** Borrower shall cause Developer to request disbursements of the portion of the AHSC Grant allocated to Developer to pay for transportation-related infrastructure costs in connection with the Project in accordance with the terms of the AHSC Grant Documents.

**7.51 Funding of Infill Grant.** Borrower shall cause Developer to request disbursements of the portion of the Infill Grant allocated to Developer to pay for infrastructure costs in connection with the Project in accordance with the terms of the Infill Documents.

**7.52 Funding of AHSC Permanent Loan.** Upon funding (partial or full) of the AHSC Permanent Loan, Borrower shall promptly deliver to Bank the net proceeds of such loan funding to paydown the outstanding balance of the Borrower Loan.

**7.53 AHSC Performance Milestones.** Borrower shall deliver to Bank, on a monthly basis (which delivery shall occur concurrently with any Draw Request to the extent Borrower requests an Advance of Borrower Loan proceeds during any such month), a report summarizing the status of the completion or satisfaction of the performance milestones required to be completed under the AHSC Grant Documents

and/or the AHSC Permanent Loan Standard Agreement, including, without limitation, each of the AHSC Performance Milestones set forth on Exhibit E attached hereto (each, an "AHSC Status Report").

**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 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, 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, (b) the Tax-Exempt Regulatory Agreement or other Funding Loan Document, or (c) any ground lease, if the Property is a leasehold estate.

**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 five consecutive Business Days or more, for any reason, 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 ten 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.

**8.7** Any bonded notice to withhold in connection with the Borrower Loan is validly served on Governmental Lender or Bank and within five 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 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 of the Funding Loan Documents, the Subordinate Documents, the AHAP Contract (including the form of HAP Contract attached as an exhibit to the AHAP Contract), the HAP Contract, or the Regulatory Agreements are modified, amended 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** The occurrence of an event of default by Borrower under the Subordinate Documents, the AHAP Contract, the HAP Contract, the Density Bonus Restrictions, or the Regulatory Agreements (following the expiration of any curative periods set forth therein).

**8.15** 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.

**8.16** 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.

**8.17** 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.

**8.18** Borrower shall fail to obtain the Hedge in accordance with the terms and provisions of Section 7.48. 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.

**8.19** Borrower modifies, amends or terminates the AHSC Permanent Loan Standard Agreement or otherwise fails to consummate the closing of the AHSC Permanent Loan in accordance with the terms of the Standard Agreement or takes any action that might or does result in modification, amendment, termination or expiration of the AHSC Permanent Loan Standard Agreement, in each case without Bank's written consent.

Tax Credit Investor shall have the right to cure any default by Borrower hereunder 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 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.

**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.

**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.

**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 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 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.

**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 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.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default, rights and remedies may be pursued pursuant to the terms of the Borrower Loan Documents and the Funding Loan Documents. The parties hereto acknowledge that, among the possible outcomes to the pursuit of such remedies, is the situation where the Bank's assignees or designees become the owner of

the Project and assume the obligations identified above, and the Borrower Note, the Borrower Loan, and the other Borrower Loan Documents and Funding Loan Documents remain outstanding.

## **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.

**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 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 any party, be determined by Reference (as hereinafter defined) as set forth hereinbelow:

**11.19.1 Selection Or Appointment Of Referee.** Bank and Borrower shall select a single neutral referee, who shall be a retired state or federal judge. In the event that 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 Parties 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 parties, 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 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:**

LINC-WB2 APTS LP,  
a California limited partnership

By: LINC-WB2 Apts LLC,  
a California limited liability company,  
its general partner

By: LINC Housing Corporation,  
a California nonprofit public benefit corporation,  
its manager

By: \_\_\_\_\_  
Suny Lay Chang,  
Chief Operating Officer

**Address for Notice to Borrower:**

LINC-WB2 Apts LP  
c/o LINC Housing Corporation  
Attn: Suny Lay Chang, Chief Operating Officer  
3590 Elm Avenue  
Long Beach, CA 90807  
Phone No. \_\_\_\_\_ [CHECK]  
Fax No. \_\_\_\_\_ [CHECK]  
E-mail address: \_\_\_\_\_ [CHECK]

**With copies to:**

[CHECK – TO BE PROVIDED]

**BANK:**

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

By: \_\_\_\_\_  
Name: Zennia Harris  
Title: Vice President

**Addresses for Notice to Bank:**

MUFG Union Bank, N.A.  
Attn: Manager  
Commercial Credit Loan Administration  
3151 E. Imperial Highway, 1<sup>st</sup> Floor  
Brea, CA 92821  
Phone No. (714) 985-2469  
Fax No. (949) 752-836  
E-mail address: maria.trevias@unionbank.com

MUFG Union Bank, N.A.  
Attn: Zennia Harris, Vice President  
Community Development Finance  
1901 Avenue of the Stars, Suite 600  
Los Angeles, CA 90067  
Phone No. (310) 551-8951  
Fax No. (310) 284-5791  
E-mail address: zennia.harris@unionbank.com

**GOVERNMENTAL LENDER:**

HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES,  
as Governmental Lender

By: \_\_\_\_\_

Name: Emilio Salas

Title: Deputy Executive Director

Approved as to form:

Mary C. Wickham

County Counsel

By: \_\_\_\_\_

Deputy

**Addresses for Notice to Governmental Lender:**

Housing Authority of the County of Los Angeles  
700 West Main Street  
Alhambra, CA 91801-3312  
Attention: Iris Alvarado and Jewel Warren-Reed  
Telephone: (626) 262-4511  
Facsimile: (626) 943-3818

with a copy to:

Behnaz Tashakorian  
Los Angeles County Counsel  
648 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

**JOINDER REGARDING DEVELOPMENT FEE**

The undersigned hereby acknowledges and agrees that the undersigned shall not be entitled to receive more than (i) \$460,799 of its development fee in the aggregate on or prior to the Closing Date, (ii) \$1,151,999 of its development fee in the aggregate on or prior to the date Bank determines fifty percent (50%) of the Project has been completed, (iii) \$2,153,999 of the development fee in the aggregate on or prior to the Conversion Date, and (iv) \$2,303,999 of its development fee in the aggregate prior to receipt of IRS Form 8609 from the Allocation Committee; any portion of such development fee received by the undersigned while any amounts are outstanding or remain undisbursed under the Borrower Loan, 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.

[SIGNATURE PAGE FOLLOWS]

LINC HOUSING CORPORATION,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Suny Lay Chang, Chief Operating Officer

**Schedule 1**

**Post-Conversion Date Installments of Principal and Interest  
(Borrower Note A-1)**

[To be attached on the Conversion Date]



**Schedule 1**

**Post-Conversion Date Installments of Principal and Interest  
(Borrower Note A-2)**

[To be attached on the Conversion Date]

**EXHIBIT A  
LEGAL DESCRIPTION**

This **Exhibit A** is attached to and a part of that certain Construction and Permanent Loan Agreement dated December 1, 2018 by and among LINC-WB2 Apts LP, a California limited partnership, MUFG Union Bank, N.A. and the Housing Authority of the County of Los Angeles.

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

**[CHECK – INSERT LEGAL DESCRIPTION]**

**EXHIBIT B  
DISBURSEMENT SCHEDULE**

(See Attached)

**[CHECK – TO BE PREPARED UPON RECEIPT OF PROJECT BUDGET]**

**EXHIBIT B-1  
PROJECT BUDGET**

This **Exhibit B-1** is attached to and a part of that certain Construction and Permanent Loan Agreement dated December 1, 2018 by and among LINC-WB2 Apts LP, a California limited partnership, MUFG Union Bank, N.A. and the Housing Authority of the County of Los Angeles.

**[CHECK – TO BE INSERTED]**

**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 County of Los Angeles in the unincorporated portion of the County 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.

(f) 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 an obligation which financed a "qualified residential rental project" 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 minimus amount of the functions to be performed at such office is not related to the day-to-day operations of the Project. No proceeds of the Borrower Loan will be used to finance any portion of a continuing care retirement facility.

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 thirty (30) 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 149(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, construction of the Project and reasonably expects to fully expend the portion of the Borrower Loan by the Outside Conversion 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.	<input type="checkbox"/>
(b) All indebtedness incurred by the Borrower in connection with the Project, including, but not limited to, the Borrower Loan and any subordinate financing, shall be completely funded and, if applicable, converted to permanent financing.	<input type="checkbox"/>
(c) No material adverse change has occurred in the financial condition of Borrower or any other Loan Party, as evidenced by current Financial Statements provided by Borrower to Bank.	<input type="checkbox"/>
(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).	<input type="checkbox"/>
(e) The Improvements shall not have been materially injured or damaged by fire or other casualty.	<input type="checkbox"/>
(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.	<input type="checkbox"/>
(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.	<input type="checkbox"/>
(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.	<input type="checkbox"/>
(i) Bank shall have received the Paydown Amount in cash or current funds.	<input type="checkbox"/>



Conditions to Conversion		Check When Satisfied
(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.	<input type="checkbox"/>
(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.	<input type="checkbox"/>
(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.	<input type="checkbox"/>
(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.	<input type="checkbox"/>
(n)	Guarantor has executed and delivered to Governmental Lender and Bank the Indemnity Agreement.	<input type="checkbox"/>
(o)	During each month of the three-month period immediately preceding the Conversion Date, the Debt Coverage Ratio for the Property shall have been at least 1.15 to 1.00.	<input type="checkbox"/>
(p)	Borrower shall have established with Bank the Capital Improvement Reserve Account and collaterally assigned such account to Bank.	<input type="checkbox"/>
(q)	Borrower shall have paid to Bank all reasonable costs and expenses incurred by Bank and Fiscal Agent in connection with the Conversion.	<input type="checkbox"/>
(r)	Borrower delivers to Bank such other documentation, certifications, opinions and information as may be required by Bank.	<input type="checkbox"/>
(s)	If requested by Bank, (a) each Subordinate Lender shall have executed and delivered to Bank estoppel certificates which shall contain such certifications as Bank shall reasonably require with respect to the applicable Subordinate Documents and Density Bonus 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.	<input type="checkbox"/>

Conditions to Conversion		Check When Satisfied
(t)	Borrower shall have entered into one or more Hedges with respect to the Borrower Note A-1, in form and content and from a counterparty complying with the provisions contained in Section 7.48, which shall provide for the Borrower to pay a fixed rate of interest no greater than ____% <b>[CHECK]</b> (including the Margin applicable during the Permanent Phase), on an amount not more than the entire outstanding principal balance of the Borrower Note A-1 as of the Conversion Date for the period commencing no later than the Initial Outside Conversion Date through the Maturity Date.	<input type="checkbox"/>
(u)	Borrower shall have entered into one or more Hedges with respect to Borrower Note A-2, in form and content and from a counterparty complying with the provisions contained in Section 7.48, which shall provide for the Borrower to pay a fixed rate of interest no greater than ____% <b>[CHECK]</b> (including the Margin applicable during the Permanent Phase), on an amount not more than the entire outstanding principal balance of the Borrower Note A-2 as of the Conversion Date for the period commencing no later than the Initial Outside Conversion Date through the Maturity Date.	
(v)	Such evidence as Bank may require evidencing expenditure of Borrower's Equity on Project costs in accordance with this Agreement is at least \$14,364,013 <b>[CHECK]</b> in the aggregate.	<input type="checkbox"/>
(w)	Borrower shall have entered into the HAP Contract on terms and conditions acceptable to Bank, and the HAP Contract shall have been collaterally assigned by the Borrower to the Bank pursuant to the Assignment of HAP Contract and Contract Administrator shall have consented to such assignment of the HAP Contract pursuant to the Assignment of HAP Contract.	<input type="checkbox"/>
(x)	Borrower shall have delivered to Bank fully executed copies of the AHSC Permanent Loan Documents, each in form and content acceptable to Bank, and the AHSC Permanent Loan shall have been closed and fully funded, or shall close and fully fund concurrently with Conversion.	
(y)	The Loan-to-Value Ratio shall not exceed 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.	<input type="checkbox"/>
(z)	Borrower shall have established the Capital Improvement Account and collaterally assigned such account to Bank.	<input type="checkbox"/>

**EXHIBIT E**  
**AHSC PERFORMANCE MILESTONES**

(See Attached)



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

by and among

HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES,

as Governmental Lender,

MUFG UNION BANK, N.A.,

as Bank

and

LINC-WB2 APTS LP,  
a California limited partnership,

as Borrower

Dated: December 1, 2018

Relating to

\$27,829,048  
Housing Authority of the County of Los Angeles  
Multifamily Mortgage Revenue Note  
(Willowbrook 2 Apartments)  
2018 Series A

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RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

KUTAK ROCK LLP  
1650 FARNAM STREET  
OMAHA, NE 68102  
ATTENTION: KARILYN E. KOBER, ESQ.

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**REGULATORY AGREEMENT  
AND DECLARATION OF RESTRICTIVE COVENANTS**

by and among

**HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES,**  
as Authority

and

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

and

**LINC-WB2 APTS LP,**  
as Borrower

relating to

\$\_[\_\_\_\_\_]

Housing Authority of the County of Los Angeles  
Multifamily Housing Revenue Note  
(Willowbrook 2 Apartments)  
2018 Series A-1

\$\_[\_\_\_\_\_]

Housing Authority of the County of Los Angeles  
Multifamily Housing Revenue Note  
(Willowbrook 2 Apartments)  
2018 Series A-2

Dated as of December 1, 2018

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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 December 1, 2018 by and among the **HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES**, a public body, corporate and politic, organized and existing under the laws of the State of California (together with any successor to its rights, duties and obligations, the “Authority”), **U.S. BANK NATIONAL ASSOCIATION**, a national banking association in its capacity as Fiscal Agent (the “Fiscal Agent”) under the Funding Loan Agreement dated as of December 1, 2018 (the “Funding Loan Agreement”) by and among the Authority, MUFG Union Bank, N.A., as Funding Lender (the “Funding Lender”) and the Fiscal Agent, with an office in Los Angeles, California, and **LINC-WB2 APTS LP**, a California limited partnership (the “Borrower”).

**W I T N E S S E T H :**

WHEREAS, pursuant to Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California (the “Act”), the Authority is empowered to issue bonds to finance the acquisition, construction and equipping of multifamily rental housing; and

WHEREAS, on July 10, 2018 (the “Inducement Date”) the Board of Commissioners of the Housing Authority of the County of Los Angeles passed a resolution (the “Inducement Resolution”) indicating the Authority’s intent to provide for the issuance of revenue bonds or notes to finance the acquisition, construction, development and equipping of Willowbrook 2 Apartments, a multifamily residential rental housing project located in the County of Los Angeles consisting of 100 units located at 1854 East 118th Street in unincorporated Los Angeles County on the site more particularly described in Exhibit A hereto (the “Project”); and

WHEREAS, on July 18, 2018 the Board of Commissioners of the Housing Authority of the County of Los Angeles adopted a resolution (the “Resolution”) authorizing the issuance of its revenue bonds to provide financing for the acquisition and construction of the Project; and

WHEREAS, in furtherance of the purposes of the Act and the Resolution, and as a part of the Authority’s program of financing housing, the Authority is issuing pursuant to that Funding Loan Agreement (the “Funding Loan Agreement”) dated as of December 1, 2018 among the Authority, the Fiscal Agent and the Funding Lender, its Multifamily Housing Revenue Note (Willowbrook 2 Apartments), 2018 Series A-1 (the “Series A-1 Note”) and its Multifamily Housing Revenue Note (Willowbrook 2 Apartments), 2018 Series A-2 (the “Series A-2 Note”) and together with the Series A-1 Note, the “Note”), the proceeds of which will be used to fund two loans (together, the “Loan”) to the Borrower to provide financing for the acquisition, construction, development 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

Act and the policies with respect to the Authority's housing program, the use and operation of the Project must be restricted in certain respects; and

WHEREAS, the Authority, 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 and construction of the Project and in order to ensure that the Project will be used and operated in accordance with the Code, the Act and the additional requirements of the Authority 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 Authority, 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 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 1 of Part 2 of Division 24 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 Authority, 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).

"*Affordable Rent*" means an annual rent for a Low Income Unit or a Very Low Income Unit, as applicable, which does not exceed 30% of the applicable maximum Adjusted Income for the Area of Low Income Tenants or Very Low Income Tenants, as applicable, adjusted for family size using the following occupancy assumptions: studio (1 person); one bedroom (2 persons); two bedrooms (3 persons); and three bedroom (4 persons), subject to adjustment as provided in Section 6(a) hereof.

"*Agreement*" or "*Regulatory Agreement*" means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be amended from time to time.

"*AHAP Contract*" has the meaning set forth in the Loan Agreement.

"*Area*" means the Los Angeles Primary Metropolitan Statistical Area.

“*Authority*” means the Housing Authority of the County of Los Angeles, a public body corporate and politic, organized and existing under the laws of the State of California, together with any assigns or successors thereto.

“*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 Authority 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 Authority) 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 Authority 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-WB2 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 32 hereof.

“*CDLAC Resolution*” means CDLAC Resolution No. 18-103 adopted on September 19, 2018, attached to this Regulatory Agreement as Exhibit G and related 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 Authority at the times specified in Section 32(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 Authority 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 Authority.

“*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.

“*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 and construction of the Project, as that date shall be certified as provided in Section 2(i) hereof and 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 32 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 Authority, the Fiscal Agent and CDLAC not more than 30 months after the Note Closing Date, in substantially the form of Exhibit J 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.

“*County*” means the County of Los Angeles.

“*Density Bonus Restrictions*” has the meaning set forth in the 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 Authority, 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 U.S. Bank National Association in its capacity as fiscal agent under the Funding Loan Agreement, together with its successors and assigns.

“*Funding Lender*” means MUFG Union Bank, N.A., a national banking association and any successor Funding Lender under the Funding Loan Agreement.

“*Funding Loan Agreement*” means the Funding Loan Agreement dated as of December 1, 2018 by and among the Authority, the Funding Lender and the Fiscal Agent relating to the issuance of the Note, as amended, modified, supplemented or restated from time to time.

“*Gross Income*” means the gross income of a person (together with the gross income of all persons who intend to reside with such person in one residential unit) as calculated in the manner prescribed under Section 8 of the Housing Act (or, if such program is terminated, under such program as in effect immediately before such termination).

“*HAP Contract*” has the meaning set forth in the Loan Agreement.

“*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 United States 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 Authority to the Borrower and, with respect to recertifications, the Annual Tenant Income Recertification attached hereto as Exhibit D or such other form as may, from time to time, be provided by the Authority to the Borrower.

“*Inducement Date*” means July 10, 2018.

“*Loan*” means the loan of the sale proceeds of the Note by the Authority to the Borrower pursuant to the Loan Agreement for the purpose of providing funds for the acquisition and construction of the Project.

“*Loan Agreement*” means the Construction and Permanent Loan Agreement (Multifamily Housing Back to Back Loan Program) dated as of December 1, 2018 by and among the Authority, the Funding Lender 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% 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*” means the note authorized, authenticated and delivered under the Funding Loan Agreement.

“*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, Authority, 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 and the Act, any and all costs incurred by the Borrower with respect to the acquisition and 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 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 having the street address of 1854 East 118th Street in unincorporated Los Angeles County, 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.

“*Subordinate Documents*” has the meaning set forth in the Loan Agreement.

“*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 Authority 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.

“*Very Low Income Tenant*” means a tenant whose Adjusted Income does not exceed limits determined in a manner consistent with determinations of low income families under Section 8 of the Housing Act, except that the percentage of median gross income that qualifies as lower income shall be 50% 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 Very 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 Very 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.

“*Very Low Income Unit*” means the units in the Project required to be rented to, or held available for occupancy by, Very Low Income Tenants pursuant to Sections 4(a), 4(b) and 7(a) hereof.

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 1, 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 Authority 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 and construction 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 and construction of the Project are accurately set forth in the Borrower Cost Certificate (the "Borrower Cost Certificate") submitted to the Authority 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 and construction 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) 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 Act or the Code.

(h) [Reserved].

(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 Authority, 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 Authority 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 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 Authority 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 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 Subsection 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 and Very 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. 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) 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 for the following: (1) any dwelling units required to be leased or rented to Low Income Tenants or Very Low Income Tenants, except as further provided herein, (2) to the extent not otherwise inconsistent with the requirements of 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 Authority), (3) the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, and (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. While the Borrower may market units to and target unit occupancy by individuals with special needs under a State program or policy that supports housing for such a specified group, the Borrower shall not deny occupancy to an applicant for a dwelling unit solely based upon such applicant's failure to be a member of such specified group.

(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 County.

(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 Authority 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. Very Low Income Tenants and Low Income Tenants; Records and Reports.** Pursuant to the requirements of the Code and the Authority, 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 Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time. Within 30 days after each of (i) the date on which 10% of the dwelling units in the Project are occupied by tenants providing an Income Certification; and (ii) the date on which 50% of dwelling units in the Project are occupied by tenants providing an Income Certification, the Borrower shall execute and deliver to the Authority 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% (and Very Low Income Tenants shall occupy at least 10%) 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, provided that Very Low Income Tenants shall rent and occupy at least 10% of the completed units of the Project. For the purposes of this paragraph (b), a vacant unit which was most recently occupied by a Low Income Tenant or a Very Low Income Tenant is treated as rented and occupied by a Low Income Tenant or a Very Low Income Tenant, as applicable, 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 or a Very 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 or Very Low Income Tenants, as applicable; provided, however, that should a Low Income Tenant's or a Very 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 or a Very 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 or a Very Low Income Tenant, as applicable; and provided further that, until such next available unit is rented to a tenant who is not a Low Income Tenant or a Very Low Income Tenant, the former Low Income Tenant or Very Low Income Tenant who has ceased to qualify as such shall be

deemed to continue to be a Low Income Tenant or a Very Low Income Tenant for purposes of the 40% or 10% requirement, as applicable, of paragraph (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 or Very Low Income Tenant, as applicable, including (i) an Income Certification dated no later than the day prior to the initial occupancy of such Low Income Tenant or Very Low Income Tenant, as applicable, 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 Authority 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 or Very Low Income Tenants, as applicable, commencing or continuing occupation of a Low Income Unit or a Very Low Income Unit, as applicable (and not previously filed with the Authority), shall be attached to the Certificate of Continuing Program Compliance which is to be filed with the Authority no later than the fifteenth day of each month (or such other period as specified in writing by the Authority) until such report indicates compliance with Section 4(b) and thereafter the fifteenth day of each June and December (or such other period as specified in writing by the Authority) 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 Authority shall deem relevant, such as the two most recent years' tax returns or other forms of independent verification satisfactory to the Authority.

(e) The Borrower will use its best efforts to maintain complete and accurate records pertaining to the Low Income Units and the Very Low Income Units, and will with reasonable notice permit any duly authorized representative of the Authority, 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 and the Very Low Income Units.

(f) The Borrower will prepare and submit to the Authority and the Fiscal Agent, no later than the fifteenth day of each month (or such other period as specified in writing by the Authority) 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 managers) are occupied by Low Income Tenants and 10% of the occupied units (excluding units occupied by managers)

are occupied by Very Low Income Tenants, and thereafter no later than the fifteenth day of each June and December (or such other period specified in writing by the Authority) 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 paragraph (b) of this Section 4, by Low Income Tenants or Very Low Income Tenants, respectively, 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 Authority 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, on behalf of the Authority, submit such completed form to the Secretary of the Treasury, regardless of whether or not the Authority 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 or a Very Low Income Unit, as applicable, 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 or the Very Low Income Tenant, as applicable, in determining qualification for occupancy of the Low Income Unit or the Very Low Income Unit, as applicable, 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 or a Very Low Income Tenant, as applicable, of the same family size, such tenant may cease to qualify as a Low Income Tenant or Very Low Income Tenant, as applicable, 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. All leases pertaining to Low Income Units or Very Low Income Units shall contain clauses, among others, wherein each tenant who occupies a Low Income Unit or a Very Low Income Unit, as applicable: (i) certifies the accuracy of the statements made in the verification of income; (ii) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Borrower, the Fiscal Agent or the Authority, and that the failure to provide accurate information in the verification of

income or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant.

**Section 5. Tax-exempt Status of the Note.** The Borrower and the Authority 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 Authority 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 Authority will take such action or actions as may be necessary, in the written opinion of Bond Counsel filed with the Authority 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 Authority will file or record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the Authority 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 Authority 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) Not less than 40% of the total number of units in the Project (excluding units occupied by 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. Not less than 10% of the total number of units in the Project (excluding units occupied by managers) shall be reserved for occupancy by tenants whose adjusted gross income does not exceed 50% 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 50% for Very Low Income Tenants, and 30% times 60% for Low Income Tenants 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 Authority 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, 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 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 and Very 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 and Very Low Income Tenants.

(h) The rental payments for the Low Income Units and the Very Low Income Units paid by the tenants thereof (excluding any supplemental rental assistance from the State, the federal government or any other public agency to those tenants or on behalf of those units) shall not exceed Affordable Rents. The Authority shall, from time to time, revise the maximum rental limits applicable to the Low Income Units and the Very Low Income Units, by a percentage equal to any percentage change in median income for the Area. Until such time as the Authority mails a notice of such change, the previously existing charges shall apply. Upon receipt of new rental limit schedules, the Borrower may increase the rental charges. Any increase in rental charges must comply with the terms of the lease as to the time and manner of such changes, provided that no Low Income Tenant or Very Low Income Tenant shall have a rent increase sooner than one year after initial occupancy, and provided, further, no Low Income Tenant or Very Low Income Tenant shall have an annual rent increase in excess of the percentage increase as determined by HUD in the Area median income for the applicable year in which the rent increase is being considered, nor shall there be an accumulation of rental increases from year to year for those years in which the Borrower chooses not to increase rents by the percentage allowed herein.

(i) The Borrower shall accept as tenants, on the same basis as all other prospective tenants, low-income persons who are recipients of federal certificates or



vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act. The Borrower shall not permit any selection criteria to be applied to Section 8 certificate or voucher holders that is more burdensome than the criteria applied to all other prospective tenants.

(j) No tenant residing in a unit reserved as required by subsection (a) of this Section shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Gross Income increases to exceed the qualifying limit for Low Income Tenants or Very Low Income Tenants, as applicable. However, should the Gross Income of a tenant residing in a reserved unit increase to exceed the qualifying limit, the next available unit must be rented to (or held vacant and available for immediate occupancy by) a tenant whose income satisfies the requirements of Sections 4(b) and 7(a) hereof. Until such next available unit is rented to a qualified tenant, the former Low Income Tenant or Very Low Income Tenant, as applicable, who has ceased to qualify as such shall be deemed to continue to be a Low Income Tenant or a Very Low Income Tenant, as applicable, for purposes of the requirements of Sections 4(b) and 7(a) hereof.

(k) The units reserved for occupancy as required by subsection (a) of this Section shall remain available on a priority basis for occupancy at all times during the Qualified Project Period.

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 Authority.** 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 Authority, 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 Authority such information with respect to the Project or the Note as the Authority shall from time to time request. The Borrower shall provide written notice to the Authority of receipt of a certificate of occupancy or other official authorization to occupy the Project immediately upon receipt.

(b) The Low Income Units and the Very 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 and Very 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.

(d) Not less than 40% of the total number of units in the Project (other than one unit set aside for managerial or administrative use) shall be Low Income Units and not less than 10% of the total number of units in the Project (other than one unit set aside for managerial or administrative use) shall be Very Low Income Units.

(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.

(f) The lease to be utilized by the Borrower in renting any residential units in the Project to Low Income Tenants or Very 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 or a Very 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 or a Very 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 Authority; 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 Authority, 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 or Very 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 Authority (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 Authority, 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 Authority to file any periodic report, or any other information concerning the Project as the Authority may reasonably request.

(j) [Reserved].

(k) The Authority 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 Authority to deliver to such administrator, in addition to or instead of the Authority, 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 Authority.

(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 or a Very Low Income Tenant, as applicable, 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 or a Very Low Income Tenant, as applicable.

(m) The Borrower shall give written notice to Low Income Tenants and Very Low Income Tenants at the following four points in time:

(i) Upon initial move-in/lease execution, the Borrower shall give written notice to all tenants of Low Income Units and Very 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 acknowledgement 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 a market rates unless otherwise restricted by some other legal, regulatory, or contractual requirement.

(ii) Twelve months prior to the termination of the rent restriction period under this Regulatory Agreement, Borrower must give written notice to its tenants of the termination of the restrictions on the Low Income Units and the Very 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 Authority, the Chair of the Board of Supervisors of the County and the California Department of Housing and Community Development.

(iii) Six months prior to the termination of the rent restriction period under this Regulatory Agreement, Borrower must give written notice to its tenants of the termination of the restrictions on the Low Income Units and Very 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 Authority, the Chair of the Board of Supervisors of the County and the California Department of Housing and Community Development.

(iv) Ninety days prior to the termination of the rent restriction period under this Regulatory Agreement, 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 or concurrent with the twelve month notice referred to above in (ii), 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 pay to the Authority its initial fee on the Note Closing Date and thereafter pay to the Authority its ongoing fees with respect to the issuance of the Note as follows. The Borrower shall pay the Authority an initial fee immediately upon issuance of the Note equal to \$[\_\_\_\_\_] (.25% of the aggregate original principal amount of the Note issuable under the Funding Loan Agreement (\$[\_\_\_\_\_])). In addition, the Borrower shall, as compensation for the Authority's monitoring of the provisions of this Regulatory Agreement, pay to the Authority, annually in advance, on the anniversary of the Closing Date 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, an annual amount of the greater of .125% of the outstanding principal amount of the Note or \$6,000, 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. Throughout the term of this Agreement, the Authority or the Fiscal Agent, 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 Authority) and shall collect such payments from the Borrower and immediately remit such funds to the Authority. 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

of the CDLAC Conditions, the Borrower, at its election, shall either: (A) pay to the Authority, on or before such payment, an amount equal to the present value of the remaining Authority fees payable hereunder, as calculated by the Authority, 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 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) pay directly to the Authority on an annual basis, in advance on the anniversary of the Closing Date, the annual fee described above. The Borrower shall not be required to pay the fee described in the preceding sentence if the Note is prepaid in whole under circumstances which permit termination of this Regulatory Agreement pursuant to Section 14 hereof. The Borrower shall also pay to the Authority, 30 days after receipt of request for payment thereof from the Authority, all reasonable out of pocket expenses of the Authority (not including salaries and wages of Authority employees) related to the Project and the financing thereof that are not otherwise required to be paid by the Borrower under the terms of this Regulatory Agreement or the Loan Agreement, including, without limitation, reasonable legal fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of any documents relating to the Project, the Loan or the Note. Notwithstanding any prepayment of the Loan and notwithstanding a discharge of the Note, the Borrower shall continue to pay (or, to the extent allowed under the Code, may prepay the present value at such time, computed based on the Note yield) the Authority's fees, unless such prepayment is made in connection with a refunding of the Note. Notwithstanding any prepayment of the Loan, the Borrower shall continue to pay to the Authority all fees, losses and expenses required under the Loan Agreement and the Funding Loan Agreement as provided therein. The fees payable hereunder shall be reduced as and to the extent necessary to comply with the requirements of the Code.

(o) The Borrower shall pay to the Authority any expenses incurred by the Authority, including, without limitation, bond counsel, county counsel and financial advisor fees, as a condition to the consideration and receipt of any consent, approval, amendment, transfer or waiver requested of the Authority with respect to the Project, the Project Site or the Note. The Authority shall provide an invoice directly to the Borrower for such amounts.

(p) The Borrower shall pay the Authority its then-current fees in connection with any consent, approval, transfer, amendment or waiver requested of the Authority, together with any expenses incurred by the Authority and its counsel and financial advisor in connection therewith.

(q) The Fiscal Agent shall report to the Authority 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 Authority as an additional insured on all liability insurance policies relating to the Borrower or the Project.

(t) The Borrower shall submit to the Authority, (i) not later than the thirtieth day after the close of each calendar year, a statistical report in the form set forth as Exhibit F hereto, or such other form as may be prescribed by the Authority, setting forth the information called for therein, and (ii) within 15 days after receipt of a written request, any other information or completed forms requested by the Authority in order to comply with reporting requirements of the Internal Revenue Service or the State of California. The Borrower shall not rent any Low Income Unit or Very Low Income Unit to: (i) any individual who (A) holds an ownership interest in the Borrower, 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 brother/sister-in-law and mother/father-in-law and son/daughter-in-law or (F) significant other or domestic partner); 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, unless such person otherwise qualifies for tenancy under this Agreement and such tenancy is approved in writing by the Authority.

(u) The Borrower acknowledges that the Authority may appoint an administrator other than the Authority (at no additional cost to the Borrower) to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. In such event, the Borrower shall comply with any request by the Authority to deliver to any such administrator, in addition to or instead of the Authority, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by the administrator as an agent of the Authority. 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.

(v) All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the Authority, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Authority. 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 Authority as the source of the financing provided for the Project, without the prior written approval of the Authority (provided that nothing herein shall prevent the Borrower or any general partner thereof from identifying the Authority 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).

(w) The covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Borrower. Notwithstanding any of the foregoing, the Borrower shall comply with the provisions of the Authority's Multi-Family Bond Policies and Procedures, including those set forth in Exhibit H.

Any of the foregoing requirements of the Authority may be expressly waived by the Authority in writing in the Authority's sole discretion, but (i) no waiver by the Authority of any requirement of this Section 7 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement, including particularly but without limitation the provisions of Sections 2 through 6 hereof, except to the extent the Authority has received an opinion of Bond Counsel that any such provision is not required by the Act 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 Authority 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.

**Section 8. Modification of Covenants.** The Borrower, the Fiscal Agent and the Authority hereby agree as follows:

(a) To the extent any amendments to the Act, the Regulations or the Code shall, in the written opinion of Bond Counsel filed with the Authority, 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 Act, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Bond Counsel filed with the Authority, 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 Authority, 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 Act and will not affect the Tax-exempt status of interest on the Note. The Authority 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 Authority, whether or not required by California or federal law.

(c) The Borrower, the Authority 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 Authority 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 Authority, as is applicable, any such document or instrument (in such form as may be approved in writing by Bond Counsel) if the Authority defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Authority, the Fiscal Agent shall take no action under this subsection (c) without first notifying the Authority and without first providing the Authority 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 Authority.

**Section 9. Indemnification.** The Borrower shall defend, indemnify and hold harmless the Authority and the Fiscal Agent and the respective staff, officers, members, supervisors, commissioners, 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), regardless of whether Borrower is negligent, directly or indirectly resulting from or arising out of or related to (a) the development, 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 Authority 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) 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 Borrower knew of the same) and 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, (e) this Regulatory Agreement, the Funding Loan Agreement, the Loan Agreement, the Subordinate Documents, the Density Bonus Restrictions, the AHAP Contract, the HAP Contract and any of the related documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the issuance or transfer of the Note, (f) any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or any part thereof, (g) the defeasance and/or prepayment, in whole or in part, of the Note, (h) any Determination of Taxability and any declaration of taxability of interest on the Note, or allegations (or regulatory inquiry) that interest on the Note is taxable, for federal tax purposes, (i) any finder’s fee, brokerage commission, loan commission or other sum in connection with the consummation of the transactions contemplated hereby, (j) the issuance of 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 approved by the Indemnified Party, unless the Indemnified Party elects to conduct its own defense at the expense of Borrower, (k) any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or any part thereof, (l) any lien or charge upon payments by the Borrower to the Authority, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Authority in respect of any portion of the Project, (m) the defeasance and/or redemption, in whole or in part, of the Note and (n) 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 Note or any of the documents relating to the 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 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; provided, however, that this provision shall not require the Borrower to indemnify an Indemnified Party from any claims, costs, fees, expenses or liabilities arising from the fraud or willful misconduct of such Indemnified Party or, in the case of indemnification of the Fiscal Agent, the negligence of the Fiscal Agent. The Borrower also shall pay and discharge and shall indemnify and hold harmless the Authority and the respective staff, officers, members, supervisors, commissioners, directors, officials and employees, attorneys and agents and the Fiscal Agent from (i) any lien or charge upon payments by the Borrower to the Authority 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.

Except in the case of the foregoing indemnification of the Authority or any of its officers, members, supervisors, commissioners, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if in the reasonable judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel, or if, in the case of the Authority, it makes a reasonable judgment that a competent attorney has not been appointed.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Authority has consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

The provisions of this Section 9 shall survive the term of the Note and this Regulatory Agreement or the resignation of the Fiscal Agent.

**Section 10. Consideration.** The Authority 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 and construct the Project. In consideration of the issuance of the Note by the Authority, 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 Authority 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 Authority and the Fiscal Agent may rely upon statements and certificates of the Low Income Tenants and the Very Low Income Tenants and upon audits of the books and records of the Borrower pertaining to the Project. In addition, the Authority 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 Authority 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 Authority 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 County of Los Angeles.** The Borrower hereby represents and warrants that the Project will be located entirely within the County of Los Angeles.

**Section 13. Sale or Transfer of the Project; Equity Interests.** The Borrower hereby covenants and agrees not to: (i) directly or indirectly, by operation of law, voluntarily or involuntarily, sell, gift, encumber, assign or otherwise transfer (collectively, "Transfer") all or any portion of its interest in the Project (excluding tenant leases pursuant to the terms hereof); (ii) permit the Transfer of greater than 49% of its ownership and/or control, in the aggregate, taking all transfers into account on a cumulative basis; or (iii) Transfer any of its rights or obligations under the Note Documents without the prior written approval of the Authority, which approval the Authority may withhold in its sole and absolute discretion.

At any time the Borrower desires to effect a Transfer hereunder, the Borrower shall notify the Authority in writing (a "Transfer Notice") and shall submit to the Authority for its

prior written approval (i) all proposed agreements and documents memorializing, facilitating, evidencing and/or relating to the circumstances surrounding such proposed Transfer, and (ii) a certificate setting forth representations and warranties by the Borrower and the proposed transferee to the Authority sufficient to establish and ensure that all requirements of this Section 13 have been and will be met (collectively, the “Transfer Documents”). No Transfer Documents shall be approved by the Authority unless they expressly provide for the assumption by the proposed transferee of all of the Borrower’s obligations under the Note Documents. The Transfer Notice shall include a request that the Authority consent to the proposed Transfer. The Authority agrees to make its decision on the Borrower’s request for consent to such Transfer promptly, and use reasonable efforts to respond not later than 30 days after the Authority receives the last of the items required by this Section 13. In the event the Authority consents to a proposed Transfer, then such Transfer shall not be effective unless and until the Authority receives copies of all executed and binding Transfer Documents which Transfer Documents shall conform with the proposed Transfer Documents originally submitted by the Borrower to the Authority.

Except as expressly provided in this Section 13, in connection with any Transfer hereunder, the purchaser or assignee shall also: (i) deliver to the Authority of an opinion of such purchaser or assignee’s counsel to the effect that each such document and this Regulatory Agreement are valid, binding and enforceable obligations of such purchaser or assignee, subject to bankruptcy and other standard limitations affecting creditor’s rights; (ii) deliver to the Authority an opinion of Bond Counsel addressed to the Authority to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-exempt status of interest on the Note; and (iii) pay to the Authority and the Fiscal Agent all fees and/or expenses then currently due and payable to the Authority and the Fiscal Agent (together with the Transfer Documents, the “Transfer Deliveries”).

Notwithstanding anything in this Regulatory Agreement to the contrary, the Borrower agrees that it shall not be permitted to make any Transfer, whether or not the Authority’s consent is required and even if the Authority has consented thereto, if there exists an Event of Default under the Loan Agreement or any other Loan Document at the time the Transfer Notice is tendered to the Authority or at any time thereafter until such Event of Default has been cured.

Except as expressly provided in this Section 13, the provisions of this Section 13 shall apply to each successive Transfer and proposed transferee in the same manner as initially applicable to the Borrower under the terms set forth herein.

Notwithstanding the foregoing, if the Project receives funding through an allocation of low income housing tax credits under Section 42 of the Code (“LIHTCs”), the Authority hereby consents to the following transfers in furtherance of such financing: (i) syndication of limited partnership interests in the Borrower to an equity investor and subsequent transfers of limited partnership interests; (ii) the grant and exercise of a purchase option and/or right of first refusal with respect to the Project from the Borrower to its general partners, which may involve the sale of the Borrower’s interest in the Project and/or the Transfer of greater than 49% of its ownership and/or control; (iii) removal of the general partner of the Borrower pursuant to the terms of the limited partnership agreement of the Borrower, as it may be amended from time to time, provided that the replacement general partner shall be approved by the Authority, which

approval shall not be unreasonably withheld; and (iv) removal of the general partner of the Borrower pursuant to the terms of the limited partnership agreement of the Borrower, as it may be amended from time to time, provided that the replacement general partner is an affiliate of the Investor Limited Partner of the Borrower. Notwithstanding the above, the Borrower shall notify the Authority that the Borrower intends to pursue such transfers of partnership interest at least 30 days before the scheduled date of such transfers and shall comply with the provisions of the second paragraph of this Section 13; further, if the general partner is being replaced, the Borrower shall provide evidence acceptable to the Authority with regard to such successor general partner's financial capability, management experience and history of compliance with affordable housing, landlord/tenant, and health and safety laws, and such other information as requested by the Authority. In addition, if the general partner of the Borrower is removed and replaced pursuant to clause (iv) above, then the Investor Limited Partner must (a) notify the Authority that they have taken such action when they take such action; (b) provide the Authority with copies of all amendments to the Partnership Agreement; and (c) provide a certification from the new general partner stating that it is an affiliate of the Investor Limited Partner and describe the affiliation, and also state that the general partner is assuming all obligations and responsibilities of the removed general partner under the Note Documents, if any, from and after the substitution of the general partner.

The Borrower shall use its best efforts to provide the Authority concurrently with the closing of any Transfer (but in no event later than 30 days after the closing of such Transfer) copies of all documents pertaining to the transaction, including any amendments to the organizational documents of the Borrower or any constituent partners or members.

Nothing in this Section 13 shall affect any provision of any other document or instrument between the Borrower and any other party which requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project or any interest (direct or indirect) therein or in the Borrower, including, but not limited to, any consent of the Fiscal Agent or the Funding Lender required under the Funding Loan Agreement or any other Note Documents.

Notwithstanding anything contained in this Section 13 to the contrary, neither the consent of the Authority nor the delivery of the Transfer Deliveries shall be required in the case of a foreclosure or deed in lieu of foreclosure, whereby the Funding Lender or a designee or third party purchaser becomes the Borrower of the Project, and nothing contained in this Section 13 shall otherwise affect the right of the Noteholder, the Fiscal Agent or a designee or third party purchaser to foreclose on the Project or to accept a deed in lieu of foreclosure or to effect a comparable conversion of the Loan or the Note Documents. However, if the Fiscal Agent or the Funding Lender 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 Authority and delivery of the Transfer Deliveries shall be required for any transfer of the Project subsequent to the Fiscal Agent's or the Funding Lender's acquisition of the Property by foreclosure or deed in lieu of foreclosure.

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. No transfer of the Project shall operate to release the Borrower from its obligations under this Regulatory Agreement with respect to any action or inaction taken prior to such transfer. Nothing contained in this Section 13 shall affect any provision of the other Note Documents to which the Borrower is a party.

For the Qualified Project Period, the Borrower shall not: (1) grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project, except as otherwise permitted by the Loan Agreement and this Regulatory Agreement (and upon receipt by the Borrower of an opinion of Bond Counsel that such action will not adversely affect the Tax-exempt status of interest on the Note; provided that such opinion will not be required with respect to any lease permitted under this Regulatory Agreement relating to a commercial operation or ancillary facility that will be available for tenant use and is customary to the operation of multifamily housing developments similar to the Project); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except in accordance with the Note Documents and except to the extent that what is removed is replaced with comparable property; or (3) permit the use of the dwelling accommodations of the Project for any purpose other than rental residences.

Notwithstanding the foregoing, if the Fiscal Agent acquires title to the Project by foreclosure or deed in lieu of foreclosure, no consent of the Authority 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 Authority 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 partner shall be transferable under this Regulatory Agreement to any affiliate of the limited partners of the Borrower, without the consent of the Authority 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 32 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 Authority, 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 Authority 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 Authority) 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 the Project (including the Project Site) to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Authority 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 Authority 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 Authority 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 legal interest in the Project is rendered less valuable thereby. The Authority 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 and Very 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 Authority to the Borrower, then the Authority 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 Authority on behalf of the Borrower. The Authority 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 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 Authority and subject to the provisions of the Funding Loan Agreement relative to the Fiscal Agent's duty to exercise remedies generally, or the Authority 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 Authority or the Fiscal Agent hereunder;

(b) 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; 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 Authority 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 or a Very Low Income Unit, as applicable, for more than six months and the submission by the Authority to the Borrower during such six-month or longer period of at least five proposed tenants which meet the qualifications of Low Income Tenants or Very Low Income Tenants, as applicable, and the qualifications of a reasonable landlord, to lease up to 40% of the units with respect to Low Income Units and 10% with respect to Very Low Income Units in the Project (other than one unit set aside for managerial or administrative use) for a rental of \$1.00 per unit per year for the sole purpose of subleasing such units to Low Income Tenants or Very Low Income Tenants, as applicable, 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 or Very Low Income Units, as applicable. 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 or Very Low Income Tenant, as applicable. The option and any leases to the Authority under this provision shall terminate with respect to each default upon the achievement, by the Borrower, the Fiscal Agent or the Authority, of compliance with the requirements of Sections 2 through 7 hereof, and any subleases entered into pursuant to the Authority's option shall be deemed to be leases from the Borrower. The Authority shall make diligent effort, but shall not be required, to rent Low Income Units to Low Income Tenants and Very Low Income Units to Very 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 Authority 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 Authority, 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 Authority hereunder, provided that prior to taking any such action the Fiscal Agent shall give the Authority written notice of its intended action. All reasonable fees, costs and expenses of the Authority and the Fiscal Agent incurred in taking any action pursuant to this Section 18 shall be the sole responsibility of the Borrower. All rents received by the Authority from such subleases, less the Authority's expenses incurred in connection with such subleases, shall be placed into an escrow reasonably approved by the Borrower. All funds in such escrow shall be continuously pledged by the Authority for the benefit of the Borrower. The Authority agrees to allow the Borrower access to the Authority's books and records relating to the collection and disbursement of rents received pursuant to such subleases.



All reasonable fees, costs and expenses (including reasonable attorneys' fees) of the Fiscal Agent and the Authority incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower.

No breach or default under this Regulatory Agreement shall defeat or render invalid any deed of trust, mortgage or like encumbrance upon the Project or any portion thereof given in good faith and for value.

After the Funding Loan Agreement has been discharged, the Authority may act on its own behalf to declare an "Event of Default" to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the 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 Authority 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 Authority shall be responsible for the monitoring and verifying of 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 Authority, 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 Authority.

#### **Section 20. Recording and Filing.**

(a) 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 Authority 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 Authority as grantee.

(b) The Borrower and the Authority will file of record such other documents and take such other steps as are reasonably necessary, in the opinion of Bond Counsel, in order to ensure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project.

(c) The Borrower hereby covenants to include or reference the requirements and restrictions contained in this Regulatory Agreement in any documents, executed and delivered in connection with a voluntary transfer of any interest in the Project 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.

**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 32(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 Authority 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 Act and with the written consent of the Fiscal Agent.

The Authority, 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 County Counsel of the Authority), 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 County Counsel of the Authority and a request that such Bond Counsel render to the Authority 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 Authority:                   Housing Authority of the County of Los Angeles  
700 West Main Street  
Alhambra, CA 91801-3312  
Attention: Mark Trinidad and Jewel Warren-Reed  
Telephone: (626) 262-4511  
Facsimile: (626) 943-3818

with a copy to:                       Behnaz Tashakorian  
Los Angeles County Counsel,  
7th Floor

350 South Figueroa Street  
Los Angeles, CA 90071

If to the Borrower: LINC-WB2 Apts LP  
c/o LINC Housing Corporation  
3590 Elm Avenue  
Long Beach, CA 90807  
Attention: President

with a copy to: Carle, Mackie, Power & Ross LLP  
Suite 400  
100 B Street  
Santa Rosa, CA 95401  
Attention: Jason Vargelis

with a copy to: MUFG Union Bank, N.A.  
Suite 355  
200 Pringle Avenue  
Walnut Creek, CA 94596  
Attention: CDF Division Head  
Facsimile: (925) 947-2455

with a copy to: Rutan & Tucker LLP  
14th Floor  
611 Anton Boulevard  
Costa Mesa, CA 92626  
Attention: Pat McCalla

and a copy to: Raymond James Tax Credit Funds, Inc.  
880 Carillon Parkway  
St. Petersburg, FL 33716  
Attention: Steven J. Kropf, President  
Facsimile: (727) 567-8790

If to Funding Lender: MUFG Union Bank, N.A.  
Loan Administration Department  
1st Floor  
3151 East Imperial Highway  
Brea, CA 92821  
Attention: Manager  
Telephone: (714) 990-7300  
Facsimile: (323) 720-2433

If to the Fiscal Agent: U.S. Bank National Association  
24th Floor  
633 West 5th Street  
Los Angeles, CA 90071

Attention: Global Corporate Trust  
Ref: HACOLA MF (Willowbrook 2 Apartments) 2018 Series A  
Telephone: (213) 615-6032  
Facsimile: (213) 615-6199

If to CDLAC: California Debt Limit Allocation Committee  
Room 311  
915 Capitol Mall  
Sacramento, CA 95814  
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 the 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 County 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). 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) defines specific discriminatory actions that are prohibited and corrective action that shall be taken in a situation as defined therein.

**Section 27. [Reserved].**

**Section 28. Financial Obligations Personal to Borrower.** The Authority acknowledges that the Project shall be encumbered by the Note 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 Authority 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. 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 Americans with Disabilities Act 42 U.S.C. Section 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”). Each of the Borrower and the Fiscal Agent and any contractor or 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 provisions of the ADA. The Borrower and the Fiscal Agent each 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.

**Section 30. [Reserved].**

**Section 31. Limitation on Liability.** The Borrower’s liability hereunder shall not be limited in the case of the following:

- (a) a willful breach by the Borrower of the provisions of the Note Documents limiting payments or distributions to members of the Borrower to the extent the Borrower receives such payments or distributions;

(b) any liability, damage, cost or expense incurred by the Authority or the Fiscal Agent as a result of fraud, waste, willful misconduct or bad faith by the Borrower; and

(c) any failure by the Borrower to comply with Section 9 or Section 13 of this Regulatory Agreement.

In addition, each individual, other than any representative of the Authority, signing this Agreement, or any other Loan Document, in a representative capacity, shall be personally liable for (a) the warranty and representation hereby or thereby made that such person has legal capacity and is authorized to sign this Regulatory Agreement or such Loan Document, as the case may be, and (b) intentional fraud by such person in connection therewith.

**Section 32. 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 32, 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 32 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 Authority shall monitor the Borrower’s compliance with the terms of the CDLAC Conditions. The Borrower will cooperate fully with the Authority 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 are the responsibility of the Borrower to report to the Authority.

(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 Authority not later than January 15 of each year, and the Authority will submit to CDLAC not later than March 1 of each year, until the Borrower has submitted to the Authority 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 Authority, not

later than January 15 of each year, and the Authority will submit to CDLAC, not later than March 1 of each year, until the Borrower has submitted to the Authority 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 Authority, Fiscal Agent and CDLAC, a Construction Completion Certificate. Following the submission of the Construction Completion Certificate, the Borrower will prepare and submit to the Authority, 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 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 the CDLAC contained in this Section 32 may be expressly waived by CDLAC, in its sole discretion, in writing, but (i) no waiver by CDLAC of any requirement of this Section 32 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Authority 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 32 shall be void and of no force and effect if the Authority 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, 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 Authority and/or the Fiscal Agent or to cause the Authority or the Fiscal Agent to enforce, the provisions of Section 32(d) 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 in accordance with Section 3 of the CDLAC Resolution 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, and/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 Authority 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.



IN WITNESS WHEREOF, the Authority, the Fiscal Agent and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

HOUSING AUTHORITY OF THE COUNTY  
OF LOS ANGELES, as Authority

By \_\_\_\_\_  
Monique King-Viehland  
Executive Director

Approved as to form:

Mary C. Wickham, County Counsel

\_\_\_\_\_  
Deputy

[Signature Page to *Willowbrook 2* Regulatory Agreement]

U.S. BANK NATIONAL ASSOCIATION,  
as Fiscal Agent

By \_\_\_\_\_  
Name:  
Title:

[Signature Page to *Willowbrook 2* Regulatory Agreement]

LINC-WB2 APTS LP, a California limited partnership

By: LINC-WB2 Apts LLC,  
a California limited liability company,  
its general partner

By: LINC Housing Corporation, a  
California nonprofit public benefit  
corporation, its manager

By: \_\_\_\_\_  
Name: Suny Lay Chang  
Its: Chief Operating Officer

[Signature Page to *Willowbrook 2* 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 in and for said State, personally appeared \_\_\_\_\_

(here insert name(s) of signers), 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 in and for said State, personally appeared \_\_\_\_\_

(here insert name(s) of signers), 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**

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State of California )

County of \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_

(here insert name(s) of signers), 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**

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

PARCEL 1:

LOTS 13 THROUGH 19, INCLUSIVE, AND LOTS 80 THROUGH 86, INCLUSIVE, OF THE SOUTH GATE TRACT, IN THE RANCHO TAJAUTA, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13 PAGES 14 AND 15 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THE EASTERLY 20 FEET OF LOTS 13 THROUGH 17, INCLUSIVE.

ALSO EXCEPT THAT PORTION OF LOTS 18 AND 19, OF SAID TRACT WITHIN THE FOLLOWING DESCRIBED BOUNDARIES;

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 19; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID LAST MENTIONED LOT A DISTANCE OF 37.00 FEET TO A POINT DISTANT WESTERLY THEREON 17 FEET FROM A LINE PARALLEL WITH AND 20 FEET WESTERLY, MEASURED AT RIGHT ANGLES, FROM THE EASTERLY LINE OF SAID LAST MENTIONED LOT; THENCE SOUTHEASTERLY IN A DIRECT LINE 24.15 FEET TO A POINT IN SAID PARALLEL LINE DISTANT SOUTHERLY THEREON 17.00 FEET FROM SAID NORTHERLY LINE; THENCE SOUTHERLY ALONG SAID PARALLEL LINE 63.00 FEET TO THE SOUTHERLY LINE OF SAID LOT 18; THENCE EASTERLY ALONG SAID SOUTHERLY LINE 20.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LAST MENTIONED LOT; THENCE NORTHERLY ALONG THE EASTERLY LINES OF SAID LOTS 18 AND 19 A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THAT PORTION OF LOTS 13 AND 86 OF SAID TRACT, WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 89 OF SAID TRACT; THENCE NORTH 89°41'33" EAST, ALONG THE SOUTH LINE OF SAID LOT, AND THE SOUTH LINE OF LOT 10 OF SAID TRACT, A DISTANCE OF 180.46 FEET TO THE WESTERLY RIGHT OF WAY LINE OF WILMINGTON AVENUE (100.00 FEET WIDE); THENCE NORTH 00°16'36" EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE OF WILMINGTON AVENUE, A DISTANCE OF 149.17 FEET; THENCE NORTH 89°43'24" WEST, LEAVING THE SAID WESTERLY RIGHT OF WAY LINE OF WILMINGTON AVENUE AT A RIGHT ANGLE, A DISTANCE OF 180.35 FEET TO A POINT ON THE WEST LINE OF SAID LOT 86; THENCE SOUTH 00°18'52" WEST, ALONG THE WEST

LINE OF LOTS 86, 87, 88, AND 89 OF SAID TRACT, A DISTANCE OF 151.01 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM ALL OIL, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN 500 FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN 500 FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID LANDS BUT WITHOUT, HOWEVER, THE RIGHT TO USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN 500 FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, RESERVED BY ARTHUR E. ALEXANDER, A WIDOWER, BY DEED RECORDED SEPTEMBER 25, 1987 AS INSTRUMENT NO. 87-1538930, OFFICIAL RECORDS, AS TO LOTS 13 AND 14; RESERVED BY IRENE L. WASHINGTON, BY DEED RECORDED AUGUST 19, 1987 AS INSTRUMENT NO. 87-1320213, OFFICIAL RECORDS, AS TO LOT 85; AS RESERVED BY JAMES KILLION, A MARRIED MAN, BY DEED RECORDED MARCH 29, 1988 AS INSTRUMENT NO. 88-418693, OFFICIAL RECORDS, AS TO LOT 15; RESERVED BY MARK KEYSER AND EDITH K. WHITE, AS SUCCESSOR CO-TRUSTEES, BY DEED RECORDED JULY 15, 1988 AS INSTRUMENT NO. 88-1112045, OFFICIAL RECORDS, AS TO LOT 84; RESERVED BY JOSEPHINE GONZALEZ, A MARRIED WOMAN, BY DEED RECORDED AUGUST 25, 1988 AS INSTRUMENT NO. 88-1349621, OFFICIAL RECORDS, AS TO LOTS 16 AND 83; RESERVED BY LENA CORINE NEAL, BY DEED RECORDED JULY 17, 1987 AS INSTRUMENT NO. 87-1133496, OFFICIAL RECORDS, AS TO LOT 17; RESERVED BY LENA CORINE NEAL, AN UNMARRIED WOMAN, BY DEED RECORDED OCTOBER 16, 1987 AS INSTRUMENT NO. 87-1660081, OFFICIAL RECORDS, AS TO LOTS 18 AND 19; RESERVED BY CLARENCE E. PRICE AND WILMA M. PRICE, HUSBAND AND WIFE, BY DEED RECORDED JULY 30, 1987 AS INSTRUMENT NO. 87-1209375, OFFICIAL RECORDS, AS TO LOTS 80 AND 81; RESERVED BY CLARENCE E. PRICE AND WILMA M. PRICE, HUSBAND AND WIFE, BY DEED RECORDED OCTOBER 9, 1987 AS INSTRUMENT NO. 87-1630847, OFFICIAL RECORDS, AS TO LOT 82; RESERVED BY ARTHUR E. ALEXANDER, A WIDOWER, BY DEED RECORDED SEPTEMBER 28, 1987 AS INSTRUMENT NO. 87-1548646, OFFICIAL RECORDS, AS TO LOT 86.

PARCEL 2:

THAT PORTION OF THE EAST ONE HALF OF BANDERA AVENUE (FORMERLY KNOWN AS RUBY STREET), 50 FEET WIDE, AS SHOWN ON MAP OF SOUTH GATE TRACT, RECORDED IN BOOK 13 PAGES 14 AND 15 OF MAPS, HAVING BEEN VACATED BY THAT CERTAIN RESOLUTION TO VACATE NO. M1388103 RECORDED NOVEMBER 13, 2014 AS INSTRUMENT NO. 20141208566 OF OFFICIAL RECORDS, WHICH WOULD PASS BY OPERATION OF LAW WITH THE FEE CONVEYANCE OF THE ABOVE MENTION PARCEL 1.



PARCEL 3:

THAT PORTION OF THE WEST ONE HALF OF BANDERA AVENUE (FORMERLY KNOWN AS RUBY STREET), 50 FEET WIDE, AS SHOWN ON MAP OF SOUTH GATE TRACT, RECORDED IN BOOK 13 PAGES 14 AND 15 OF MAPS, HAVING BEEN VACATED BY THAT CERTAIN RESOLUTION TO VACATE NO. M1388103 RECORDED NOVEMBER 13, 2014 AS INSTRUMENT NO. 20141208566 OF OFFICIAL RECORDS, WHICH WOULD PASS BY OPERATION OF LAW WITH THE FEE CONVEYANCE OF LOTS 111 TO 117 INCLUSIVE OF SAID SOUTH GATE TRACT.

Assessor's Parcel Numbers: 6149-017-952, 6149-017-953, 6149-017-921, 6149-017-928, 6149-017-931, 6149-017-934, 6149-017-938, 6149-017-943, 6149-017-942, 6149-017-949, 6149-017-951 & 6149-017-959

**EXHIBIT B**

**FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE**

FOR THE [PERIOD] ENDING \_\_\_\_\_

\$[\_\_\_\_\_]  
The Housing Authority of the County of  
Los Angeles  
Multifamily Housing Revenue Note  
(Willowbrook 2 Apartments)  
2016 Series A-1

\$[\_\_\_\_\_]  
The Housing Authority of the County of  
Los Angeles  
Multifamily Housing Revenue Note  
(Willowbrook 2 Apartments)  
2016 Series A-1

The undersigned, being the Authorized Borrower Representative of LINC-WB2 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 Housing Authority of the County of Los Angeles (together with any assigns or successors thereto, the "Issuer"), including, without limitation, the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2018 (the "Regulatory Agreement"), among the Borrower, the Issuer and U.S. Bank National Association, as Fiscal Agent relative to the multifamily housing project located at 1854 East 118th Street in unincorporated Los Angeles County (the "Project"), known as Willowbrook 2 Apartments.

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 and Very Low Income Tenants (as such terms are 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 or a Very Low Income Tenant vacated such unit, as indicated:

Occupied by Low Income Tenants or Very Low Income Tenants: \_\_\_\_\_%  
Unit Nos. \_\_\_\_\_ and  
size

Occupied by Low Income Tenants: \_\_\_\_\_%  
Unit Nos. \_\_\_\_\_  
and size

Occupied by Very Low Income Tenants: \_\_\_\_\_%  
Unit Nos. \_\_\_\_\_  
and size

Held vacant for occupancy continuously since last occupied by Low Income Tenants: \_\_\_\_\_%  
Unit Nos. \_\_\_\_\_ and  
size

Held vacant for occupancy continuously \_\_\_\_\_%  
since last occupied by Very Low Income Tenants: Unit Nos. \_\_\_\_\_ and  
size

Vacant Units: \_\_\_\_\_%

Low Income Tenants who commenced  
Occupancy of units during the  
Preceding [month/quarter]: Unit Nos. \_\_\_\_

Very 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 Very Low Income Tenants and which units became Low Income Units and Very Low Income Units during the preceding [period]. The information contained thereon is true and accurate.

The undersigned hereby certifies that (1) a review of the activities of the Borrower during such [period] 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].

[Remainder of page left blank]

**LINC-WB2 APTS LP**, a California limited partnership

By: LINC-WB2 Apts LLC,  
a California limited liability company,  
its general partner

By: LINC Housing Corporation, a California  
nonprofit public benefit corporation, its  
manager

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Signature Page to *Willowbrook 2 Apartments* Certificate of Continuing Program Compliance]

**EXHIBIT C**

**FORM OF INCOME CERTIFICATION**

[or such other form as shall be provided by the Authority]

Apartment Number: \_\_\_\_\_. Initial Occupancy Date: \_\_\_\_\_

*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: Willowbrook 2 Apartments, 1854 East 118th Street, Los Angeles, County of 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 Willowbrook 2 Apartments, 1854 East 118th Street, Los Angeles, in the County of 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).

	<b>Occupant</b>	<b>Relationship</b>	<b>Age</b>	<b>Student (Yes or No)</b>	<b>Social Security Number</b>
(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.

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 charges 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 Number 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).
- (c) \_\_\_\_\_ Qualifies the applicant(s) as a Very Low Income Tenant(s).
- (d) \_\_\_\_\_ Does not qualify the applicant(s) as Very Low 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 \_\_\_\_\_ 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:

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[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 Housing Authority of the County 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 Housing Authority of the County  
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**

[or such other form as shall be provided by the Authority]

**HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES  
ANNUAL TENANT INCOME RECERTIFICATION**

Project name: Willowbrook 2 Apartments

Apartment # \_\_\_\_\_ Date of Original Certification \_\_\_\_\_

Resident name \_\_\_\_\_

**TO THE RESIDENT:**

*This form is a continuation of the Housing Authority of the County of Los Angeles (the "Authority") 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 Authority 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.

	<b>NAME</b>	<b>SS#</b>	<b>AGE</b>	<b>ANTICIPATED ANNUAL INCOME*</b>	<b>OCCUPATION/STUDENT</b>
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 charges for the allotments; and payments to volunteers under the Domestic Volunteer Service Act of 1973.

**EXHIBIT E**

**FORM OF CERTIFICATE OF CDLAC PROGRAM COMPLIANCE**

Project Name Change:        No\_\_\_\_\_                      Yes\_\_\_\_\_

(If project name has changed since the award of allocation please note the original project name as well as the new project name.)

If yes provide old and new Project Name:\_\_\_\_\_

CDLAC Application No.:    18-406

Bond Issuer Change:        No\_\_\_\_\_                      Yes\_\_\_\_\_

(If Bond Issuer has changed since the award as a result of refinance or refunding of an allocation please note the original Issuer as well as the new Issuer.)

If yes provide the Name of existing and New Issuer \_\_\_\_\_

Contact Information\_\_\_\_\_

Change in Borrower        No\_\_\_\_\_                      Yes\_\_\_\_\_

(If Borrower has changed since the award affecting the CDLAC Resolution please note the original Borrower as well as the new Borrower.)

If yes provide the Name of the existing and New Borrower \_\_\_\_\_

Contact Information        \_\_\_\_\_

Change in Management Company    No\_\_\_\_\_                      Yes\_\_\_\_\_

If yes provide the Name of the New Management Company \_\_\_\_\_

Has the Qualified Project Period commenced?    No\_\_\_\_\_                      Yes\_\_\_\_\_

No\_\_\_\_\_                      Yes\_\_\_\_\_                      Already Submitted Certification\_\_\_\_\_

If yes please submit the Construction Completion Certificate (one time only)

Has the project been completed and placed in service?

No\_\_\_\_\_                      Yes\_\_\_\_\_                      Already Submitted Certification\_\_\_\_\_

If yes please submit Completion Certification (one time only)

Have any of the following events occurred associated with the bond allocation including but not limited to: defaults associated with rents and income requirements, Bond Default or a Qualified Bond Default?

No \_\_\_\_\_ Yes \_\_\_\_\_

If so, please describe and explain?

Has a termination of the Regulatory Agreement occurred or is a termination planned in the next year? Has proper noticing occurred?

No \_\_\_\_\_ Yes \_\_\_\_\_

If so, please describe and explain?

Federally Bond Restricted Units (Reflected in 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

Total \_\_\_\_\_      Total\_\_\_\_\_      Total\_\_\_\_\_

Please attached a copy of the project's TCAC Project Status Report (PSR) or equivalent documentation.

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	_____	_____

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 building 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 excepted)?

No \_\_\_\_\_ Yes \_\_\_\_\_ If no please explain.

Are all hour requirements being met?

No \_\_\_\_\_ Yes \_\_\_\_\_ If no please explain.

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. 17-129 and Resolution No. 18-088 (collectively, the “Resolution”), adopted by the California Debt Limit Allocation Committee (the “Committee”) on December 13, 2017 and September 19, 2018, respectively, I, [\_\_\_\_\_], an Officer of the Borrower, hereby certify under penalty of perjury that, as of the date of this Certificate, 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 CDLAC Resolution, which specifies that once the Bond 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

\_\_\_\_\_  
Title of Officer

**EXHIBIT F**

[Form of]

**STATISTICAL REPORT TO AUTHORITY**

Reporting Period: \_\_\_\_\_, \_\_\_\_\_. Date: \_\_\_\_\_

As of the date hereof:

1. Total units: \_\_\_\_\_; units occupied by Low Income Tenants: \_\_\_\_\_; units occupied by Very Low Income Tenants: \_\_\_\_\_; vacant units most recently occupied by Low Income Tenants: \_\_\_\_\_; vacant units most recently occupied by Very Low Income Tenants: \_\_\_\_\_; other vacant units: \_\_\_\_\_.

2. Total units occupied by households with children, to the extent such information has been provided by tenants: \_\_\_\_\_; Low Income Units so occupied: \_\_\_\_\_; Very Low Income Units so occupied: \_\_\_\_\_.

3. To the extent such information has been provided by tenants, total units occupied by elderly households with a member of age 62 or over: \_\_\_\_\_; Low Income Units so occupied: \_\_\_\_\_; Very Low Income Units so occupied: \_\_\_\_\_.

4. The number of Low Income Tenants who terminated their rental agreements during the previous 12-month period is \_\_\_\_\_. The number of Very Low Income Tenants who terminated their rental agreements during the previous 12-month period is \_\_\_\_\_.

5. The number of units rented to new Low Income Tenants during the last 12-month period is \_\_\_\_\_. The number of units rented to new Very Low Income Tenants during the last 12-month period is \_\_\_\_\_.

6. To the extent such information has been provided by tenants, the family names of each household currently occupying a Low Income Unit and a Very Low Income Unit are listed on the schedule attached hereto.

7. The number of Low Income Units of various sizes is:

- studio:
- one-bedroom:
- two-bedroom:
- three-bedroom:

8. The number of Very Low Income Units of various sizes is:

- studio:
- one-bedroom:
- two-bedroom:
- three-bedroom:

**LINC-WB2 APTS LP**, a California limited partnership

By: LINC-WB2 Apts LLC,  
a California limited liability company,  
its general partner

By: LINC Housing Corporation, a  
California nonprofit public benefit  
corporation, its manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT G**  
**CDLAC RESOLUTION**

## EXHIBIT H

### MULTI-FAMILY BOND POLICIES AND PROCEDURES

#### AFFORDABILITY REQUIREMENTS

##### A. Number of Affordable Units

At least 20% of the units in each project must be rented to or held available for rent to very low-income tenants (50% of median-income, adjusted for household size) or 40% of the project units must be rented to or held available for rent to low-income tenants (60% of median-income), with an additional 10% of these units set at the very low-income level.

##### B. Term

The term of the affordability requirement is the longer of (a) 30-years from the beginning of the Qualified Project Period or the date of the refunding, as applicable, (b) such period as may be required in the opinion of bond counsel to meet federal or state law. The rent of “in-place” tenants at the conclusion of the required affordability period will continue to be governed by the applicable affordability restriction, so long as those tenants continue to live in the development.

##### C. Income Limits

Total household income for income-restricted units may not exceed 50% or 60% of the median income as applicable, adjusted by household size, as set by the U.S. Department of Housing and Urban Development (HUD). These limits will be adjusted periodically when HUD adjusts the median-income standards.

##### D. Annual Certification of Tenant Income

The project owner must certify tenant eligibility annually. If at the annual certification a tenant’s income exceeds 1.4 times the then-income limit for initial occupancy, the owner must rent the next available unit to a new income-eligible tenant. The owner may raise the current tenant’s rent to market rent only upon renting the next available unit to a new low-income or very low-income household, as applicable, to be counted toward meeting the affordable unit requirements. A unit rented only to students does not count toward the affordable unit requirements unless they are married and are not listed as dependents on another household’s tax returns.

##### E. Rent Limits

The maximum rents for all the affordable units are adjusted based on the percentage increase in the HUD-determined median-income for Los Angeles County. These rents are based on  $\frac{1}{12}$  of 30% of the appropriate income limits, assuming 1 person in a studio, 2 persons in a one-bedroom, 3 persons in a two-bedroom and 4 persons in a



three-bedroom unit. These assumptions differ for projects using LIHTCs, which assumes 1 person in a studio and 1.5 persons per bedroom. In the event tax-exempt bonds are used with LIHTCs, the more restrictive rents apply.

**EXHIBIT I**

**CONSTRUCTION COMPLETION CERTIFICATE**

1) Project Name: Willowbrook 2 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.: 18-406

3) Name of Bond Issuer: Housing Authority of the County of Los Angeles

4) Name of Borrower: LINC-WB2 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 percent 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 J**

**FORM OF CERTIFICATE OF QUALIFIED PROJECT PERIOD**

Project Name: Willowbrook 2 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.: 18-406

Name of Bond Issuer: Housing Authority of the County of Los Angeles

Name of Borrower LINC-WB2 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 Bonds were first occupied on \_\_\_\_\_, 20\_\_; and

(b) 50% of the dwelling units in the project financed in part from the proceeds of the captioned Bonds 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 Bond Issuance Date.)*

(a) Bonds were issued on \_\_\_\_\_, 20\_\_

(b) Date 12 months after the Bond Issuance date \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Printed Name of Officer

\_\_\_\_\_  
Title of Officer

\_\_\_\_\_  
Phone Number